CHALLENGING ETHNIC PROFILING IN EUROPE

A Guide for Campaigners & Organizers | **OPEN SOCIETY**
JUSTICE INITIATIVE

ACKNOWLEDGMENTS

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THE PURPOSE OF THIS GUIDE

The powers wielded by police to stop, question, and even search people they find suspicious—for any reason—can be a cause of great concern for ethnic minorities in Europe.[1] Police stops that may appear to majority populations as innocent and brief interruptions of the daily routine—worth the sacrifice for the sake of more safety and security—can cause tremendous fear, trauma, and humiliation to ethnic, racial, and religious minorities. Not only is being stopped by police or other security officials intrusive and intimidating, but an unjustified stop and search or "routine" ID check can also result in abuse, violence, or even death.

Quantitative and qualitative studies show that police stop members of racialized groups much more often than they stop people from the majority population. Disproportionate stops of minorities are often driven by their race, ethnicity, religion, or national origin. The practice of using personal characteristics to make decisions about persons believed to be involved in criminal activity is referred to as *ethnic profiling*. It is discriminatory and violates human rights. It has also been shown to damage trust in police and reduce people's willingness to report crime or cooperate with police, thereby reducing police effectiveness in solving crimes and keeping communities safe.

Ethnic profiling is both discriminatory and counterproductive. Because of the harms it causes, grassroots activists and civil society organizations in various countries are working to challenge and counter it, as seen throughout this guide. Over the course of a decade, the Fair and Effective Policing team of the Open Society Justice Initiative (OSJI) has played a significant role in collaborating with and supporting local actors and communities across the EU, and to some extent the US, to counter ethnic profiling.

Although there is a range of practices and structural inequalities that arise from unfair policing that deserve attention and require political and legal challenge, OSJI's focus has been on discriminatory stop and search practices, which are often the first encounter between police and impacted communities. The Fair and Effective Policing team has been involved in research, national and international advocacy, litigation before national and regional courts, and support of various campaigns to bring about police and policy reforms. The Justice Initiative has produced several publications on ethnic profiling in the process, including impact

reports, factsheets, handbooks with reform recommendations for police and policy officials, legal digests for litigators, stop form and stop data reports and resources for police, and photo exhibitions. However, this is the first Justice Initiative publication aimed primarily at local, community-level activists and other (grassroots) civil society actors. It seeks to provide an array of tools and resources for campaigners and advocates looking to counter ethnic profiling by police, including key lessons learned on the ground, strategic insights, and an international overview of what is happening in the field.

This guide draws on OSJI's work as well as the work of its partners in the field. We reviewed existing materials and resources, and evaluated them according to their impact and required investment. We also used interviews to gather insights from scores of activists across Europe who work to address police violence and discrimination. By including examples and expert voices from various countries and contexts, we hope to provide resources and insights that will be useful to actors in the field. This is not intended to be an exhaustive compendium of all the campaigning and advocacy addressing ethnic profiling, as that would fill volumes. Instead, we have tried to distill key lessons from, and provide illustrative examples of, available materials and resources.

IN THEIR OWN WORDS: Quotes from these interviews—which have been lightly edited for clarity—are reflected in the text and anonymized pull-quotes[2] accompanied by these icons.

We hope this guide will serve as an inspiration to anyone interested in ending ethnic profiling and keeping communities safe.

CHAPTER 1

UNDERSTANDING THE ISSUE

Rosalind Williams, plaintiff in a case challenging ethnic profiling in Spain that resulted in a groundbreaking ruling from the UN Human Rights Committee, photographed in Madrid on November 17, 2018.
© Ed Kashi/VII for the Open Society Foundations

Communities of color face many forms of discrimination, including discrimination and abuse by the police. Campaigns to address discrimination will be most effective when they are clear about the specific phenomenon they are targeting and the specific approaches they will use to bring about the desired change.

Experience has shown that it is useful to start with the following three steps, which are addressed in this chapter:

1. develop a clear definition and demarcation of the problem;
2. conduct a thorough analysis of the laws and standards that make discrimination by police illegal; and
3. form a strategy and tactics that will lead to the desired change.

LESSONS

☐ Adopting a clear definition of ethnic profiling that captures the phenomenon and stays focused on policing and law enforcement is an important first step in effectively challenging it.

☐ Understanding international and regional legal standards and norms against ethnic profiling is important in assessing gaps in national and local laws, regulations, and police operational guidelines, and in advocating for legal safeguards and reforms.

☐ An essential early step is to establish a strategy that sets out priorities, informed by the available capacity and resources, and a course of action.

☐ A strategy is useful to identify advocacy targets and can consist of different sub-strategies, such as a legal strategy and a communications strategy.

☐ A strategy should not be fixed but subject to change, especially after careful evaluation and learning.

Defining the Problem

Ethnic profiling is when police target you because of who you are and what you look like, rather than because of what you have done.

The term "ethnic profiling" describes 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 investigative decisions about who has been or may be involved in criminal activity.[3] Ethnic profiling is manifest most often in police officers' decisions about whom to stop, ask for identity papers, question, search, and sometimes arrest. Ethnic profiling can arise from the discretionary decision-making of individual officers, from institutionalized bias ingrained in policing structures and culture, and from the social attitudes and politics that shape institutions and policy.[4]

Why does the definition matter? Because there are competing definitions of ethnic profiling and persistent confusion around what is meant by ethnic profiling in policing. Clarity of definition is important to truly capture the problem and maintain a clear focus on it, but also to challenge misleading definitions that conflate legitimate and unlawful forms of profiling, or seek to validate unlawful policing.

A common definitional challenge is the desire to use the term "ethnic profiling" broadly to encompass an array of discriminatory practices beyond policing and law enforcement. Different forms of discrimination do follow similar patterns, and some may lead towards subsequent encounters with law enforcement. That said, using the term to encompass multiple forms of discrimination risks confusion. Choosing the specific form of discrimination to focus on enables clear vision and targeted messaging, both of which are essential to effective advocacy.

Ethnic profiling, which is discriminatory and illegal, is often confused with other, lawful forms of police profiling, including criminal profiling and suspect descriptions or profiles. Criminal profiling is the analysis of certain types of crime to distill common factors and develop "offender profiles" with some investigative value; it is most commonly used in pursuit of rapists and serial killers. Suspect profiles or suspect descriptions are a basic aspect of many investigations and of any contact crime (where the victim has contact with the perpetrator). The description of the suspect may include racial or ethnic appearance, which is entirely valid as long as the description is reasonably detailed. But some suspect descriptions are so vague ("North African male wearing jeans and sneakers") that if police use this to decide whom to stop and question or search, it can be defined as ethnic profiling. It is the professional duty of police to seek further specific operational intelligence to guide their search when they receive overly general descriptions, as they would most likely do with White perpetrators.[5]

Other forms of criminal profiling, particularly in investigations of organized crime, may include ethnic or national origin. But this intelligence needs to be up to date and accurate, because crime groups can easily change the profile of their couriers or other associates to avoid an obvious or known profile. The key question is whether the personal characteristics of suspects—like assumed race, ethnicity, religion, or national origin—are based on timely and accurate intelligence that is secondary to other, crime-specific evidence, or whether personal factors have played a role in forming the suspicion. This definition, established by the European Court of Human Rights in the *Timishev* case (see below), strictly circumscribes the use of prohibited personal factors such as presumed race, ethnicity, or religion, in law enforcement decision-making. It is important to be clear that, while there may be lawful uses of ethnicity in policing, there is no such thing as lawful ethnic profiling. Ethnic profiling is a term of art describing unlawful discrimination in police or law enforcement practices.[6]

Another distinction to note here is between the institutional practice of ethnic profiling, and criminal offenses committed by individual officers, such as racial abuse and violence. In many countries, police impunity in using physical violence and verbal abuse is so entrenched that some people have come to accept constant police checks as comparatively benign. However, ethnic profiling by police departments and racial abuse by individual officers both increase mistrust among those being policed. The loss of police legitimacy that arises from disproportionate and unfair policing often leads to escalation and increased incidents of explicit racist language and violence. It is important to demand higher anti-discrimination standards for police institutions, while realizing that for some communities addressing police violence may be the priority.

Ethnic profiling may occur during:

- identity checks
- stops and searches
- border and customs checks
- targeted fines
- raids
- vehicle inspections
- surveillance

Ethnic profiling may be perpetrated by:

- local, national, or civil police
- immigration control officers
- customs and borders officers
- algorithmic searches of databases
- counter-terrorism practices
- private security, hired by the state

Intentional racism and violence are criminal acts, and can lead to criminal prosecution of the individual perpetrator. While necessary, criminal prosecution focuses on a single individual's actions. It will not address institutional racism that produces persistent patterns of disproportionate policing. Available data shows that in every country across Europe, deep-seated bias drives patterns of discriminatory policing, and these practices are not only unlawful but also ineffective. As the next section discusses, in law, the distinction is made between direct (or intentional) discrimination and indirect discrimination, such as when institutional practices or policies lead to a disproportionate focus on communities of color, resulting in over-criminalization. In Chapter 6, we discuss options for legal challenges to ethnic profiling as a pattern of practice.

Putting Police Practices to the Legal Test

Clearly defining ethnic profiling and drawing distinctions between lawful and unlawful policing are based on applicable legal standards. These standards are articulated in international, regional, and national norms, and varied forms of legal recourse also exist at each of these levels. In an ideal world, authorities and institutions would end ethnic profiling once shown its prevalence and harmfulness. Generally, that has yet to happen. Fortunately, the law does express the state's commitment to basic values, including non-discrimination. Efforts to end ethnic profiling—including through challenges in court—seek to ensure states live up to these commitments.

International Laws and Standards
The rights to equal treatment, due process, and a remedy for wrongs are all fundamental principles. Ethnic profiling by police violates the right not to be discriminated against. It also violates the right to a private life, because being searched, especially in public, can be invasive. Depending on the circumstances and duration of the police stop and subsequent proceedings, ethnic profiling may also violate rights to liberty and security of the person, freedom of assembly, freedom of movement, and freedom of religion (when you fear to manifest your faith, or visit places of worship, due to the specter of ethnic profiling).

International law and UN treaty obligations establish clear standards for non-discrimination. While the legal norm against discrimination is universal and fundamental, not all differential treatment constitutes discrimination. The key principles by which to judge whether an action meets the standard is whether it was legitimate, proportional, and necessary. The Open Society Justice Initiative has published legal digests on norms and contributed to the promulgation of case law governing ethnic profiling in the UN human rights system[7] and in the European regional human rights system.[8]

A demonstrator holds a sign reading, "The police stop me for the color of my skin," in Barcelona, Spain, on March 23, 2019. © Paco Freire/SOPA/Getty

> [T]he Committee can only conclude that the author was singled out for the identity check in question solely on the ground of her racial characteristics and that these characteristics were the decisive factor in her being suspected of unlawful conduct. Furthermore, the Committee recalls its jurisprudence that not every differentiation of treatment will constitute discrimination, if the criteria for such differentiation are reasonable and objective and if the aim is to achieve a purpose which is legitimate under the Covenant. In the case under consideration, the Committee is of the view that the criteria of reasonableness and objectivity were not met. Moreover, the author has been offered no satisfaction, for example, by way of apology as a remedy.
>
> **The UN Human Rights Committee in *Rosalind Williams Lecraft v. Spain* (July 27, 2009)**[9]

> [N]o difference in treatment which is based exclusively or to a decisive extent on a person's ethnic origin is capable of being objectively justified in a contemporary democratic society built on the principles of pluralism and respect for different cultures.
>
> **The European Court of Human Rights in *Timishev v. Russia* (December 13, 2005)**[10]

In addition to binding treaty law and case law, a growing array of "soft norms" on ethnic profiling have been developed at the UN and European levels. A soft norm provides legal and policy—and sometimes practical—guidance for policy makers, legal authorities, and police in interpreting the law. Soft norms are not binding standards whose compliance may be adjudicated in court, but they can and do have significant influence on policy decisions, on judges' views, and on police practice. Reports and recommendations by the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance;[11] the UN Committee on the Elimination of all forms of Racial Discrimination (CERD); the European Commission on Racism and Intolerance of the Council of Europe;[12] and the Fundamental Rights Agency (FRA) form an important body of soft law on ethnic profiling.[13] Many of these bodies also have important reporting functions and some conduct regular scrutiny of country practices.

ECRI is aware that the police often works in a difficult context and that the everyday reality of combating crime, including terrorism, pose real challenges that need to be met. However, ECRI is convinced that racism and racial discrimination, including racial profiling, cannot constitute a possible response to these challenges. Firstly, because they violate human rights. Secondly, because they reinforce prejudice and stereotypes about certain minority groups and legitimise racism and racial discrimination against them among the general population. Thirdly, because racial profiling is not effective and is conducive to less, not more human security. ECRI believes that it is trust in the police by all segments of society that enhances overall security. It is not possible for the police to work effectively, including against specific security challenges, without the co-operation of all components of society, majority and minority.

ECRI General Policy Recommendation No. 11

National Laws and Standards

Activists starting to address ethnic profiling frequently undertake a thorough legal analysis to establish whether national laws provide necessary standards and safeguards against police discrimination. Every country in Europe has a constitutional prohibition of discrimination, and many also have specific non-discrimination laws, some of which include specific applications to service delivery by public authorities—although it remains common to find no explicit reference to policing. Police powers, including the powers to conduct ID checks, stops, and searches, are typically set out in a code of criminal procedure. It is common to find that criminal procedure codes do not include specific non-discrimination standards. Civil society organizations have analyzed relevant national laws governing discrimination in many EU countries, including Austria, Belgium, Denmark, France, the Netherlands, Spain, Switzerland, and the UK.[14]

Police usually receive guidance though operational protocols (or circulars), codes of practice, and other instructions on how to interpret legal standards and use their powers in practice. In some cases, these examine the use of factors such as race and ethnicity in detail (Code A of the Police and Criminal Evidence Act in the UK for example), but many countries offer no specific instruction. In Spain, the Ministry of the Interior issued a circular instructing officers not to discriminate in their identity checks but it contained little practical detail. Certain countries also have codes of professional ethics, such as France's *Code de Déontologie.*[15]

Where national laws fail to prohibit ethnic profiling, it is common to find a lack of operational guidance for police on prohibited and legitimate uses of race, ethnicity, religion, and other personal factors. Analyzing this lack of guidance provides the basis for advocacy in favor of improved legislative and operational standards, including clear standards for all police powers, and a reasonable suspicion standard for checks and stops. Such legal standards in turn provide the basis for clear operational guidance, training, and oversight (see Chapter 5 for a detailed discussion of reforms related to establishing clear standards for police powers).

Key questions that national legal standards can clarify:
- Where are non-discrimination standards established? Are they explicitly included in laws setting out specific police powers?
- Are police powers to stop and search well defined and limited, based on reasonable suspicion or another framing of specific and individualized reasons to stop someone?
- Does the legislation mandate mechanisms for recording and monitoring the use of stop and search powers, and the collection of aggregate ethnic statistics to ensure non-discrimination standards are met?
- Is provision made for independent oversight of stop and search powers?
- Are broader powers, such as immigration or counter-terrorism powers, circumscribed in the place and time of application and applied under authority and oversight of an independent judiciary or politicians?

Developing a Strategy for Change

Having a definition and legal analysis of ethnic profiling is an essential starting point for activism, but does not necessarily provide an immediate and clear strategy for bringing change. Before investing valuable time and energy in activities, it is vital to reflect on the nature and location of the problem, and what you can do to bring about change. Developing a strategy requires making choices about priorities and resource allocation—especially time and money—in order to maximize the impact of always-limited resources. Much activism on ethnic profiling is catalyzed by an incident of police abuse, or a new policy or manifestation of discrimination in policing. But campaigners will benefit from determining their own pathway to change instead of limiting themselves to reacting to the actions and agenda of others.

> **"We try to hold a strategy day every year. We refine our notion of the problem, not just stop and search anymore, but police confiscating phones during stops, handcuffing people during stops. We try to keep monitoring/reviewing progress as the basis for more strategizing."**

Social change is complex. So many things in the world affect our choices; it is important to have a discussion, a process, and tools that can provide an objective analysis, a clear description of goals and objectives, and means for selecting the activities with the best chance of producing the change we want to see.

A good strategy answers the questions of what, how, when, where, and who in a way that aligns all aspects of the work with a clear and shared vision of change. Good strategic planning encourages thoughtfulness and realism about context, capacity, and resources. Discussions can also articulate the values and principles that should be reflected in the work. A strategy does not have to be set in stone, and can and should be adjusted over time in response to developments, but a good foundation and process will support both effective campaigning and future adaptability.

There are many resources on strategic planning available online.[16] The next sections offer a few valuable exercises in understanding and responding to ethnic profiling; this is not intended to provide a detailed "how to" guide, but rather to offer examples of questions that activists in different contexts have grappled with in their strategic decision-making. They should not simply be copied, as their validity and application depends on the specific context, and on the capacity of the activists and civil society groups that have decided to take on ethnic profiling. These are anonymized examples whose purpose is illustration and inspiration.

SOLUTIONS

Youth and community engagement
Rights awareness, legal support, safe space for sharing and healing, capacity building, change community and parents' perspectives on ethnic profiling, educate teachers and youth workers

Working with the police
Formal recognition of ethnic profiling, stop data collection, commitment from police leadership, improved supervision and accountability, training on ethnic profiling, change in police culture

Law, policy, and politics
Revise law and guidance to prohibit ethnic profiling, demand independent police complaints body/anti-discrimination or human rights body, monitor and analyze policies on impact on racialized groups, develop information campaigns

PROBLEM/MANIFESTATION

Problem
Disproportionate ID checks and searches, car stops and searches, intimidation, violence by police, physical and verbal abuse, over-policing and under-policing of communities, caught in criminal justice system, entry in police database, ineffective policing, loss of trust and legitimacy, reduced reporting

More recent forms of profiling
Bus/metro/train/mosque checks, data mining, forced identification of members of youth clubs, youth-work as profiling tool, special intervention teams

Personal and psychological
Loss of confidence/pessimism/fear, paranoia, insecurity/aggression, mental and social harms, fewer opportunities, criminalization

ROOTS/IMMEDIATE CAUSES

Structural racism
Normalization and internalization of racism, enduring impact of history and colonization, reduction to "bad apples," White-led civil society, biased media, low/no rights awareness in communities

Institutional context
Poor police training, focus on crime prevention, lack of leadership and guidance, no fully independent complaints body, poor police oversight, police culture and code of silence, gentrification, cuts in youth and social services, popularity far-right, failing legal/justice system, no data or problematic research

Security trends
Counter-terrorism, deradicalization, lack of migration policy, militarization, privatization of public security, data mining and technology, youth and social services reporting to police

CHALLENGING ETHNIC PROFILING IN EUROPE

Understanding the Problem in Your Specific Context

A coalition of NGOs, civil society groups, and community activists affected by police discrimination decided to develop a shared strategy. Their first step was to develop a joint understanding of the problem, its manifestations and consequences, its causes and potential solutions. They used a *problem tree analysis* that gives a visual representation of the problem (tree trunk), its causes (roots), and the solutions (leaves).

Establishing Goals, Objectives, and Tactics

The problem tree provides the basis for developing a strategy with three main goals, each with underlying objectives and tactics. Goals and objectives are often confused. As used here, a goal is the change that you want to see, whereas the objectives are the smaller building blocks to help you reach your goal. It is important for objectives to be SMARTIE: **S**pecific, **M**easurable, **A**ttainable, **R**ealistic, **T**ime-bound, **I**nclusive, and **E**quitable.[17] This approach enables the measurement of progress, and realism about what may be achieved in a period of time. Including "inclusive" and "equitable" ensures that individuals and groups traditionally excluded are part of the processes, activities, and decision-making of campaigns, and that goals seek to address the systemic nature of ethnic profiling. Objectives can be sequenced, identifying initial, achievable steps but also a pathway towards the big, important wins. An overall strategy should be complemented by a separate, specific advocacy strategy targeting various police and policy officials, as well as a specific communications strategy.

People attend a youth meeting concerned with "stop and frisk" practices in New York City on July 18, 2012.
© Bebeto Matthews/AP/Shutterstock

GOAL 1: Policy makers acknowledge ethnic profiling and adopt and enforce reforms to counter it	**GOAL 2:** Affected communities no longer accept ethnic profiling as normal and file complaints	**GOAL 3:** Progressive police are urged to collect stop data
Objective 1: Publish reports demonstrating pervasiveness, unlawfulness, and impact of ethnic profiling	Objective 1: Develop information campaign on ethnic profiling	Objective 1: Engage with progressive police who can raise awareness about ethnic profiling internally
1. *Research legal framework and standards against discrimination* 2. *Collect testimonies on occurrence and impact of ethnic profiling and harm to police-community relations*	1. *Develop testimonial video on ethnic profiling* 2. *Organize discussion on ethnic profiling with minority youth* 3. *Develop know-your-rights information in local language(s)* 4. *Develop know-your-rights trainings* 5. *Develop training on filming the police*	1. *Identify progressive police officers in different forces* 2. *Connect progressive police with officers from countries more advanced in addressing ethnic profiling* 3. *Share good practices on raising awareness about ethnic profiling within the police* 4. *Educate police on ethnic profiling*
Objective 2: Push for policy reforms against ethnic profiling specific to local context	Objective 2: Support complaints about ethnic profiling	Objective 2: Share police good practices on collecting stop data to counter ethnic profiling, and urge their implementation
1. *Research shortcomings of community oriented policing, complaints mechanisms, police oversight, rights in police encounters, police data collection, and privacy laws* 2. *Develop set of policy reforms to address those shortcomings* 3. *Share/discuss policy asks with specific key policy makers* 4. *Convene different stakeholders to present policy asks*	1. *Collect testimonies of victims of ethnic profiling for public reports* 2. *Inform victims on how to make complaints* 3. *Follow up on complaints submitted to equality body* 4. *Examine weaknesses of complaints mechanisms and develop advocacy asks to improve them*	1. *Study stop data experiments from abroad and share experiences and outcomes with police* 2. *Encourage one police force to experiment with stop data collection and provide support*

CASE STUDY

Developing Goals to Challenge Ethnic Profiling

A Dutch organization decided to focus on four demands of the police:

1. acknowledge that ethnic profiling takes place;
2. develop a policy to address it;
3. effectively implement the policy in all police forces; and
4. measure the new policy's effects by monitoring police stops.

The organization experienced challenges at each stage. Although they got the police to acknowledge ethnic profiling is a reality, the definition of "ethnic profiling" adopted by the police was so narrow it failed to address many of their actual discriminatory practices. As the Ministry of Justice was using a broader definition from the EU, the organization demanded that police use that definition as well. In the end, the police agreed that action was needed, but made no policy changes. The organization then developed a proposed policy that significantly influenced the framework eventually adopted by police to improve professionalism and address ethnic profiling.

In New York City, a massive coalition of more than 100 community groups and NGOs came together not only to combat discriminatory and abusive policing, but also to advocate for alternative, non-policing public safety approaches. Their approach invested heavily in building the capacity and power of affected communities, and raising public awareness and support for structural change. These values were built into the structure and functioning of the coalition.

Campaigns in the Netherlands and New York have both made important advances. Dutch police now recognize profiling as a problem and have taken some initial steps to address it, but the subject remains sensitive and hotly debated. The New York City Police Department's use of stops, questionings, and frisks has dropped dramatically and community voices are now more active in influencing criminal justice policies, with new leaders arising from the movement. However, ongoing police practices remain heavily focused on communities of color, deaths in custody have not come down, and police impunity remains the rule. Ethnic profiling is a stubbornly resilient practice, deeply embedded in not only police culture and practice, but also in wider social attitudes. A clear strategy can enable celebration of success, while also grounding incremental successes in a realistic view of the scope of the challenge. Both realism and celebrations of successes are vitally important to the resilience and sustainability of racial justice movements.

Stakeholder Analysis and Power Mapping

Stakeholders are any individuals or groups involved in or affected by a campaign. There can be many types of stakeholders, often defined by their connection to the issue. Primary stakeholders include the individuals, groups, or institutions that are affected by the issue that the campaign is focusing on. Other stakeholders include individuals, groups, or institutions that may have political influence or the capacity to help advance or obstruct your goals, such as police, municipal and state officials, partners, opponents, advisors, institutions, movements, media, donors, and academics.

A stakeholder analysis involves a four step mapping process that includes:

1. identifying stakeholders
2. understanding their interests and aspirations
3. assessing their level of influence in the matter
4. outlining strategies for increasing their support or reducing their opposition

Conducting a stakeholder analysis can be particularly helpful at the start of a campaign to map the various stakeholders and ensure that often over-looked individuals and groups become part of the planning. It can also be useful to identify stakeholders for specific goals and activities.

Bringing about institutional and structural change is not possible without engaging with those who hold the power to effect change. Power mapping is another tool for identifying who among the stakeholders has power to make or obstruct change. Power mapping should also identify those most affected by change, even if they appear to have relatively little power to make change themselves. A powermap can help in making choices about the focus of your advocacy and communications, but also in identifying where relationships need to be developed. Depending on where a stakeholder is positioned, you may need to keep them satisfied, manage them closely and engage with them fully, keep them informed, or monitor them. A powermap is useful to determine toward whom you should direct your actions, advocacy, and communications.

> "Another approach is cooperating with sympathetic city councilors, where we give them tools to take up the subject with the mayor, to call on mayors to address ethnic profiling in the police. For example, there's going to be a resolution introduced in [our city] to suspend all proactive police stops until there's proof of its impact on human rights. We keep looking for where power is situated."

Powermap for Goal 1, Objective 2
Push for policy reforms against ethnic profiling specific to local context.
Activity: Adoption of a local policy mandating the recording of police stops.

High Power

President/Prime Minister
Low interest except in case of riots, violent reactions in heavily policed neighborhoods, or regarding extraordinary policing measures; but does care about international reputation and image.

Minister of Home Affairs/ Justice/Security
Responsible for internal security and often in charge of policing.

Mayor
Often in charge of city police and sets local policies.

Police unions
Reluctant to make a priority of ethnic profiling reform, if not overtly hostile, and often oppose new policies and measures that add to the "administrative burden."

Local city council members
Policing is often a local matter and ethnic profiling by local forces is of particular importance to local constituents.

Political party leaders
In contexts where parties set out policy direction, party leaders can be useful allies.

Chief of police
In charge of setting guidelines and addressing (or failing to address) ethnic profiling.

Low Interest

← INTEREST →

High Interest

Impacted communities
Important to be involved with and lead on advocacy because they are first to be affected by policy change.

General public
Monitor for reaction and opportunities to galvanize support.

Equality body/human rights institutions
Mandated to address discrimination and rights violations but often disregarded by police and policy officials.

Media
Monitor reporters who cover policing and cultivate those who may be interested.

Other NGOs/civil society
Keep informed throughout process so they can be called on when their support or action is needed.

NGOs/civil society that work with minority youth
Well placed to inform impacted youth about new measures and report potential problems.

POWER

Low Power

Stakeholder analysis for Goal 2, Objective 1 (on page 20)
Develop information campaign on ethnic profiling.
Activity: Develop know-your-rights trainings.

Who are your stakeholders?	YOUNG PEOPLE	IMPACTED COMMUNITIES	YOUTH WORKERS
What are their interests or aspirations?	*Directly impacted by ethnic profiling, desire knowledge on how to handle encounters.*	*Those affected by ethnic profiling.*	*Work with people impacted by ethnic profiling.*
What level of influence do they have?	*Little traditional political influence individually. But can influence their peers and increasingly use social media to exert influence.*	*Local political influence and influence within communities.*	*Local political influence and influence over young people and parents.*
What level of interest do they have?	*Interested but might be demoralized or think ethnic profiling is normal.*	*Interested, depending on the specific experience of that community and local dynamics.*	*Interest can depend on individual youth workers and structure of youth work system. Can either support or hinder efforts.*
Strategies for increasing their support or reducing their opposition?	*Can be involved in the design and delivery of training to ensure it is relevant, and can help promote the training.*	*Develop training for and with support of different sectors of the community; demonstrate the value of such training in empowering people and de-escalating encounters.*	*Educate on the value of know-your-rights training; engage early in the process of design and development; evaluate the project and document impact.*

TEACHERS/SCHOOL ADMINISTRATORS	MEDIA	POLICE	LOCAL MUNICIPAL GOVERNMENT
Teach young people impacted by ethnic profiling.	Interested only if seen as newsworthy and generates audience interest.	Interested in engaging or "being seen to engage" on ethnic profiling with local communities.	Interested—will have youth programming.
Local political influence and influence over young people and parents. Influence over police and local municipality if supportive of training. Teachers' unions are also very influential and can support and advocate for training.	Influence over general public and local politicians.	Influence over the general public and local politicians. Powerful political lobby.	Influence over police, schools, and youth work; has budget to pay for activities.
Interest depends on individual teachers and school administrations.	General media interest is low. Minority media will have more interest.	Interested as a way to reduce antagonism around encounters, although this may depend on the content of the training and how much they are engaged with its development.	Interested because the issue may impact local communities but this may need to be demonstrated.
Engage in the development of training utilizing teaching pedagogy; explore making know-your-rights training part of their curriculum; get support for evaluating the project and documenting its impact.	Cultivate friendly media that can promote the work; link to reports of incidents of ethnic profiling; share results of evaluation as news.	Promote as a way of de-escalating conflict. Share evaluation results.	Involve in early discussions if you want training adopted as part of broader youth programming across whole area. Evaluate the project and document impact.

Planning and Evaluation

Complex projects never go exactly to plan and you will benefit from ongoing monitoring and evaluation to learn from developments and strengthen the planning going forward. Scenario planning can be particularly helpful in identifying potential unintended consequences and developing plans to address them. Advocates should look at each planned activity and ask:

- What is the best outcome?
- What is the most likely outcome?
- What is the worst outcome?

It will be useful to build this type of thinking into the strategy. For example, advocating for the adoption of stringent safeguards on one type of police stop might reduce the use of that particular stop power—a seeming success, until you realize that police are now doing more searches using a different power with even fewer safeguards. Campaigns should try to envisage multiple possible scenarios—good, bad, and mixed—resulting from their activities, and consider the strategic implications of these. In the example given, an initial brainstorming of different scenarios could have led to the pursuit of a broader policy safeguard covering all police powers.

Evaluation takes place at specific moments, often midway through or at the end of an activity or strategy period. With the benefit of hindsight, evaluations can provide very useful lessons indicating what you should do differently next time. The main questions you should be asking in any evaluation are:

- What worked well, and why?
- What was less effective, and why?
- What would you do differently next time?

Evaluations do not always need to be formal undertakings, but even informal efforts should involve measuring impact, monitoring key indicators, and surveying stakeholders to gather insights. Evaluations can include regular debriefing discussions after events or activities, which serve to help actors process and understand developments. The experiences and lessons gained from these debriefing conversations should be shared throughout the campaign or organization, and used to shape the development of future strategies and activities.

Making change is usually a complex and long-term undertaking that benefits from planning and preparation. A campaign against ethnic profiling benefits from a thorough understanding of the problem in a particular context; goals, objectives, and tactics; a stakeholders and power dynamics analysis; and a detailed but flexible plan that includes evaluation. Developing a thorough understanding of the problem involves documenting the problem, which is described in the next chapter.

DOCUMENTING ETHNIC PROFILING

A group of young men are charged by riot police during a protest in a suburb of Paris on October 19, 2010. © Tomas van Houtryve/VII/Redux

Those who experience ID checks, stops, searches, and other intrusive police actions understand the nature and experience of ethnic profiling. Yet without data illustrating the scope of the problem, these lived experiences are easily dismissed by politicians, police, and the wider public. Documentation can show that ethnic profiling is taking place, including its extent and nature; it can also unpack the problem, and show that profiling is not simply the product of a few racist officers or "bad apples," but reflects organizational culture and practice (in other words, institutional racism). Some approaches to documentation set out to empower affected communities through the research process, while others partner with academics and use highly rigorous methods that can withstand the most hostile scrutiny. This chapter discusses and illustrates different documentation and research methods and their value and limits, followed by important challenges to consider.

LESSONS

- ☐ Gathering and analyzing data is a crucial first step in demonstrating the nature, extent, and impact of the problem.

- ☐ Highlighting the absence of any data on or evaluations of police powers and practices can be an important advocacy tool to push for data collection.

- ☐ It is permitted under European law to collect data that is disaggregated by ethnicity (often referred to as "ethnic data"), but affected communities may have valid concerns about this approach, so collection of ethnic data must be based on negotiation with those communities.

- ☐ It is important to collect high quality data; poor quality data can lead to missteps.

- ☐ The goals of research—supporting awareness raising, showing impact, changing policy, or supporting a legal challenge—will dictate what methods you use and how you present the data.

- ☐ Who conducts and pays for the research is important.

- ☐ All research must be informed by those impacted by ethnic profiling. Using advisory or reference groups to help guide the research can provide broader access to those affected and generate higher quality research.

- ☐ Ensure that all research is ethical and respects and protects those who participate.

- ☐ A good documentation plan will consider audience, accessibility, and dissemination.

Documentation Essentials

Research and data provide the foundation for challenging ethnic profiling and shaping specific, evidence-based recommendations for changes in policy and police practice. The problem is that Europe has two major data deficits on ethnic profiling: the lack of any

"Recognize that policy makers want research evidence, they speak in data and outcomes and without it, it can be difficult to have these conversations."

meaningful data on the use and effectiveness of police powers, and the lack of ethnic data.[18] Thus, current documentation of ethnic profiling has almost entirely been produced by civil society, academics, and some regional or national human rights bodies. This work has shown that profiling is happening, who it happens to, why it happens, and its impact.

It should be noted that governments and institutions that have the ability and power to systematically collect data can at different stages of data collection shape the process in a way that ends up criminalizing or harming communities. As Nani Jansen Reventlow, founding director of the Digital Freedom Fund, poignantly expressed: "Data are not merely recorded or collected, they are produced. Data extraction infrastructures comprise multiple points of subjectivity: design, collection, analysis, interpretation and dissemination. All of these open the door to exploitation, and for this reason, data extraction and surveillance have been argued to constitute colonial means of control. Which begs the question of whether increasing these mechanisms really is how we should be fighting structural oppression."[19] It is important to be critical of such efforts to collect data and push back if necessary to ensure data is collected in a transparent and fair way. Proper data collection can help analyze the nature and scope of ethnic profiling, and illuminate possible interventions and their impact. This is why community-led efforts to document ethnic profiling using robust methodologies are valuable, although difficult to sustain in the long run.

To be effective, documentation efforts need to take into account a few main considerations. The first questions any documentation or research project must ask are: what is your objective, and who is your audience? The responses will help determine what evidence and documentation is the best fit, who should do the research, and what ethical considerations apply to the conduct of the research. Making the data accessible to and easily understandable by your target audience is also key. Statistics and quantitative data in particular can be very hard to digest, but good infographics and visuals make a huge difference! The European Network Against Racism (ENAR), for example, developed accessible and shareable infographics including statistics on ethnic profiling in different EU countries, to support their advocacy campaign against ethnic profiling.

Having a clear plan for and resources dedicated to dissemination are often overlooked but equally important. It is sadly common to see excellent research go unnoticed because of limited dissemination. In addition to the quality of your data, how it is presented and disseminated will affect the usefulness of your research and must be carefully considered from the very beginning of your research process.

"For some communities, it can take time to get their heads round statistics—so how you package it can be very important. Include short films, infographics, [and] podcasts making the information accessible and digestible. Academic reports are great. But for the person on the street, you have to ensure the data is tangible, impactful, effective."

Difficulties in Documenting Ethnic Profiling

There are some challenges that are important to consider and try to mitigate when planning to research and document ethnic profiling.

Lack of Data

It is impossible to document or analyze ethnic profiling without data on policing practices that includes ethnicity. Although governments and the police often argue that data protection standards preclude the collection of information on ethnicity and policing,[20] this is incorrect.[21] Understandably, Europe's long and ongoing history of abuse of ethnic data causes fear and concern about potential misuse, especially in an era of xenophobic politics and prevalent racial stereotypes linking minority groups to crime or violence. But without ethnic data on police practices it is impossible to ascertain whether police are using their powers lawfully, fairly, and effectively. Similarly, without ethnic data it is impossible to evaluate the impact of any measures introduced to reduce discrimination and improve fairness. Given the sensitivity of ethnic data, it is essential, before commencing any ethnic data collection, to consult with local communities on the construction and use of ethnic categories, and ensure compliance with national data protection standards.

Burden on Impacted Communities

While affected groups should be central actors in designing and conducting research, it is important to understand that this is asking affected communities to confront police denial and "scientifically" prove the existence of a traumatic experience that they live daily. Furthermore, gaining access to police and other research subjects may involve real risks and may be triggering. While prioritizing the leadership and participation of those affected, research processes must also be conscious of confidentiality needs and risks of exploitation.

Research Funding

In seeking resources for research, be mindful of potential conflicts of interest or strings attached to the funding. Some funding may come with limited transparency, or give established powers the right to review and even edit data. (Police can refuse to allow publication of unfavorable results as a condition of access, for example.) The results can produce skewed data, which then becomes the official data cited by police and governments for years to come. All research should be transparent about its funding, methodologies, and limits. Research on ethnic profiling should also include and favor the inclusion of affected groups and academics of color, and prioritize partners actively committed to advancing social impact.

"It's important to give a voice to people impacted by policing. Enable and empower people to tell their stories. But there is a fine line between research, and researchers or the media being parasitical, and you need to measure and assess this. How do you protect people from reliving their trauma through a research process? How do you make it a safe space for people to participate? We must understand that it can be risky for people to tell their stories, to reveal their identities, and risk facing repercussions."

In 2001, a researcher published a study ordered by Belgium's minister of justice, examining the relationship between ethnicity and youth crime. The researcher accepted police data as evidence of higher crime rates amongst ethnic minorities, and subsequently identified the youths' backgrounds and cultures as reasons for their behavior. Although the study was discredited by academics and its assumptions, methodology, and results questioned, the study is still referred to as a seminal work by police and policy officials who want to defend ethnic profiling practices. Despite the biased results, it took 10 years for another university study to discredit the claims.[22]

Importance of Robust Methodologies

Police and governments are quick to question methodologies and challenge research results, and as the issue of ethnic profiling has become more established in public and policy debates, increasing questions arise about the quality of the data on police practices. Campaigners seeking to develop and use data with robust methods are increasingly working with academics, and more academics are taking an interest in this field. This poses new challenges around intellectual property rights; some academics' reluctance to mix academia with

"There is tension for Black and brown researchers. Research methodology does not insulate us from challenge. Often because of the work that I do, because of my positionality, because of the approach I take attempting to challenge power and narratives, then my background will also be questioned...we need to protect ourselves by building in additional rigor into the work."

activism; and academics instrumentalizing the communities that they need for research inputs. As with the non-profit sector, academia remains overwhelmingly White, with few academics of color. Thus, while the involvement of academics can be useful, it can also present challenges and should be carefully considered and managed.

Methods and Approaches

The following sections discuss different research and documentation methods. This guide artificially separates methods in order to discuss the specific aspects of each one, but in reality most campaigners will use a mix of methods to present a more rounded and compelling understanding of ethnic profiling.

Overview Reports

Confronted by data deficits and limited resources, many groups start their work by producing "overview reports" or more classic "human rights reports" that describe the nature of the problem, establish a definition and vocabulary, and bring all applicable legal standards and existing evidence of profiling into a single report. This tactic is common in early phases of campaigns to address ethnic profiling. It has particular value in creating a legal, definitional, and narrative frame that is often lacking in countries unfamiliar with the issue. It enables activists to define the applicable legal standards, and can provide a baseline of data from which to monitor ongoing developments.

"Although there might not be systemic data collected by the police, there is often a lot of other types of information collected. We did desk research: pulling together evaluations of newly introduced police powers, surveys, anything with reports about policing despite the fact that they were not systematically addressing ethnic profiling disproportionality in specific powers. We went through over 100 reports and pulled out all the arguments. We looked at national law, European law, and research from other countries. It's not a methods-based research, but as an NGO, it was practical and allowed us to make the case. A lack of evidence or data was also helpful as the state should provide safeguards against police abuse so the lack of data proving this was happening was evidence we could use in advocacy. The report was aimed at policy makers and police. We coupled this with an "impact report" interviewing people who had experienced ethnic profiling—mainly men of color—about what it feels like to be profiled. We released two reports and got a lot of media attention. This was really the tipping point for acknowledgement of ethnic profiling in my country."

Overview reports often include a legal analysis of the problem. At times—especially due to resource constraints or restricted access to data—a purely legal analysis can have value in spurring discussions of profiling by highlighting gaps and deficiencies in current law. These reviews examine national non-discrimination standards for their compliance with treaty commitments, and whether these standards are specifically applied to the use of police powers. Legal analyses also examine criminal procedure codes or other laws (such as immigration laws) that establish police powers to stop, search, and detain individuals, in order to assess what safeguards are included to limit and prevent bias in the application of these powers in the street.

Classic human rights reports are based on primary field research, typically including interviews with individual victims of abuse, accompanied by corroborating insights from key stakeholders and experts. This approach has some limitations, as it cannot prove ethnic profiling is taking place. Interviews with individuals can describe the experience of being stopped repeatedly, but do not generate rigorous data with a valid benchmark. That said, the layering of repeated stories of the same experience can create a persuasive *prima facie* case, can describe the experience and its impact, can contextualize this within the applicable legal standards, and can use supporting expert sources to corroborate the interviews. Commonly, such reports directly address the need for more systematic data and recommend the introduction of official tracking through the use of stop forms. Reports published by major organizations such as Amnesty International,[23] Human Rights Watch,[24] or well-known national NGOs may carry added weight.[25]

Strengths of Overview Reports
- Support the creation of legal and definitional narratives around ethnic profiling.
- Legal and policy analysis can highlight gaps and deficiencies in current law and policy.
- Can be conducted with limited resources from secondary sources publicly available.
- Useful for advocacy and raising awareness around ethnic profiling in contexts with limited data.
- Can provide a benchmark for ongoing monitoring of policy and legal developments.

Weakness
- Do not generate data that allow you to demonstrate the existence of ethnic profiling.
- Less methodologically robust than empirical research.
- Produce secondary data that may be subject to factual dispute.

Quantitative Data and Research

The most comprehensive systemic data on ethnic profiling comes from police recording their ID checks, stops, and searches.[26] Stop-search data disaggregated by ethnicity sheds light on whether some ethnic groups are being stopped more, less, or the same as the comparable White population—in other words, whether ethnic profiling is taking place. It also supports in-depth exploration of policing practices across different ethnic groups. Ethnic data is collected either by the police officer asking the person stopped to self-identify, or by the officer recording their own perception of the stopped person's ethnic appearance, or both. Spanish police departments have used nationality as a proxy for ethnicity; although this approach provides some data, it will not capture visible minorities or naturalized citizens.

Disproportionality – This term refers to the extent to which stop powers are being used against different ethnic groups in proportion to their numbers in the wider population. A disproportionality ratio compares the rate at which Black and minority ethnic groups are stopped (per 1,000 people) to the rate at which Whites are stopped in the same area. An odds ratio uses the same data to calculate the relative risk of being stopped if you are of a particular ethnic group as compared to the majority population, as in: "If you are Black, you are X times more likely to be stopped by police than if you were White."

Strengths of Quantitative Data and Research

- Characterized by rigorous empiricism and the generation of statistically significant data on ethnic disparities in police stops.
- Generate a picture of who is present in specific locations at specific times, disaggregated by ethnicity.
- Generate a record of police stops and the rate of disproportionality calculated precisely against the population benchmark (which is usually unavailable in most EU states).
- Surveys and direct observations can be conducted if police will not cooperate.
- Support the production of infographics and visual representations of ethnic profiling.

Weaknesses

- Generating police stop data relies on the willingness of police departments to ensure that their officers are recording their stops, and on departments' willingness to share ethnically disaggregated data.
- Surveys and direct observation only provide a "snapshot" of police practice at a particular time or location and so do not allow for an analysis of patterns over time.
- Both surveying and direct observations are time consuming: it can take months to interview enough people or observe enough police stops for statistically rigorous analysis.
- Both surveying and direct observations are potentially expensive if you have to pay researchers/observers.

Stop and Search in the UK

Under a national law, police in England and Wales are required to record, monitor, and share stop and search data. Officers record the ethnicity of the person stopped (as defined by that person); the date, time, and place of the search; the object of the search; the grounds for suspicion; and the identity of the searching officer. The data is collated and shared nationally every year.[27] This allows for local and national analysis of patterns and trends in police use of powers.

Independent Quantitative Research

Independent quantitative research is the gold standard for demonstrating ethnic profiling as a pattern of practice in policing. Quantitative research is characterized by rigorous empiricism generating statistically significant data. Statistical data is needed to show patterns, demonstrating that ethnic profiling is a generalized practice that cannot be attributed to the racist actions of a few individual officers or "bad apples," but rather constitutes a form of institutional discrimination.

Statistics on ethnic profiling are most commonly produced through surveys, where respondents report their experiences of policing, and perceptions of policing and the criminal justice system. Recent surveys on ethnic profiling commonly use procedural justice theory to capture the effect of police stops on public trust in the police and the legitimacy of policing institutions.[28]

Surveys

Surveys, particularly those aiming to capture the experiences of minority populations, involve numerous technical complexities. It is important to consult with experts to make sure that results are rigorous and statistically significant. It is ideal, but costly, to contract with a professional survey company—especially one with a high profile and established reputation. Sample sizes and sampling techniques must be designed to ensure statistical significance and capturing minority group experiences often requires taking a "booster sample" of specific groups. Survey questions must reflect local or national experience and terminology, and ethnic categories in particular should be carefully constructed to reflect specific national demographics, be clear to respondents, and generate statistically significant results. The minority experience must be compared to the majority experience in order to measure disproportionality, or the difference between one group's experience and another's. The EU Fundamental Rights Agency's MIDIS survey captures different minority groups' experiences of police stops and, while highlighting experiences and perceptions of discrimination, it has no comparator to the White population's stop experiences, and thus does not provide conclusive proof of disproportionality.[29]

Direct Observational Research

Observational research techniques have played a vital role in generating quantitative data proving ethnic profiling in locations lacking available police or population benchmark data. The technique was first developed to support a legal challenge to police stops in New Jersey, USA, and has since been used in several European cities.[30] The method is conceptually simple but methodologically rigorous. Researchers observe people in specific places and count them—including their ethnicity—and then count the number and ethnicity of those stopped by police in the same places. Researchers must establish meaningful ethnic categories, and establish that all observers use the categories accurately, and they must identify a number of places with high rates of stops, such as transport hubs. First, observers create a population benchmark by recording the people present in that place at set times, disaggregated by perceived ethnicity. Then they record police stops at the same locations and times. This is generally done on a mobile phone so as not to attract attention. The data enables a very precise calculation of the disproportionality of the police stops against a rigorous population benchmark. In some cases, it has been possible to interview people after they are stopped, to get qualitative information on the experience of the stop.

This methodology produces independent, objective, and precise analysis. Given the complexity of this approach, it should be done in partnership with academics so the results are harder to question. Direct observational research is especially useful where there is no cooperation from the police. Both surveys and observational studies can generate statistically significant data and ethnic data, but observation also produces data on the ethnic composition of the population in specific locations—which is rarely available in Europe.

The downsides of this approach are cost—both survey and observational methodologies are very expensive—and results that only provide a snapshot of practices. Both surveys and observational methodologies provide a specific and accurate picture of a moment in time, but to make a conclusive argument about historic or ongoing practices, repeated studies would be necessary to produce longitudinal data. Given their cost, very few civil society or academic groups have the ability to conduct repeated studies. But such studies can be used to demand that authorities commit to producing ongoing data—including pressing for the adoption of stop forms—and making that data publicly available. Another option is to ask that regular official household surveys include questions on police stops.

Observational Studies in France and Spain

Profiling Minorities: A Study of Stop-and-Search Practices in Paris[31]
Researchers observed more than 500 police stops over one year at five locations in and around the Gare du Nord and Châtelet les Halles train stations. This was the first study in France to generate quantitative data demonstrating discriminatory identity check practices. Across the five observations sites, people who appeared to be Black were overall six times more likely, and people who appeared to be Arab 7.6 times more likely to be stopped by police than people who appeared to be White.

Follow-up interviews with the stopped individuals also suggest that these two groups regularly experience far more police stops than Whites. The study attracted enormous attention in public and political debates, and remains a key reference point 10 years later. It has also been a crucial element of proof in litigation against these practices.

Identificaciones basadas en perfil étnico en Granada
This study included direct observation of the stops performed by Spain's National Police at Grenada's main bus station.[32] The research was conducted by an NGO with support from academics and volunteers. The observations found Black people were 42 times more likely to be stopped by the police than White people. People who appeared Gitano (Spanish Roma) were 12 times more likely, people of North-African appearance were 10 times more likely, and people with Latin-American appearance were eight times more likely to be asked for their ID by the police than White people.

Situation Testing

In contexts lacking data, conducting a situation test may be helpful in demonstrating the existence and experience of ethnic profiling. Situation testing is an experimental methodology that aims to establish and record discrimination in practice. This is done by placing rigorously selected testing pairs or groups in situations that are considered particularly vulnerable to discriminatory treatment (for example, entrance to a night club, job applications, or housing interviews). The testing pairs are selected so that they only differ on the basis of a single characteristic reflecting the discriminatory ground, such as ethnicity, age, sex, sexual orientation, or disability. If one member of the pair faces different treatment, the distinction points to discriminatory behavior by the authorities. Situation testing has a long tradition in sociological research and social policy development and has proved helpful in raising awareness of structural but often hidden discriminatory practices and in supporting litigation to challenge discrimination. It is less developed in relation to policing, due to the number of factors that would need to be controlled to replicate police-initiated encounters. Situation testing to demonstrate ethnic profiling was pioneered in the Netherlands.

Situation Testing in the Netherlands

Controle Alt Delete conducted a situation test of police stops in three Dutch cities.[34] Using hidden cameras, the test compared the experiences of two groups of young people—one White and one Black. The film captured how the Black youth were stopped by police while the White youth were not stopped, even though both groups were equal in number, dressed similarly, and walked around the same neighborhood at the same time. (The film also captured the group of Black youths being racially abused by some young children.) The film was circulated widely through social and traditional media, and it spurred important debate in the Netherlands because the difference in treatment could not be ignored.

Situation tests around profiling have ranged from simple tests that are high on advocacy impact (such as Controle Alt Delete's Vondelpark bike test in Amsterdam, in which volunteers of different ethnicities appeared to "steal" a bike in order to test police and public responses),[33] to more methodologically rigorous tests attempting to produce evidence that ethnic profiling is a structural problem (see the "Situation Testing" text box). To ensure the rigor of the experiment, it should be done in academic partnership so the results are difficult to question. This method can be used in hostile environments, where there is no police cooperation, to powerfully demonstrate differential treatment by the police.

"It captures ethnic profiling but it doesn't prove that ethnic profiling is a problem. But the impact is really high because the visuals are powerful. If you develop a situation test on your own, the first question is, what is the goal that you have and what group is the one to reach? If you want to make something that has high impact, it doesn't need to be academically robust, the situation that the camera describes is the one that you need to have a strong impact, for example, with politicians or policymakers."

The downsides are cost and time: situation testing can be expensive and time consuming and takes particular precision and rigor to ensure that the situations and testers are fully comparable. Care also needs to be taken to ensure the welfare of the testers. This method can provide a specific and accurate picture of a particular place and time, but fails to create conclusive evidence about ongoing practice.

Strengths of Situation Testing
- Paints a graphic picture of differential selection and treatment during stops.
- A rigorously conducted test is capable of generating evidence of differential treatment based on appearance.
- Can be conducted in hostile environments, with no input from the police required.
- Supports the production of films and other compelling advocacy materials.

Weaknesses
- Can be expensive and time consuming.
- May fail to capture ethnic profiling dynamics.
- Provides a snapshot of police practice at a particular time or location so could be dismissed as individual incidents rather than systemic patterns of ethnic profiling.
- Relies heavily on the training and ability of testers to master the situation and not provoke reactions.

Qualitative Studies

Qualitative studies are an essential complement to quantitative evidence of profiling, and key to any legal argument about the discriminatory impact of profiling.[35] Majority populations that do not experience frequent and repeated police stops can easily believe that being stopped is only a minor inconvenience: that if you have done nothing wrong, you simply show your document and go on your way. Police officers may also have little understanding of the impact of their actions, given that, for them, conducting stops is a routine experience. Qualitative studies provide the emotional and personal complement to dry statistics, and many also use a procedural justice perspective focusing on personal experience, illustrating wider impacts on family and friends and entire communities, and consequent loss of trust in and cooperation with police.

Qualitative studies with police officers can explore their perceptions and experiences of conducting stops and ID checks. This can shed light on some of the practical challenges, beliefs about the role of policing, and engagement with communities. For example, interviews with police officers in Bulgaria, Hungary, and Spain in 2007 shed light on the structural context and stereotypes about minority groups that were driving ethnic profiling.[36]

Strengths of Qualitative Studies
- Paint a picture of the experience of those stopped and searched.
- Can be conducted in environments lacking police cooperation.
- Can provide an insight into police thinking and practice if officers are interviewed.
- Can be an important complement to quantitative data by showing the wider experiences and impacts, and can identify issues not captured in statistics.
- Provide advocacy material such as lived-experience testimony and may support the development of exhibitions and films.

Weaknesses
- Can be expensive if working with academic researchers.
- Can be hard to access people impacted by ethnic profiling and the police.
- Do not "prove" that ethnic profiling is taking place. Qualitative studies can be dismissed as "perception" data rather than hard evidence.

Racialized communities have an understandable skepticism of qualitative research, which has historically been implicated in colonializing strategies. Participation in such research can lead to practical repercussions for those sharing their stories, including targeting by the police, exploitation by researchers, and re-traumatization. The experience of ethnic profiling is often hidden and so needs an approach that can uncover narratives and share experiences. It is essential that researchers leading work on ethnic profiling can demonstrate authenticity, credibility, and understanding of the issues and that they are able to facilitate access to communities and elicit the information needed.

Ethical Considerations for Qualitative Research

- Participants must be offered confidentiality, anonymity, and a commitment that research transcripts will not be shared.
- Researchers should ensure that consent is given based on a full understanding of the research and how it will be used.
- Research should be conducted in partnership with community organizations or overseen by a reference group of stakeholders from the communities being researched.
- Where research is funded, funding should be set aside to support the facilitation of the research and after-care for participants.
- There must be full transparency regarding who is funding the research and any agreements made to secure that funding.
- Research should be conducted by skilled researchers who can demonstrate authenticity, credibility, and understanding of the issues to ensure access and trust.
- Research taking place within police organizations must also ensure that officers are protected from internal repercussions.

Common qualitative methods include in-depth interviews and focus groups. It is important that the methods adopted are aimed at creating trust and provide a safe space to allow participants to share their experiences freely and fully. As with quantitative methods, these need to have a robust methodology and pay particular attention to research ethics, given the close engagement with the research subjects and the sensitivity of the topic. Academics should have resources at hand to ensure that participants are able to access support and care after the research. Rigor is especially important in accessing research subjects—whether members of the public or police officers—and ensuring they are as representative as possible of the institution or of those affected by profiling. It can be difficult to gain access to police and governmental institutions, and participants from such organizations may be fearful of repercussions. This requires an understanding of the institutions on the part of researchers, and the installation of safeguards to ensure participants are not identifiable.

**Qualitative Study of Police and Individuals
Subjected to Ethnic Profiling in Sweden**

Randomly Selected: Racial/ethnic profiling in Sweden is a study conducted by the Department of Criminology at Stockholm University on behalf of an NGO, Civil Rights Defenders.[37] The study is qualitative and based on interviews with police officers, as well as individuals who have been subjected to racial/ ethnic profiling. The methodology was developed in partnership with an advisory group that helped to design the framework, identify participants, and ensure that the research did not stigmatize or exploit minority groups' experiences once again. The interview subjects were Afro-Swedes, Muslims, and Roma, mainly from the marginalized residential areas of major cities. The police officers interviewed were primarily those in decision-making positions and selected on the basis of having spoken publicly on ethnic profiling and being willing to participate. The report provides a conceptual framework and powerful testimony of the experiences and understanding of ethnic profiling. Below are excerpts from the testimonies.

"I was out walking with a couple of friends. It was a regular evening, nothing special. Suddenly, the police [car] stops in front of us. They get out and push us up against the car. It happened for no reason whatsoever. None of us was wearing anything strange. No one had had anything to do with the police before. It was a question of our appearance. We're Black. We saw another group of guys in front of us, all of them White. They weren't stopped. This is something that happens continuously. I can tell you about several similar experiences. It's nothing unusual."

"There is something in the humiliation stored by the human body. I don't know exactly what happened. But it was the first time I was stopped by the police. I was maybe 10 years old. A cop walks up and says: 'Hey, we know who you are. We have our eyes on you. If you fuck up, we'll get you.' I was 10, 12 years old. Those kinds of experiences are really traumatic. A lot of shit like that has stayed in my body."

"We don't stop people simply because of what they look like. We need a concrete suspicion of crime. And specifically in [name of district], I know almost all the young people. When we work with narcotics, we start by investigating, looking into who's doing the selling. Then we go up and do a check. And then you'll often hear: 'You're only stopping me because I'm an immigrant.' But that's not the case, then, even though some try to pull this racist card."

"I'm not saying that there aren't any unpleasant police officers. There are some damn unpleasant officers out there. The problem is that it rubs off on us all…. But some might perceive us as unpleasant because we have power. Because the police say: 'Stop! Don't go any further! Stop! Hands on the wheel!'"

Community Documentation

Community documentation methods range from supporting individuals to record their own stops, to Twitter campaigns to record where police are doing checks, to participatory research efforts. Some community documentation projects train community researchers to design and conduct research and advocate around the results. For example, the Fair Policing Participatory Action Research Collective in New York City is a collaboration between an NGO, Make the Road New York, and the Public Science Project at the City University of New York.[38] This intergenerational research collective includes community organizers, young people, university professors, and students—all committed to studying what it means to grow up heavily policed in New York City. The project provides an avenue for young people to be involved in the production of knowledge about their experiences of policing and to frame the questions that guide the research.

Other projects have encouraged local residents to make a record of police operations in an effort to document and warn minority communities when stops were being conducted. For example, in Sweden in 2013, police carried out Operation Reva (*Rättssäkert och effektivt verkställighetsarbete*, or legal and effective execution of policy), in which they made stops based on appearance while looking for undocumented migrants in train stations. Local activists organized a project that tweeted wherever these stops were taking place to inform people to avoid these stations.

Earlier sections of this chapter have described research typically carried out by an organization, academics, or business, to the benefit of minority groups but commonly with little direct agency for the persons most affected by profiling. Community documentation approaches seek to marry the value of increasing the agency of the most affected groups with the need for evidence on profiling practices. The approach also recognizes that, in addition to empowering communities, community documentation may be a more sustainable ongoing process than research that requires funding, which is always in short supply.

Strengths of Community Documentation
- Engages with and empowers communities in the collection of data, and builds valuable skills.
- Allows the identification of issues and trends and access to people that researchers from outside communities wouldn't be able to access.
- Can be conducted in environments lacking police cooperation.
- Supports the production of advocacy materials.

Weaknesses
- Can be time consuming and will require a wider range of resources.
- May not provide scientific evidence of ethnic profiling dynamics.
- Challenges of sustainability and ensuring support for community-based researchers.

CASE STUDY

Recording Your Own Stop

In France, campaigners have created resources for persons who are stopped and for those who witness a stop to create an affidavit by recording the encounter in a manner that meets legal standards. The forms—one for witnesses and the other for the person stopped—and guidance on preparing a legal affidavit are available as an online resource kit.[39] In jurisdictions like France, with extensive use of written evidence, an affidavit constitutes a recognized form of proof. This approach also incurs fewer risks than filming an encounter. Some young people said that knowing they could take action after a police stop helped them to stay calm during the stop.

CASE STUDY

Brigadas Vencinales: **Observing Stops**

In Spain, members of the *Brigadas Vecinales*, a local neighborhood organization, observed stops in their local area. When police stops were taking place, they recorded the stops and compiled the information into reports demonstrating how the police were committing ethnic profiling in their use of stops and ID checks.[40] In a context where stops are not systematically recorded, this provided important data for advocacy. *Brigadas Vecinales* also organized a Twitter campaign to get others to tweet when they saw police conducting stops, including giving precise locations. This became a widespread practice in some neighborhoods and provided information allowing people to avoid locations where stops were taking place. The tweets also became a form of data demonstrating where ethnic profiling was taking place. The group no longer exists but made an impact at the time. They disbanded due to police imposing large fines on individual activists. It is important to be mindful of the risks to individual activists, especially in countries with highly restrictive legislation governing protest.

Apps for Recording Stops

The New York Civil Liberties Union developed Stop and Frisk Watch, a free smart-phone app that allows bystanders to document NYPD stop-and-frisk encounters and alert community members when a street stop is in progress.[41] The app allows the user to film an incident with audio by simply pushing a trigger on the phone's frame. Shaking the phone stops the filming, after which the user immediately receives a brief survey to provide details about the incident to the NYCLU. A "Listen" function alerts the user when people in the vicinity are being stopped by the police. When other app users in the area trigger Stop and Frisk Watch, the user receives a message reporting where the police stop is happening. This feature is especially useful for community groups that monitor police activity. Reporting prompts the survey, allowing users to report a police interaction they saw or experienced, even if they didn't film it.

Some groups and campaigns have developed mobile phone apps to give on-the-spot rights information, a way to record stops, a way to alert other users in the area that a stop is taking place, and a mechanism for making a complaint with the police. The apps are designed to encourage people who are being stopped or those observing a stop to record it and report the stop to the organization. Stop apps have proved popular as a device for mobilizing people around campaigns on ethnic profiling. It was hoped that apps might provide a way of recording stops in places with no data collection and the possibility of compiling stop statistics to show racial disparities in stops. They can provide an "action" for people to take, such as "record your encounters or the ones that you witness and report them," allowing people to access up-to-date rights information and be in touch with organizations that can support them in making complaints. Some apps allow the person to record video or audio and then shake the phone to send the recording straight to the organization, so that if the police seize and search the phone, the recording will have left the phone. Organizations developing apps need to be mindful of data protection regulations to protect the personal data they receive and should decide on a policy for handling potential police requests to access a film or recording.

Apps are expensive to create, you will need different versions for iOS and Android platforms, and they may need to be translated into different languages to make them accessible. Despite their promise, apps have not proved to be an ideal tool for collecting data or encouraging complaints on a large scale. In practice, they are rarely used. The campaigning around apps has been successful and people generally have positive feelings about them. In some places there have been large numbers of initial downloads, but when people are actually stopped or witness a stop they do not use the app or submit a recording or complaint. The app could have been downloaded months previously and in the heat of the encounter people do not remember they have it. Young people, who may have cheaper smart phones or less storage, are likely to delete apps not in regular use. However, even without a specific app, young people regularly record their stops or the ones they witness and share them on online platforms or YouTube channels. It may be more effective to do audits of these platforms, rather than requiring young people to come to your platform. Although a spike in stops recorded in one area might be evidence that there are problems, you would need large numbers of people regularly using the app to generate enough data to document patterns of stop use.

In the UK, a group of NGOs and youth groups developed the Y-Stop App to respond to concerns about stop and search.[42] The Y-Stop app lets people report their stop and search experiences or the ones they witness, record video/audio of the police interactions and send it to Y-Stop, connect with lawyers and experts for support, access rights information, and make a complaint directly to the police.
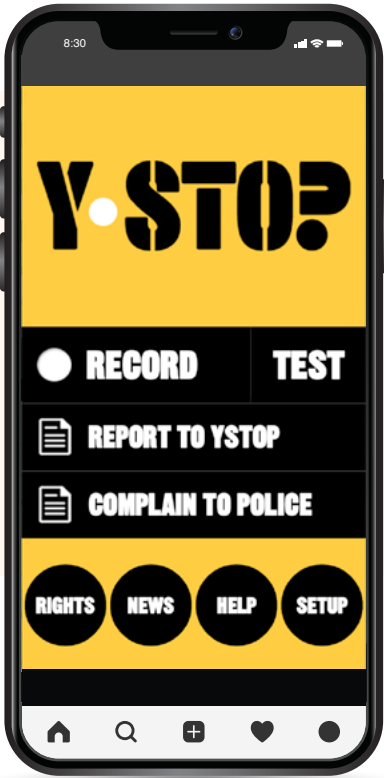
Film

Film provides a powerful form of documentation of peoples' experiences and perceptions of ethnic profiling. Film can also be an important tool for mobilizing people to take action and empowering communities to share their experience and advocate for change. Short films are often used in social media campaigns and are accessible to audiences that will not read academic reports. Short films are also useful at events and trainings, to frame debates and elicit the sharing of experiences. In some countries, advocacy videos have been used in police training or to mobilize communities to challenge ID checks.[43]

With the availability of new technology, particularly mobile phones, film production and distribution has become more accessible. Social media platforms are awash in videos of police stops, drawing widespread attention to problems of police bias and violence. When using video to document profiling, activists should consider a number of risks: to themselves, to the person stopped, and of escalating the encounter. It is also important to consider how to store and catalogue footage to maximize its value for documentation beyond the specific incident. A US-based NGO called Witness specializes in supporting video documentation for human rights and has many resources on its web site.[44]

It is important to be well informed regarding applicable legal standards on filming, especially filming the police, and on releasing footage of people and officers with or without their consent. Special attention must be paid to filming minors. For organizations and film-makers, the ethical concerns are similar to other research methods: care must be taken to ensure that those affected are involved in the design and framing of any film documentation project, informed consent must be given, and provisions must be made to ensure that resources are in place to support people who experience any repercussions or re-traumatization. Film-makers should ensure the accuracy of information and anticipate how the film will be received by audiences. If interpreters are used during production, it is important to recognize that they are filters of culture and information and can influence the final product.[45]

Films on Ethnic Profiling

"Verdacht" (Suspicious) is a KRO-NCRV 2Doc documentary about the impact of police checks on Dutch persons, developed by filmmaker Nan Rosens in cooperation with Controle Alt Delete. The film portrays 14 people of different professions, ages, and origins, who are all regularly stopped by police. In the documentary, they answer the question: "What experience with the police has stayed with you the most?" The film was widely viewed on TV and generated significant discussion, prompting political parties to raise parliamentary questions leading to a political debate about ethnic profiling.

"Mon premier contrôle d'identité" (My First Identity Check) features well-known rappers describing the first time they were stopped by police. Other films in this series feature similar accounts from artists and athletes. The testimonies are available on the "stop le contrôle au faciès" website[46] as well as on YouTube.[47]

"Profiles of the profiled" is a short film created by the StopWatch youth group.[48] The young people worked with a professional filmmaker to create a short film based on their experiences of being stopped and searched. The young people developed, shot, and edited the film. In addition to creating a film to support their advocacy, the hands-on experience in filmmaking supported the young people's development. Several of the young people went on to work in film editing and communications.

Excerpts from the film include:

"I can tell you about 50 different experiences. There was a time I was stopped and searched when I just walked outside my house and I have literally walked down the road and been surrounded by four or five police officers and about two cars. And a [police] van comes straight afterwards. Just to ask me and find out where I was going."

"Two years ago, I was driving around the Vauxhall area. I must have seen about 10 [police officers], in a line behind me. And I was thinking "wow, guys have you seen what's behind us?" I turn around and all of a sudden sirens come on. ... All of us were surrounded ...They were pointing guns. I was like, "What's going on here?" This time, I was just coming from church—you could see my bible on the dashboard."

Strengths of Film
- Powerful visual material for demonstrating the experience and impact of ethnic profiling.
- Can be conducted in environments lacking police cooperation.
- Can provide an insight into police thinking and practice if officers are interviewed.
- Can be an important complement to quantitative data showing the wider experiences and impacts, and can identify issues not captured in statistics.

Weaknesses
- Can be time consuming and expensive.
- Requires technical skills.
- May not provide scientific evidence of ethnic profiling.
- Issues of ethics, privacy, and consent.

Documenting ethnic profiling by police is clearly an essential step in challenging the practice. It is also a complex process that requires significant resources and broad-based support. How to build that support is the subject of the next chapter.

COMMUNITY ENGAGEMENT, CAMPAIGNING, AND COALITION-BUILDING

Community engagement is a central component of efforts to end ethnic profiling. Ethnic profiling is rooted in wider social attitudes and structures of privilege and oppression, and it is important that activists recognize and avoid reproducing those dynamics in their own work and campaigns. Campaigns should live their values. This means supporting the leadership, agency, and empowerment of those most affected by profiling wherever possible, and avoiding acting "on behalf of" affected communities.

A community-based approach anchors challenges to ethnic profiling in a wider framework of racial justice. It is also a pragmatic consideration, strengthening advocacy and ensuring that the reforms and remedies proposed are grounded in local experience and match community needs. Community-based approaches can also provide space and opportunity to engage with the emotional and psychological impact of harmful policing and encourage healing.

This chapter examines the importance of community engagement through this lens, discussing challenges and providing some suggestions for overcoming them. Community engagement can take a number of forms varying in intensity and scope, including awareness raising activities, rights education, capacity-building, and mobilizing activities to engage people in campaigns. This chapter shares examples, draws lessons, and considers the value of coalitions to harness collective power and resources to challenge ethnic profiling.

LESSONS

- [ ] Communities must be at the heart of efforts to end ethnic profiling.

- [ ] Campaigns should support the leadership, agency, and empowerment of those most impacted by ethnic profiling and avoid doing this work for them.

- [ ] Campaigns should live their values.

- [ ] Work with different communities and constituencies to document their experiences and see where you might find unexpected allies or opposition.

- [ ] Design activities and campaigns to take into account power and privilege. This may involve building communities' power and capacity.

- [ ] Ensure that legal, psychological, and other support mechanisms are available for individuals and groups that are affected by their engagement or come forward seeking help.

- [ ] Community engagement takes time and does not always yield visible results.

- [ ] Community engagement activities need to be designed locally to respond to local needs and campaign objectives and take into consideration local dynamics and resources.

- [ ] Building coalitions among different community groups and organizations is vital for leveraging collective power to bring about policy and police reforms.

- [ ] Acknowledge issues of competition and resources in the design of coalitions.

Mapping Communities and Constituencies

In Europe, the visible minority communities most targeted by police profiling include Roma and Travelers, among Europe's most persecuted and discriminated-against minorities; Black and brown communities with roots in former colonies; those recruited through guest worker programs, or, more recently, migrants and refugees fleeing conflict; and Muslims who face close scrutiny resulting from counter-terror practices in addition to "ordinary" police profiling.

"Those who live these things have the expertise, experience, knowledge, savvy, and know-how to give fullness and body to the experience."

Within these broad and often overlapping categories lies a plethora of specific, generally place-based, experience. Understanding specific experience includes consideration of historical relationships with police, the narratives and assumptions underlying that relationship, and particular concerns and reform priorities. Communities are not homogenous: experiences of policing depend on appearance, social status, sex, age, and other factors. Young men may face disproportionate police attention on the street in Europe, while others might be more affected by vehicle stops or border checks. Some may not experience profiling and their views may align with majority populations regarding support for the police. Across generations, some parents may have experienced profiling, while others may be unaware of their children's experiences with police.

"One of the issues we face is the media and police exploiting parents and particularly parents of children who have been involved in knife crime. So we have Black parents coming out calling for more stop and search, not necessarily understanding the evidence that stop and search is not effective at reducing violence, or the impacts it can have on young people and their lives."

Although minority communities share many experiences of profiling and racism, they may also have differences and even tensions reflecting distinct histories. It may be helpful to map different communities and the constituencies within them early in a campaign to ensure that all experiences are recognized and to identify unexpected allies or opposition. Understanding these complexities will also inform thinking about how to safely and effectively engage different groups, and identify intra-community discussions that can lead to wider engagement. Investing time in building a grassroots movement based in genuine solidarity is a path towards a truly inclusive and pluralist society committed to equality and justice for all.

Discrimination and racial injustice hurt all communities by creating tensions and increasing the possibility of violence, making everyone less safe. Ethnic profiling does not only affect—nor is it the sole responsibility of—directly impacted groups. It is important to identify and

engage others who are committed to justice and equality and have a stake in making their neighborhoods or cities friendly and safe for everyone, even if they are not from affected groups or share the same experiences in dealing with police. Organizers challenging ethnic profiling should consider engaging with residents' or housing associations; sports, cultural, youth, or community organizations; social workers, community workers, and youth workers; schools and teachers; religious organizations; local activists and political leaders; and young people who see their friends being stopped and searched.

For example, in France, social workers and youth workers have often witnessed police discrimination and abuse, and often have the trust of young people and know the local context. In some cases, they have been willing to assist in community organizing and addressing resistance in their own institutions or from the government bodies that fund them. Activists can also be attentive to the role played by allies in broader mobilizing, making sure that these allies do not occupy a disproportionate place in mobilizing or take over leadership.

Addressing Practical Community Concerns

Campaigns focusing on ethnic profiling need to be prepared to address specific problems related to the practice, reflecting its deep and traumatic roots, the ongoing presence and power of the police, and systemic racism that continues to drive and justify discriminatory policing practices. Particular challenges organizers should be prepared to encounter and address include:

Normalization of police stops and resignation in the face of police impunity
Ethnic profiling is pervasive, meaning that many individuals have experienced and/or witnessed repeated stops, ID checks, and searches. Police stops may come to be seen as normal, and people may internalize the stereotypes that drive profiling. Some communities

"It's important for me that the struggle also involves people that have humanist values…. Involving those not directly affected in the fight is very important … you need bridges to the White population in the community to shift perceptions… and it can be important for directly affected young people to see that others are supporting them."

"It's pretty clear that when we tried to engage, often we are asking people to do something that's not in their interest. It is [in their interest] on one level, but on another it's not. At the least we can validate peoples' experiences of racism. It's not my place to question peoples' experience but to validate them. People always face doubts about whether there really was racism and that's damaging for them. I tell people that their experiences are valid."

may see police get away with violence and discrimination, even in cases of death and serious injury. Accepting police impunity can be a realistic response in such circumstances, as is an acute awareness that traditional ways of "using the system to change the system" do not work for oppressed communities. Education and conversations in safe spaces are necessary to de-normalize the experience of stops, and encourage people to consider what actions they can take to challenge profiling. Being honest and managing expectations are key. Open acknowledgement of peoples' experiences can be an important validation. It might be useful to share examples from other settings, or start by focusing on smaller, more achievable actions. The value of campaigning or participating in an activity may also lie in the capacity-building, solidarity, and opportunity to work with others on a common problem, rather than the external changes achieved.

"Seeing young people as experts has been the most important thing for me. Continually validating their experience… also paying them. If young people are under 18, then you can do it through vouchers. If older, do it in cash. We cannot call them experts and then not validate their time. I see lots of White men getting paid 200 quid to deliver a training session, or paid to come in as consultants: activities that anyone can do and those with lived experience can do better. So if we get money that's what it goes toward."

Demonstrators call for an end to suspicionless stop and search in front of the Walworth Police Station in London on July 24, 2020. © Thabo Jaiyesimi/SOPA/Shutterstock

Need to cultivate community leadership

Racial injustice leads to the systematic exclusion of communities from opportunities to build their capacity, skills, and power. Prioritizing community leadership in ethnic profiling campaigns requires developing leadership skills through capacity-building, training, and mentorship. It is important that capacity-building does not create "leaders" within communities, but spreads leadership and skills development across as many different groups as possible. Where funding is available, community members should be compensated for their contributions. While many activists volunteer their time, projects are often led by paid NGO staff who do not reflect the communities targeted by ethnic profiling; this is to be avoided.

Racism and practical obstructions to participation

Communities targeted by discriminatory policing typically must confront other forms of discrimination as well. At certain times, policing may be the most pressing problem, but at others it may not be. It is important to recognize this, and to avoid a single-issue approach that fails to account for other pressures and needs. Revisiting experiences of ethnic profiling can also be a painful process that risks re-traumatizing people, especially when they are asked to share experiences in public and risk facing skepticism, denial, or indifference. Community engagement is best led by persons or groups from those communities, who have insight and resources to respond to arising issues. Obstacles to engagement should be identified and addressed as far as possible—for example, by holding meetings in local venues, and providing childcare, food, and payment for peoples' time. With community engagement comes responsibility for the safety and well-being of the people who are engaged, and each person must be treated as an individual, taking into account their situation and the time and support they may need. It may be useful to partner with other groups with expertise addressing issues discrete from policing, such as housing and welfare support.

"Besides retaliation and trauma, there are other practical obstacles. Not being able to afford the bus, or that people in affected communities lack access to child care, have to work multiple jobs—engagement is difficult, logistically. It's important that I am committed to the young people that I work with. I have encouraged them to speak out and share their experiences. So I have to be consistent and committed to them pastorally. It's not a choice. I can't only be available 9-to-5. If I have opened them up and encouraged them, then I need to be there at 3 in the morning when they have a problem with the police and need help."

"They feared that if they spoke up, it would come back and create problems for them. I was struck by the real fear that being involved in campaigning was really dangerous for them. It was a consequence of being over-policed. They wouldn't go on video, they wouldn't be part of a legal case, because they feared being sent out of school, or losing their housing."

> “Also, there's fear of retaliation from the public, hateful comments from the public on social media, etc. We have experienced that the police start telling lies about people, calling journalists to say that people had criminal records when it was absolutely not true.”

> “People also know that some organizations that are campaigning against profiling aren't really invested in the community, so affected people can have reasons to distrust these organizations. I get told by people, 'you are getting paid' when I do research.”

Fear and distrust

People may fear that speaking out or campaigning against ethnic profiling will aggravate their situation—and in some cases this does happen. It is essential to be clear and honest about risks. Trust must be earned, which takes time. Community engagement often places additional burdens on communities already burdened by oppression and police violence, and campaigns should recognize and try to limit the additional pressure they generate and take steps to create a safe environment for those who engage, especially for individuals targeted by police stops. This can be achieved by preserving anonymity; using group action rather than individual effort; ensuring that well-established organizations back up local actors; providing legal aid; or physically accompanying persons to make a complaint or initiate legal action.

The need for legal and other support to victims of discrimination or abuse

In some situations, local organizing has encouraged victims of police abuse and discrimination to come forward, while in other situations activists themselves have become targets of police retaliation. In these circumstances, the individuals may need support in making a complaint or informing local authorities. They may also need legal advice or representation. Organizers may not be able to respond to every situation, but should at least provide information or referrals. Some have partnered with lawyers or other organizations that can provide assistance, and will do so with sensitivity to the victims' situation and rights, and to their financial limitations. Providing legal and other support to affected individuals may be key to obtaining or maintaining credibility within local communities, and sustaining mobilizing.

Community Engagement around Ethnic Profiling

There are many ways to engage communities: awareness-raising activities, rights education and harm reduction trainings, advocacy activities, capacity-building, and mobilizing activities to involve people in campaigns. It is often helpful to take a flexible approach that enables people to engage in the manner most suited to their needs and schedules, and understand that some individuals can only engage for limited periods, or in limited ways. People from

affected communities and those who've been impacted by profiling are best placed to advise on how to structure activities and should be involved from the start in design and delivery. Issues of power, privilege, racism, and structural discrimination that lie at the heart of ethnic profiling consistently come up, and it is important to ensure that there is space to discuss and address these issues.

Community engagement takes time: it takes time to develop activities through consultation and collaboration, build trust, and encourage participation. Activities may take months or years, and may have few visible results, especially early on. It is important that everyone involved—including community members, other organizations, and funders—understands this. While NGOs or mainstream organizations may choose to move on and work on other issues, communities cannot choose to move on from profiling, so activities should be designed to ensure long term local sustainability.

Some typical community-engagement activities are examined below.

Harm-reduction training: Y-Stop in London

Y-Stop is a training program designed and delivered by young people for young people. "Instead of giving you too much information about the law and the police, it [Y-Stop] focuses on really practical information and tips to help you manage what is often a confusing and stressful encounter, ending it as quickly, confidently and smoothly as possible. We call this a harm reduction approach."[49] Recognizing deficits in many know-your-rights trainings, Y-Stop focuses on harm reduction and how to maintain self-esteem during a police stop. It uses the mnemonic **SEARCH**: **S**tay calm; **E**ye contact; **A**sk questions (although this requires the person stopped to know their rights); **R**ecord/receipt (get documentation); **C**onfidence; **H**old to account (cannot do anything in the moment, so plan to hold the police to account afterwards). Young people who have experienced police stops are trained as "peer trainers" for other young people; they are paid and provided with skills development opportunities. Training makes use of two films by young people, an app (see Chapter 2), and know-your-rights information cards. The Y-Stop website features young people's personal stories, a link to the app, and a way to register complaints; it also has news updates, and guides, including for parents. Over 1,500 young people have been trained since 2014 and Y-Stop's first film has been viewed 1.1 million times to date.

Online game to educate on rights

Controle Alt Delete in the Netherlands developed an online game called "Can I also say no?"[50] The game concerns a vehicle check during which the player is asked a series of questions. The player's response triggers advice about what may happen, your rights, and what you might have done differently to assert your rights. It moves quickly through timed scenarios, forcing the player to think under pressure as in a real vehicle stop. Players can test different answers each time to see how the scenarios play out in an interactive exploration of rights.

KNOW-YOUR-RIGHTS MURALS

A mural from the "Know-Your-Rights" series, in the Bushwick neighborhood in New York City, on October 7, 2015.
© Emily Raboteau

Know-your-rights murals

People's Justice for Community Control and Police Accountability is a New York City coalition of grassroots organizations working in Black, Latinx, and Asian communities. They conduct know-your-rights trainings and outreach, organize neighborhood Cop Watch teams, and develop a "culture of Cop Watch" to build community power and decrease police misconduct and violence. They use public art and design projects to empower and educate communities by creating powerful images on the streets where stops take place.

A mural from the "Know-Your-Rights" series, in the Washington Heights neighborhood in New York City, on October 9, 2015. © Emily Raboteau

Stop & Search: A Guide for Parents & Children:
StopWatch, a UK coalition working on ethnic profiling, developed a guide and film for anyone who cares for or interacts with children and young people.[51] This responded to parents' concerns that they did not know how to protect and prepare their children for police interactions. Based on extensive consultation with parents and teachers, the guide provides information and tips on how to support children before and after a police stop, and if they are stopped repeatedly. StopWatch holds information sessions for parents, using the guide as a starting point for parents to share experiences and lessons with each other.
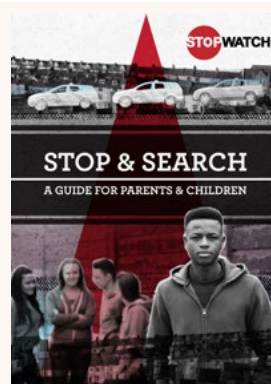
Creating a permanent space for young people to engage on profiling

In September 2017, MCDS *(Maison Communautaire pour un Développement Solidaire)* and Pazapas, two French community organizations, created the PERM as a safe space two nights a week in a Paris neighborhood. Young people can hang out, discuss ethnic profiling and other issues, and obtain legal information, free from police harassment. A strong focus has been on "de-normalizing" experiences of discrimination by providing information and rights training to persuade young people that the situation can be changed. Activists use role models, films, forum theatre, and public events. Larger events held in a local square, featuring children's activities and food made and served by community members, have engaged the community more broadly, and mothers in particular, involving them in these discussions.

Collaboration and Coalition-building

Fostering collaboration and building coalitions for change across different organizations and communities are important means to leverage collective power. Engaging various communities in these efforts is crucial. Coalitions enable campaigns to build a broader support base and share access to resources, expertise, and capacity. The voice of a coalition has both greater political weight and provides protection for individuals and organizations advocating on a controversial topic.

"This mix brings significant expertise; this is the strength of this platform. The other strength is that it was able to agree on common policy asks that members continue to support. Another important factor for cohesion is its 'variable geometry,' whereby each organization is not obliged to participate in every common action. This has provided flexibility to respect the different nature and tempo of the different types of actors. Well-functioning facilitation has also been important to its effectiveness."

Tips for Effective Rights Education:

Many campaigns seek to provide education on rights as part of their community engagement. Education sessions serve to inform people of their rights, convey ways to de-escalate interactions, and provide spaces to discuss police violence. These trainings are often focused on young people, but can also be aimed at activists, parents, members of certain professions (such as youth workers or teachers), and others impacted by ethnic profiling.

- Ensure that young people (or the target audience) are involved in developing the training, including identifying what information is needed and how it is best delivered.
- Those who have experienced police stops should be involved in delivering rights education.
- Where funding is available, community members delivering training should be recognized as the experts and paid.
- Training and resources should be updated regularly to reflect the range of different police interactions, emerging trends, and police use of tools and technology.
- Know-your-rights apps are frequently downloaded but rarely used. Do not invest in technology or other expensive approaches; instead, focus on developing resources that fit peoples' needs.
- Be honest about what know-your-rights training can achieve. It will not prevent ethnic profiling, but can help individuals who are stopped to stay calm and identify ways to hold officers to account afterwards.

- Establish trust and confidentiality among training participants and with facilitators, through a code of conduct or agreement on confidentiality. Trainings should provide safe spaces for people to share difficult experiences without judgment, and to receive validation from others who understand that experience.
- One-off sessions are quickly forgotten, whereas continual rights education through ongoing activities will be more effective.
- Provide follow-up support as needed, including emotional, psychological, and legal support.
- Organize sessions in convenient places, such as schools, youth clubs, cultural centers, and places of worship.
- Provide food or snacks. This is not only an important way to keep people energized, it is also one of the most basic ways to show people that they are welcome and that their wellbeing is important.

Speaking as a coalition can attract additional media interest or support wider dissemination of messages and materials. Coalitions may also be more sustainable because the work ceases to depend on any single organization or funding cycle, and can evolve over time. The most successful coalitions bring broad constituencies together. Ethnic profiling is most typically challenged by human rights and equality NGOs that work with minority community organizations. Some campaigns have also allied with religious groups, homeless charities, residents' associations, sex worker associations, even sports fan clubs. While each might experience policing differently, they share common values of supporting fair and effective policing for all.

Coalitions can take many forms. In the Netherlands, a number of organizations working on human rights and racism collaborated to develop a joint understanding of ethnic profiling and share information; they agreed to avoid competing messages, and that they would all advocate separately for the same reforms. No formal coalition or positions emerged; the aim was simply to ensure a shared understanding of the problem and the change needed.

> "Find your common interest. Share good practice. Empower people around their interests. Share and be transparent. Working together makes it harder for the police to pick you off. If you have just one figurehead then the police can attack you—but if you have a lot of folks all with [the] same knowledge and skills then the movement continues. Keep it as open as possible and empower people to bring their own experience and expertise."

At the opposite end of the spectrum, **Communities United for Police Reform (CPR)** in New York is a formal coalition engaging over 100 community organizations. CPR received substantial funding to build a movement and develop community capacity to challenge police discrimination and violence. The coalition is highly structured and inclusive, offering members different levels of engagement.

In France, the platform **En finir avec les contrôles au faciès,** unites mainstream NGOs, professional unions (lawyers, judges), community-led groups, and academics in challenging profiling. The range of skills brought by different actors has supported diverse lines of work, from formal parliamentary advocacy to local debates, as well as providing diverse information sources and strategic thinking.

In the UK, **StopWatch** is a coalition of academics, lawyers, community organizers, policy advocates, and people who have been stopped. StopWatch, like CPR, has registered as a charity, enabling funding for staff to support a wide range of research, campaigning, training and support, and litigation.

Controle Alt Delete also operates as a discrete organization, although it has various member organizations including grassroots and mainstream NGOs. Among their activities, they regularly organize events with communities and police to discuss ethnic profiling and press for reforms. The diversity of the member organizations facilitated the combining of sound research and policy advocacy with grassroots community mobilization and awareness raising, resulting in ethnic profiling becoming a public priority.

In Belgium, the coalition ***Stop Ethnic Profiling***, including mainstream NGOs, civil society organizations, and community activists from across both French- and Flemish-speaking regions formed, in 2017, following a period of joint information sharing and strategizing. Members of the coalition now conduct joint advocacy in favor of police reforms, provide know-your-rights trainings with community members and run an online campaign against ethnic profiling.

The ***Plataforma por la Gestion Policial de la Diversidad*** in Spain is unique in bringing together police associations and non-discrimination NGOs to promote good police practices, including the adoption of stop forms. The platform emerged from the Strategies for Effective Police Stop and Search (STEPSS) pilot project in Fuenlabrada (see Chapter 7) and now also conducts pilot projects, engages in advocacy, and hosts an annual seminar.

Potential Obstacles to Coalition-building

The challenges of coalition work should be recognized and addressed in early phases, including creating explicit agreements about operating values and procedures.

Competition among groups for funding and profile

Some coalitions have failed due to internal competition driven by success, visibility, external funding, ego, and myriad other pressures. NGOs and organizations dependent on funding need to demonstrate value to funders, which is often bound up in ideas about profile and success. This may compete with a coalition's need for group cohesion and recognition of all contributions. It is important to be clear about organizational needs and how to meet them without undermining collaboration. It may be helpful to have a formal agreement that sets out responsibilities, roles, and resources. Communities United for Police Reform (CPR) agreed to the principle that the larger organizations with more funding could only receive CPR funds if they partnered with smaller organizations, in order to strengthen the entire community by spreading and decentralizing power.

> "Coalition building is really, really difficult because of individual and organizational egos. The reality is we're engaging in a competitive environment, where I think a lot of organizations' priority has become their own survival, and they've lost sight of their broader purpose. So the focus becomes on impressing funders or getting the next grant; losing sight of really why they're doing the work. I was very attuned to the challenges that we would face externally, including from police organizations trying to disrupt us. But I had not anticipated the challenges that we would face internally to keep a coalition going—competition, funding, staffing, conflict… It has the potential to be disruptive. I would really advocate for working in coalition, it's a brilliant way of working—bringing different skills and people together. But I think it requires those involved to be self-aware and committed to the coalition, rather than to their own particular needs."

Competition among individuals can also present problems. Opportunities and accolades must be shared and the value of all roles acknowledged. If some coalition members are paid NGO staff while others are community volunteers, inevitable imbalances arise, particularly when

the paid NGO staff are predominantly White while the community volunteers are predominantly people of color. At a practical level, if paid staff limit their work to office hours, they create an impediment to the engagement of volunteers who are fitting their contributions around their jobs, studies, and other responsibilities.

## Agreeing to joint policy positions and activities

It can be almost impossible to get big coalitions to agree on every aspect of strategy, policy positions, and the wording of documents. For some larger NGOs, receiving public funding or choosing to work directly with the police or local government may limit their willingness to take more confrontational stances. In some circumstances, mainstream NGOs have softened advocacy asks because they believe this will be better received by police or authorities—and at times, different groups will take different stances (see Chapter 7 on engaging with police). But coalition work that includes and aspires to work for the interest of the people affected by ethnic profiling must be authentic, and this means ensuring that reform demands reflect community experiences and needs. Many coalitions agree on fundamental values, but may allow more flexibility in signing on to more specific policies or activities. It can also be helpful to establish clarity on roles, particularly which groups may take public and confrontational stances, while other groups or individuals provide support behind the scenes.

"We don't have allies, we have equal partners. There are stakeholders with equal value, as all skills and experiences are needed for the work. So we don't privilege academic knowledge over experiential knowledge, legal knowledge over financial knowledge, for example. They are all key to what we do and all necessary to have an impact."

Lacking self-awareness about issues of race and power

Many coalitions are dominated by larger NGOs, often White-led, with more staff and resources than grassroots groups or activists. It is easy for these groups to neglect the role and position of directly impacted groups. Communities must be actively involved in every step of the process, even when this requires extra time. It may be helpful to develop explicit agreements on working together that acknowledge differences in power and privilege—for example by refusing to take part in meetings where no impacted person is present, or ensuring that the visible leader or spokesperson is from the impacted community.
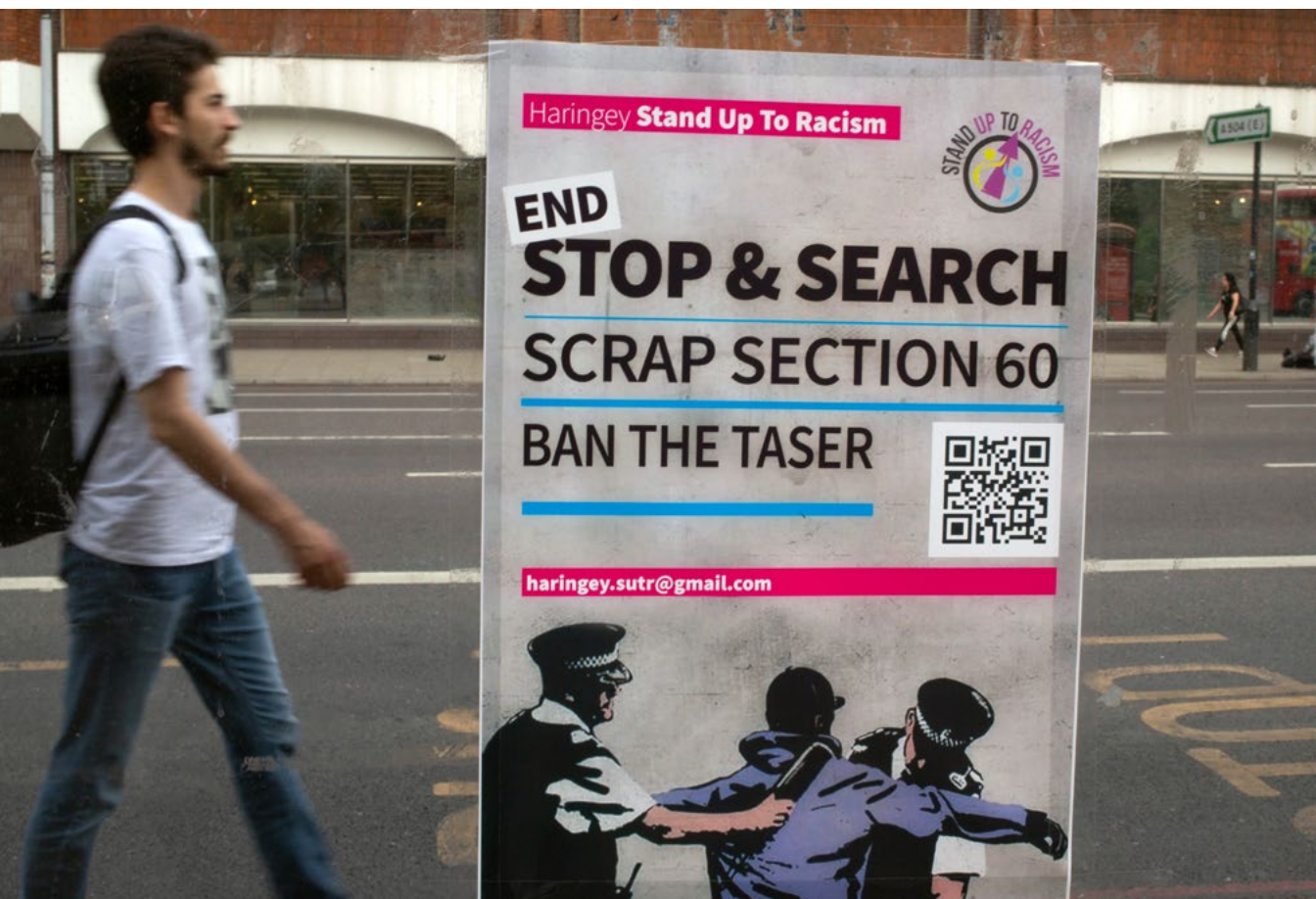
*A man walks past a poster calling for an end to suspicionless stop and search in London on August, 8, 2020.
© Thabo Jaiyesimi/SOPA/Shutterstock*

Efforts to encourage directly impacted communities to be at the forefront can unwittingly add to the pressure and emotional burden these communities already live with. Experiencing injustice and working to address it, especially in your spare time, is incredibly taxing, physically and emotionally. People from impacted communities must not only be encouraged to lead, but provided with practical and emotional support to do so. Importantly, this includes setting their own boundaries and making decisions about what they will or will not do, and being protected along the way. Injustice is experienced differently by those facing oppression, as is the struggle against it. Adding guilt to injury only weakens the position of impacted persons even more. Chapter 8, on sustaining activists and movements, addresses this issue more fully.

"We all have a role to play. Having someone who doesn't look like you, who has some privilege, it actually can empower people to claim that space. Never feel bad for occupying it in the first place.... You can always play a role. You might not be a leader, you might be a supporter but you have to be ready to step away and pass the baton or otherwise never get any new people and new ideas. It freezes out new ideas and thinking."

"None of us are free unless all are free. It really pisses me off when people refer to 'allies' because it suggests it is not our struggle. It creates hierarchies of ownership, that some people own the struggle more than others. We have to all be considered equal, but acknowledge power and privilege, and work together to take account of it."

STRATEGIC COMMUNICATIONS

StopWatch CEO Katrina Ffrench and detective Peter Bleksley discuss stop and search on the talk show "Good Morning Britain" on August 29, 2018. © Ken McKay/ITV/Shutterstock

A comprehensive communications strategy is essential for advocacy campaigns against ethnic profiling. Campaigns face an uphill battle: they challenge widely held stereotypes, raise an issue that the majority do not experience, and question the practices of the police—an institution that is widely respected. Communicating effectively to a broad array of audiences is essential to overcoming these challenges.

Strategic communication is key to raising public and political awareness about the harms of ethnic profiling, and making the case for police reform. Having clear objectives, target audiences, and a well-conceived plan are crucial to successful strategic communications. There are also pitfalls that can be identified and avoided, including risks to allies and spokespeople. This chapter discusses the key elements and essential steps of building a communications plan on ethnic profiling for both short-term campaigns and long-term shifts of hearts, minds, and policy.

LESSONS

- ☐ Plan your strategy by carefully considering the "who, what, where, when, and how" of communications.

- ☐ Try to include a variety of spokespeople in your communications, including directly impacted individuals as well as parents and insiders.

- ☐ Combine individual stories with rigorous evidence, including data conveyed in a simple and clear manner that demonstrates the scope and harms of ethnic profiling.

- ☐ Reframe the narrative to portray safety, security, and non-discrimination as complementary, not as a trade-off.

- ☐ Prepare for media outreach by identifying windows of opportunity, providing information to key journalists, and training spokespeople.

Building a Communications Plan

Building a communications plan requires defining *who* should communicate, *what* should be communicated, *where* your target audience is, *when* to communicate (or not), and *how* to communicate. Resources and skillsets also need to be considered.

Defining Goals

All communications strategies should operate under goals that mirror or complement the organizational, coalition, or campaign goals. The following steps and guidelines should only be applied when goals have been clearly defined, so that a communications plan can be developed that aligns with those goals.

Audience Segmentation

Any successful communications campaign should analyze who has the power to bring the change you seek (see Chapter 1). All communications strategies define who you are trying to mobilize or persuade on a given issue. Targeting "the general public" as your key audience is far too broad. It is important to be selective about your target audience for resource purposes, practicality, and time constraints. In most campaigns, audiences can be broken up into five key groups:

1. *Base:* The base is made up of people who already know your message on ending ethnic profiling and agree with it. They will not need to be convinced, but may need to be mobilized towards a certain action you want them to take.
2. *Moveable middle:* The moveable middle is made up of people who are sympathetic to your cause, but may not understand the problem with ethnic profiling or what it takes to change it. From a resource perspective, focusing on educating and mobilizing this audience will be key to your success.
3. *Decision makers:* The decision makers are central to helping you meet your goal, whether it is policy or cultural change. Be thoughtful about what motivates this group to take action, and tailor your communications tactics to those motivating factors. Decision makers could be policy makers, or leadership within the police, schools, and communities.
4. *Influencers:* Influencers can help persuade the decision makers to make a decision. They have an outsized voice in a community or society, but are likely to be selective about whether and when to speak on an issue. Influencers could be celebrities, faith leaders, business owners, or even reporters.
5. *Opposition:* The opposition can be one of the hardest audiences to reach and to persuade. It is important to identify who they are and what motivates them, but unless you have a strong strategy to persuade this group, do not expend resources trying to change their minds.

Campaigns seeking to challenge ethnic profiling will largely focus on mobilizing your base audience, but also on reaching new audiences who have not heard about the problem, or may initially disagree with your message.

Research

A good communications plan is built on information, especially information about target audiences and how to reach them. But it is also important to recognize where more expertise and information is needed, and to conduct research to address those gaps. A communications strategy should consider the following forms of research:

- Informal or formal public opinion polling of key audiences.
- Focus group testing of key messages and spokespeople.
- Informal conversations with fellow organizations, community leaders, or experts to understand the current advocacy landscape.
- Researching and tracking media coverage of key issues. This will also help identify which media members and outlets are reporting on this issue. It is important to use this research to consider how the opposition is trying to frame the debate.
- Researching and tracking social media, and how conversations are being shaped online. This will also help identify key influencers and voices of opposition online.

Messages

For every campaign, a communications strategy should identify at least three key messages that clarify your position and move others to support your goal. When creating messages, it is important to consider:

Narrative and Framing

A "narrative" is a shared interpretation of how the world works. Who holds power and how they use it is both embedded in and supported by dominant narratives. In the case of ethnic profiling, the practice is justified based on stereotypes associating minority groups with higher crime rates, and arguments that profiling is, therefore, effective and enhances public safety.

The messages needed to counter negative narratives contributing to ethnic profiling share common elements across most settings, even as specific practices and experiences are rooted in local reality. In response to negative narratives, some activists have chosen to demonstrate that profiling is ineffective, a poor use of police resources, and counter-productive to public security because it erodes trust and cooperation with police.

Trade-off arguments posit ethnic profiling as necessary to ensure public safety, even at the cost of placing some limits on rights to equality and non-discrimination. The damage inflicted by ethnic profiling is relativized as a necessary price to pay in the interest of public safety. Under

this view, there is a necessary trade-off between rights and security. Activists have counter-framed this argument with an alternative model of security practices, arguing that respect for rights enhances public security, and that policing needs to be both "fair and effective," both "safe and just."[52]

Activists need to prepare for opposition messaging that may seek to deny, diminish, or justify discriminatory identity checks, stops, and search practices. Opposition may try to portray activists as biased, radical, anti-police, or naïve.

Clear and Compelling Data

To counter denial that discriminatory police practices exist, or arguments that the issue is limited to a few isolated cases, good communications must demonstrate that the problem is systematic. Chapter 2 of this guide discussed a range of research and documentation methods. When presenting research results, particularly statistical analysis, it is important to present the materials in an accessible manner, avoiding overly technical language and complex statistics. Visual data presentations such as infographics, charts, and videos, as well as clear, simple, and easily accessible summaries of key findings, will facilitate their use in mainstream and social media.[53]

Bring People into the Picture

It is often necessary to illustrate the harm done by ethnic profiling and counter prevailing views that—if you haven't done anything wrong—being stopped by police means you have nothing to fear and only represents a minor inconvenience. Personal stories can illustrate the impact and harm racial discrimination has on personal and psychological health.[54]

CASE STUDY

Making Statistics Accessible

"Of the 56,000 homicides in Brazil every year, 30,000 are young people aged 15 to 29. That means that, at this very moment, a young person is most likely being killed in Brazil. By the time you go to bed today, 82 will have died. It's like a small airplane full of young people crashing every two days, with no survivors. This would be shocking enough by itself, but it's even more scandalous that 77 percent of these young people are Black."

- Amnesty International Brazil[55]

The Power of the Visual

In order to raise public awareness about the impacts of ethnic profiling, the Open Society Justice Initiative and photographer Ed Kashi created a multi-media project focused on the stories of people directly affected by these practices.[56] Individual testimony was anchored in data on widespread patterns of profiling, and highlighted negative effects on public safety and security. The project generated reports, photos, videos, and an exhibition that could be mounted in public spaces and used in local events and debates.

Offer Solutions

Every communications effort should present solutions on the problem you are addressing. Without offering potential solutions—particularly aimed at those in the "moveable middle"—you miss a key opportunity to invite new audiences in with information on what can be done and how they can help.

Working with the Media

Media Outreach

Mainstream media often shows little interest in everyday ethnic profiling, and is more likely to cover only the dramatic incidents, such as police stops of celebrities or stops that go wrong and result in death or serious injury. Research also shows that broadcast television over-represents crimes involving Black suspects, adding to negative narratives that further drive ethnic profiling.[57]

The people most affected by ethnic profiling typically have limited media access and representation. However, many elements of a campaign can attract attention and counter this problem, including the release of new data or documentation reports, filing lawsuits (see Chapter 6 on strategic litigation), multi-media materials, and demonstrations.

Building an understanding of your issues and good relations with the journalists who cover policing and justice will affect how much media coverage you get. Journalists from progressive media outlets may be sympathetic to the issues, but others may be skeptical and more aligned with the perspectives of their contacts in the police and other law enforcement authorities they regularly interview. Since their audiences are different, it is important to consider working with both sympathetic and skeptical journalists if you want to reach new audiences. Develop a media list with the names, outlets, contact information, and social media accounts of reporters who cover crime and justice issues.

CASE STUDY

Inviting Audience Involvement[58]

In 2014, the Roma Press Center in Hungary documented nearly 140 cases in over 50 villages of on-the-spot fines levied against Roma for misdemeanors. The minor offenses committed were primarily traffic violations, such as lack of compulsory bicycle accessories, not crossing the street at a crossing, or pushing a stroller on the street as opposed to the narrow sidewalk. Collaborating with the most popular online news outlet in the country, the Roma Press Center published the stories of the six most shocking fines and asked readers to vote for the most outrageous incident. Nearly 20,000 readers participated in the poll and a majority of them found Tamás' story the most compelling: he faced 10 days in prison when he was unable to pay a fine for dropping his tissue on the street. Following the poll, the Roma Press Center organized an awards ceremony entitled the Golden Mudguard Award, because many fines were for lacking bicycle accessories. They auctioned the bicycle of the person with the most fines, and awarded the Golden Mudguard Award to the police station that fined Tamás. Police representatives and the minister of interior affairs declined to attend the awards ceremony, citing "previous engagements."

It is important not only to send out press releases or advisories when you have major news to share, but also to proactively contact journalists to meet and discuss potential stories before big events happen. It is also worth inviting specific journalists to attend local community meetings, debates, and events that can expose them to the community experience of being profiled.

Some best practices for working with the media include:

- Be as quick and clear as possible when working with a reporter. They do not have much time and it is important in all communications to get your main messages across as quickly as possible.
- If they do not respond to you after your first contact, try just once more. Do not push too hard if they do not respond.
- Always assume that you are on the record when speaking to journalists, unless you have designated otherwise. This can avoid embarrassing and prejudicial errors.
- Conduct research into programs, interviewers, and panel members before agreeing to participate in a TV or radio show and select spokespeople carefully. Consider refusing to appear if the format appears fundamentally hostile.
- With spokespersons who are new to media work, start with simpler press experiences, such as with trusted written press, and then move to audio and later video press.
- If you do not want to answer a question, avoid saying "no comment." Instead, use the question to pivot to the statement you wish to make. There are many bridges and transition sentences to effectively pivot, such as, "What is really important here is..." followed by the point you want to make.
- Stay on message, and repeat your main messages often.

Activists and leaders from social justice groups, including Communities United for Police Reform, call for a bill requiring police to identify themselves during encounters with the public, in New York City on December 12, 2016. © Stan Reaves/LightRocket/Getty

The right choice of messengers is key to the successful delivery of a message. The person transmitting the message should be persuasive to the target audience and in some way relatable. Becoming a successful spokesperson is not automatic, and campaigns should consider investing time and resources in training their spokespeople in the craft of public speaking, debate, and writing. In general, successful spokespeople must be knowledgeable and credible on ethnic profiling, and be willing to speak with conviction and passion about the practice's problems.

CASE STUDY

Power of the Personal Narrative

In a cover story published in April 2015 in the magazine *Toronto Life,* Black Canadian journalist Desmond Cole described his personal experiences of being stopped by police more than 50 times.[59] The story drew widespread attention to the problem of police stops in Toronto. Cole has since released a documentary, "The Skin We're In," about these experiences,[60] and a pedagogical kit to assist teachers to use the documentary to discuss these issues in schools.[61]

CASE STUDY

Plan for the Best, Prepare for the Worst[62]

When 17 young people, mostly minors, from a Paris neighborhood filed a collective criminal complaint against police, including allegations of rape and other forms of violence, journalists wanted to interview the victims. The lawyers and local associations supporting the legal action agreed that the lawyers and one activist would speak with journalists, along with a few anonymous pre-arranged interviews with trusted journalists. A designated press contact managed all communications. However, journalists wanted first-hand accounts from the plaintiffs and some were undeterred by arguments about the ethics of asking children to talk about sexual abuse in front of a camera. TV crews came to the neighborhood and tried to find the plaintiffs, requiring rapid outreach to plaintiffs so they and their families could avoid the press. Luckily this worked, but in retrospect, advance planning to prepare plaintiffs for such an eventuality and how to respond would have been helpful.

If possible, the first interviews after training should be in friendly situations, such as with trusted journalists for print. TV and radio, especially if broadcast live, can be very intimidating and care should be taken to make sure that spokespersons can handle those situations before asking them to take this on.

People of color and members of other frequently profiled groups have a key role in communicating about ethnic profiling, and can add a personal element to the factual analysis and legal arguments. Spokespeople who have been directly affected by profiling can, through sharing their personal experiences, convey the many impacts of being profiled. Compelling individual stories can resonate and create empathy with audiences who have not been

"The fact that directly impacted folks were leading the campaign and serving as the primary spokespeople absolutely changed the game. Their stories were undeniable…It wasn't a debate anymore between civil rights and public safety advocates; it was a story of the human impact of policing practices in New York City."

directly affected by the problem and who may not otherwise understand why the problem is significant. Plans to communicate about discrimination should be careful not to place the burden of public representation and the stress of having to explain racism always on the shoulders of people of color. There is no hard and fast rule; rather this balance should be negotiated with sensitivity in each situation.
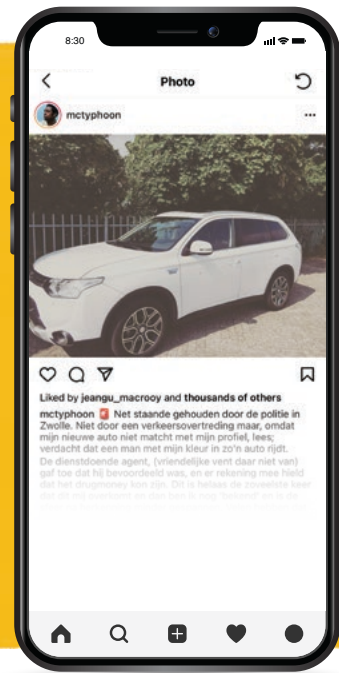
Testimonies of parents of young people who have been stopped, frisked, and searched by police are also powerful and invite empathy from other parents who can relate to their

concerns for their children's emotional and physical safety. Communication by ordinary people who have been profiled while doing ordinary things invites the audience to relate and think "that could be my child," or "that could be me."[63]

Police officers willing to deliver this message are particularly powerful, as professional experts whose perspective has extra weight.

Prominent public figures of color who have been profiled are also powerful spokespeople.[64] They can challenge stereotypes and suspicions that "there was surely a good reason for the stop," or that those stopped "are probably involved in criminal activity." They are also magnets for media attention and can assist in reaching new and mainstream audiences.

As law enforcement insiders, police officers willing to speak out against ethnic profiling have particular power and legitimacy when they describe the ineffectiveness of discriminatory identity checks and stop and search practices, and the consequent damage to trust in police and their effectiveness. It may, however, be challenging to identify insiders willing and able to speak out.

For both police officers and those who have lived with profiling, it is important to discuss the burden and risks associated with speaking publically on ethnic profiling. Emotional and practical, even legal, support may be needed if they face public criticism or social media trolling. In some situations there may be fear of reprisals: police may target vulnerable spokespeople for further attention, and officers who speak out may face retaliation with negative consequences for their careers.

For spokespeople from targeted communities, the role comes with extra challenges. For them, the common risks of retaliation and online hate speech come on top of their daily experiences of discrimination and racism. There is also the burden of having to relive the trauma, and the emotional and psychological impact of having to bear the responsibility for challenging institutional racism. It is important to prepare community spokespersons for the risks, and also to ensure the necessary support is there to debrief, process, and follow up with media interventions if necessary to protect the concerned individual. Given these challenges, few individuals may be willing to speak with the media. These persons may end up taking up all the communications and public speaking roles, which not only places a tremendous burden on them (increasing to the likelihood of burnout), but also may inadvertently undermine the legitimacy and authenticity of the cause by making it seem as though the spokesperson lacks broad-based support. It is crucial to invest time and resources in identifying and training multiple and complementary spokespersons, preferably from various backgrounds who can speak to various audiences.

It may be important to avoid controversial figures at times; some spokespeople may be lightning rods for criticism based on past work or statements and may open the door to a "kill the messenger to kill the message" counter-attack. In other circumstances, a provocative figure may be able to draw attention to the message.

A factor to consider and avoid is the competition for visibility that often arises in communications processes. It is entirely natural for organizations and individuals to seek to advance their work by taking on high visibility roles. In coalitions and coordinated advocacy, it is important to discuss and agree on roles, and keep a firm eye on matching the messenger as well as the message to the ultimate goal of the strategy.

Writing Op-Eds
Opinion articles are a good way for activists to get their ideas into the news, without having to make the headlines. An op-ed should address a current issue in the news, and the opinion expressed should be a new one that others have not heard before. Avoid jargon and emphasize the unique perspective you bring to the issue. Before submitting an op-ed, make sure you understand the outlet's guidelines on word count and submission process. Review and learn from other successful op-eds, and follow this general guidance on how to structure your op-ed:

- Lead (an attention-grabbing opening sentence that could be a personal story or might relate to an event already in the news)
- Thesis, or your main argument
- First point in support of your thesis
- Second point
- Third point
- Address any critics, and acknowledge counter-arguments or narratives
- Conclusion

Writing Press Releases

Press releases are used to quickly alert journalists about an event or announcement. If you have a big story, consider reaching out to one journalist first for an exclusive, which gives them early access to the information you have. Let them know that your release is embargoed (cannot be made public) until a specific launch date. Then, send out the press release on your launch day. There are many samples of press releases online, and every release should at least include:

- Title
- Date
- Contact information

- The who, what, where, when, and why
- A quote, if desired

Timing

Communication efforts may be planned or responsive. Planning a communications strategy is easier when preparing for specific events, but campaigns should also plan messaging to frame arguments and be ready when events arise that require a response or create a communications opportunity. Predictable messaging opportunities include elections, debates on relevant laws and policies, court hearings, or symbolic days or events, such as the International Day for the Elimination of Racial Discrimination. It is worth

"We had the misfortune that Trump was elected the day before France's highest court issued a historic decision on discriminatory identity checks. Remarkably, the decision still received some media attention, but it was largely drowned out by news over Trump's election."

doing a little research to find out if international bodies are planning to release any reports or statements related to your issue. Other communication opportunities are unpredictable, such as an incident of police abuse or social unrest, but may generate public debates on racism or inequality, integration, violence and security problems, tensions in police-community relations, or poor police morale.

There are certain particularly bad moments for communicating on ethnic profiling. Avoid days or periods when major news events will drown out your efforts. There are also moments of hostility to the issue. For example, in the aftermath of a terrorist attack where police have intervened to defend innocent lives, any criticism of police, no matter how justified, may be perceived as unpatriotic or offensive by many. At such moments, activists risk being criticized and discredited regardless of what they are saying and how they are saying it.

Excerpt from the comic strip "Contrôle au faciès: la BD pour tout comprendre." © Herve Pinel for the Open Society Foundations

CASE STUDY

Using Comics to Convey Complex Legal Arguments

Litigation against ethnic profiling by police has provided a series of mediagenic moments in France. Litigation efforts have often included a communications plan, including providing exclusive interviews and information for selected media, along with press conferences and press releases. A key element was the creation of a blog[65] targeting journalists that explained each stage of the case and provided clear information on the legal procedure, the parties' arguments, key decisions, and the context. The blog also contained links to resources and organizations, and interviews and statements by the claimants, their lawyers, and supporting organizations. The blog even used comics such as the one above to clarify complex legal arguments. At each key moment in the litigation, a press release was sent to a long list of journalists, linking to the blog. The blog received hundreds of hits and drove widespread and high quality media coverage.

CASE STUDY

Communities United for Police Reform (CPR)
Communications Strategy

A critical component of the Communities United for Police Reform[66] communications strategy was the message. To help change the narrative on stop-and-frisk, the messaging strategy: 1) expanded the understanding of who is impacted by stop-and-frisk; 2) redefined safety and countered the dominant frames about safety; and 3) humanized the impact of stop-and-frisk.

CPR took a "big tent" approach to its campaign, advocacy, and messaging. The stop-and-frisk debate had typically been narrowly defined as an issue affecting young Black men. CPR spoke about the impact of stop-and-frisk on a broader cross section of New Yorkers: homeless people; immigrants; those who identify as LGBTQ; members of the Black, Latino, Asian, and Muslim communities; and people of all genders. These populations were unified by their shared experiences with discriminatory policing, and CPR wove their stories and faces into every advocacy action and communications tactic. "CPR press conferences were like the United Nations, beautiful and powerful," said Juan Cartegena, president and general counsel of LatinoJustice PRLDEF.

Supporters of stop-and-frisk, including the mayor, the NYPD, and the police unions framed the practice as an important safety issue. They argued stop-and-frisk was necessary to prevent crime, keep guns off the streets, and keep New Yorkers safe. In the post-9/11 era, messages framed around safety were particularly effective and difficult to counter.

Advocates most commonly countered with the message that stop-and-frisk violates fundamental civil rights. While true, this set up a binary debate between civil rights and law and order advocates—civil rights vs. safety—and excluded the community and the human impact from the narrative. CPR turned the messaging on its head by affirming safety was important, but explaining how discriminatory policing practices made communities less safe.

The data supported this frame: less than 1.5 percent of stops resulted in the recovery of a gun, and nine out of ten resulted in no arrest or summons. CPR's approach rejected the false dichotomy between public safety and police accountability. CPR also advanced the message that effective policing is respectful policing. This strong message appealed to all audiences, but also spoke directly to impacted communities.

This messaging was woven throughout their work; even the name of the legislative package, the Community Safety Act, reinforced the safety narrative.

The NYPD took the position that stop-and-frisk was not harmful for those not doing anything wrong. Their narrative assumed if an innocent person is stopped, it is a minor inconvenience individuals should be willing to assume for the sake of public safety. CPR effectively countered two critical points in this message. First, they avoided the innocence vs. guilt frame, which placed judgment on the individual. Instead, they described the "wrongful" nature of stop-and-frisk, thereby placing emphasis on the ineffective and harmful practice itself.

Second, CPR addressed the "inconvenience" of the practice. Using data ... the CPR demonstrated the broad impact of stop-and-frisk in terms of the sheer numbers of stops and its discriminatory targeting of people of color, as well as the fecklessness of the practice in bringing about safety....

CPR also effectively humanized the data and made real its detrimental impact by using representatives of affected communities as the face of the campaign in stories, at press conferences, in the media, in testimony, and as plaintiffs.

(excerpted from "Communities United for Police Reform: From the Streets to the Courts to City Hall: A Case Study of a Comprehensive Campaign to Reform Stop-and-Frisk in New York City," found here: http://www. atlanticphilanthropies.org/wp-content/uploads/2017/10/CPR_CaseStudy.pdf)

Social Media

Social media can be an especially useful means for activists to reach audiences and communicate about ethnic profiling. It is a particularly effective way to give voice to those under-represented in more traditional media. Individuals who have been stopped by police can share their accounts directly and rapidly; video taken on mobile phones has made police discrimination and abuse more visible in many countries.[67] Local, national, and international activists can help to disseminate content more widely, particularly when facilitated by clear hashtags that enable sharing and tracking content, and pushing it out to social media "influencers" (individuals who have a large social media following).

"Niet normaal?!" or "Pas normal?!"
The Belgian platform Stop Ethnic Profiling developed an Instagram account[69] to share testimonies of ethnic profiling in light of their "Niet normaal?!" or "Pas normal?!" (Not normal?!) campaign complementing their website.[70] The account featured persons of color describing being stopped by police when doing ordinary things like going out for air when studying for exams, driving slowly to find a particular street, or being in their own home, and being stopped, searched, or even held at gunpoint with no justification. The account also includes know-your-rights posts complementing workshops with affected communities, in French and Dutch in order to reach the largest language communities in Belgium.

Beyond information sharing and networking, activists are increasingly using social media to organize and mobilize communities.[68] Some very creative elements are being used in social media campaigns, to drive wider engagement and create the possibility of going viral and influencing more mainstream debates and media.

In a world of sound-bites and one-line Twitter posts, it is important to communicate complex content in a simple and direct manner. Activists have used social media in creative ways to articulate technical matters through compelling and easily understood techniques, from infographics to cartoons.

POLICY ASKS AND ADVOCACY

At the heart of advocacy is the assumption that change can happen through building awareness, presenting powerful evidence and arguments, and persuading people who have the power to make the changes you seek. Police and security institutions will not reform themselves without external pressure. On the other side of the equation, those most impacted by ethnic profiling commonly lack representation and sufficient political weight to drive reforms alone, so alliances and coordinated advocacy efforts are needed to build pressure and create change. Even when convinced of the need for reform, political and police allies may encounter considerable resistance. Building public visibility and awareness and support, especially

A demonstrator at a Movement for Black Lives protest in New York City on June 7, 2020.
© Erik McGregor/LightRocket/Getty

among key decision makers, may increase "pressure points" and improve the chance for reforms to advance in practice.

Advocacy efforts can involve a mix of different activities, including direct lobbying with a range of different individuals and organizations, awareness raising, coalition building, strategic litigation, and media outreach. Advocacy can be local, national, or international in scope. This chapter explores how to conduct advocacy and develop policy asks, and shares some examples of successful advocacy campaigns. It focuses specifically on direct lobbying, awareness raising, and international advocacy; related activities such as documentation, litigation, and communications are covered in separate chapters.

LESSONS

☐ Impacted communities must be at the heart of advocacy efforts, including recognizing that community members are best placed to advise on the impact of ethnic profiling and potential solutions.

☐ A holistic approach is needed to effectively address ethnic profiling: consider the legal framework and accountability, data collection and analysis, and community engagement and dialogue.

☐ Take time to carefully map the stakeholders able to implement and support reforms.

☐ Advocacy is the art of persuasion: prepare arguments carefully and creatively and seek multiple pressure points where possible.

☐ Different avenues may be available to push for reforms: aim advocacy asks at the institution or individual with the power to make change, or be clear about how they will influence others to achieve your aims.

☐ Regional and international human rights monitoring mechanisms can be useful in drawing attention to national practices on ethnic profiling.

☐ International advocacy must be linked to national advocacy to ensure impact.

☐ Be realistic about the limits of some common advocacy asks; stop forms, training, and workforce diversity are all important, but also have well-documented limitations in directly changing police practice. Consider recommending broader accountability mechanisms that that may be harder to refuse.

What Needs to Change?

The starting point for developing an advocacy strategy involves deciding on what the problems are and which reforms are necessary to address them. A holistic approach is needed to combat ethnic profiling. Ethnic profiling is a structural form of racism that leads to patterns of discrimination, rather than isolated incidents caused by a few "bad apple" police officers. As such, multiple reforms will be needed to overhaul the system and address ethnic profiling.

Ethnic profiling has been most commonly challenged in the sphere of domestic policing, where reforms and lessons from their implementation are more readily available. It is more challenging in the sphere of immigration or counter-terrorism, where police, security, and oversight practices are more limited, secrecy prevails, and information is difficult to access. Many advocacy asks apply across these spheres, but additional research and planning is essential to ensure a clear problem analysis supports the right reform recommendations. Challenging ethnic profiling in immigration control is particularly difficult. A key argument in domestic policing is that ethnic profiling is ineffective, and police efficiency will be enhanced by targeting people based on their behavior rather than appearance. This argument is not as valid in immigration control where appearance and legal status can be more closely aligned; and few advocates would want to help the police be more "effective" in identifying undocumented migrants.

Historically, advocacy campaigns to combat ethnic profiling have focused on a set of common asks focused around acknowledging ethnic profiling and its structural nature; strengthening laws and policies against ethnic profiling; documenting activities such as ID checks, stops, and searches in order to monitor and track patterns of policing; developing robust, independent police oversight; and encouraging police-community engagement. Discussed further below, these form a strong starting point for campaigning against ethnic profiling, but even in the few contexts where all of the above are in place, police bias and discrimination remain widespread, reflecting the challenge of trying to change police practices that are embedded in wider structural racism. Furthermore, new technologies being introduced in policing can exacerbate or obscure ethnic profiling. Advocacy campaigns and recommendations need to evolve constantly in response to changes in practice and emerging trends.

Some campaigns, particularly in the US, are challenging the structure of policing and security rather than attempting to reform it. These campaigns are calling for reducing policing budgets and instead investing those funds in community-generated safety initiatives and community capacity-building. Demands include greater investment in the education, health, and safety of marginalized communities, instead of investments in traditional law enforcement structures that serve to criminalize and imprison.
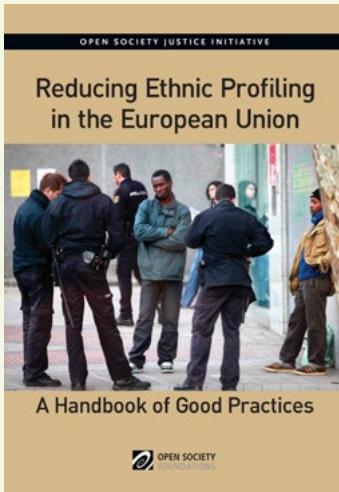
Reducing Ethnic Profiling in the European Union: A Handbook of Good Practices[71]

This handbook provides diagnostic questions, field-tested ideas for reform, and proven models of good practice for reducing ethnic profiling, including nearly 100 case studies. These show that discriminatory policing practices and outcomes can be reduced, with wider gains for the overall quality and efficiency of law enforcement.
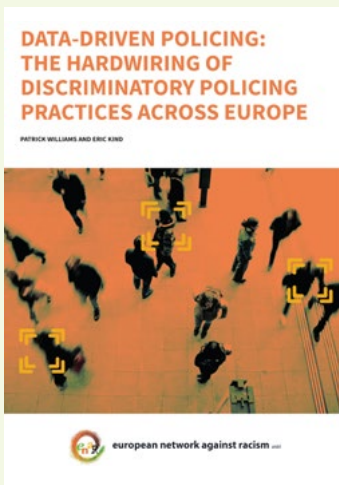
Data-Driven Policing: The Hardwiring of Discriminatory Policing Practices Across Europe[72]

The use of technology in policing and wider law enforcement practices is increasing rapidly. Some technologies are not new, but law enforcement's increased resort to data sharing, analytics, and predictive policing tools has troubling implications for minority ethnic and marginalized communities. This report explains the potentially discriminatory effects of data-driven policing, combining an analysis of processes of criminalization with information on the incursion of new technologies into contemporary policing.

We Sense Trouble: Automated Discrimination and Mass Surveillance in Predictive Policing in the Netherlands[73]

The use of algorithms and big data analyses also pose a great risk to human rights. This report examines the Sensing project in Roermond, and finds there is mass surveillance and automated ethnic profiling, whereby the police violate the right to privacy, the right to data protection, and the right not to be discriminated against. It also presents a number of solutions specific to addressing the use of algorithms and big data by the police.

CASE STUDY

The Movement for Black Lives[74] demands:

1. A reallocation of funds at the federal, state, and local level from policing and incarceration to long-term safety strategies such as education, local restorative justice services, and employment programs.

2. The retroactive decriminalization, immediate release, and record expungement of all drug- and prostitution-related offenses, and reparations for the devastating impact of the "war on drugs" and criminalization of prostitution, including a reinvestment of the resulting savings and revenue into restorative services, mental health services, job programs, and other programs supporting those impacted by the sex and drug trades.

3. Real, meaningful, and equitable universal health care that guarantees: proximity to nearby comprehensive health centers; culturally competent services for all people; specific services for queer, gender nonconforming, and trans people; full bodily autonomy; and full reproductive services, mental health services, paid parental leave, and comprehensive quality child and elder care.

4. A constitutional right at the state and federal level to a fully-funded education which includes a clear articulation of the right to: a free education for all, special protections for queer and trans students, wrap-around services, access to social workers, free health services (including reproductive body autonomy), a curriculum that acknowledges and addresses students' material and cultural needs, physical activity and recreation, high quality food, free day-care, and freedom from unwarranted search, seizure, or arrest.

5. A divestment from industrial, multinational use of fossil fuels and investment in community- based sustainable energy solutions.

6. A cut in military expenditures and a reallocation of those funds to invest in domestic infrastructure and community well-being.

Developing an Advocacy Strategy

Developing an advocacy strategy is essential in any campaign. Even if an issue falls squarely within the strategy or mission of a group or movement, it is important to assess the advocacy context and available resources because it is possible that others are already adequately engaged, or that resource constraints will limit the effectiveness of new advocacy efforts. Organizations with limited resources always have to make hard choices, including balancing their ability to respond to arising incidents against their long-term commitments.

Key questions to consider:

- Is the particular issue aligned with the larger mission?
- Is there a reasonable chance of success?
- Are there potential unintended consequences?
- Is advocacy the best approach? What other approaches (such as research, litigation, capacity-building) could make a difference?
- Are the resources in place, including credibility, evidence, expertise, a clear advocacy position, and recommendations?
- Is there a clear and specific contribution to make? Are other organizations already covering this issue?
- Is there any risk that the advocacy could undermine or contradict work by other parts of the organization or partners?
- Are there any security risks for staff, partners, or projects associated with the advocacy?

The steps laid out in this **Advocacy Cycle** can be useful for designing your strategies:

The Advocacy Cycle

STEP 01
Identify and analyze the issue

STEP 02
Set the goal and objectives

STEP 03
Identify the decision makers

STEP 04
Define the message and the "ask"

STEP 05
Set your timeline

STEP 06
Assess resources, choose tactics, and implement

STEP 07
Monitor, evaluate, and share
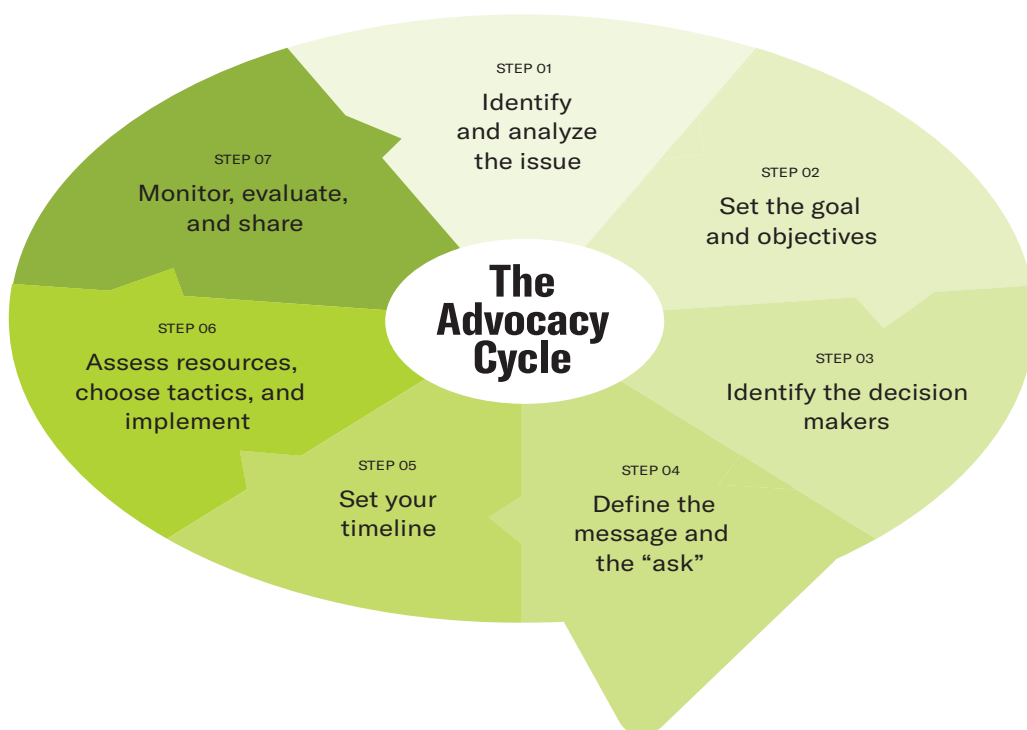
Source: Open Society Foundations: Evidence, Messages, Change! An Introductory Guide to Successful Advocacy, https://www.opensocietyfoundations.org/publications/evidence-messages-change-introductory-guide-successful-advocacy

CASE STUDY

US Movement to Defund the Police

"Defund the police" has become the term for a new vision of and approach to police reform in the US. While as a rallying cry, defund the police is now getting mass attention, the thinking behind this demand has been carefully developed by US activists over the last decade as they reflected on the inadequacy of traditional approaches to police reform and racial profiling, evident in the persistence of systemic bias and lethal violence against Black and brown communities. The meaning and implications of defund the police are now being hotly debated across the US through efforts to change law, policy, and practice. Concrete proposals range from disbanding entire police departments and developing other ways to ensure community safety, built up from and by communities themselves; to demands to reduce police budgets in order to provide non-policing responses to issues of mental health, substance abuse, homelessness, and other social challenges that currently absorb huge amounts of police time in the US, criminalize poor and marginalized groups, disproportionately fall on communities of color, and drive mass incarceration. This debate sits alongside many other specific police reform proposals. The importance of defund the police as a rallying cry is that it demands that reforms understand policing as a lethal aspect of wider structural racism, and focus on the need to redefine safety and security in the frame of dismantling structural racism, driven by expertise and insight gained from lived experience.[75]

Advocacy Strategy for an 18-Month Advocacy Campaign Preceding Local Elections

CASE STUDY

Step 1: Problem: Lack of recognition of the issue of ethnic profiling by the police, government, and wider society. Response: conduct research to illustrate how profiling manifests, including a legal analysis and interviews with police and people who have been stopped.

Step 2: Goal: get ethnic profiling onto the political agenda.
Process: target local and national politicians, media, and those who can influence politicians.

Objectives:
- Develop common policy asks
- Raise policy makers' awareness of the issue
- Demonstrate the human impact of ethnic profiling
- Get the policy asks into political platforms

Step 3: Develop a set of seven policy asks based on broad consensus from civil society.

Step 4: Develop a communications strategy and outreach tactics
- Conference to present the policy recommendations to police officers, policy makers, and civil society.
- Meeting with range of political stakeholders, including senior police officers, politicians, political aides, and other policy makers.
- Parliamentary hearing on ethnic profiling.
- Series of events in the run up to the election, including discussions and debates.

Step 5: Conduct monitoring and evaluation to record successes, remaining challenges, and lessons learned.

Successes:
- Created a common understanding of the problem, and used publications and recommendations to engage politicians and police in discussions.
- Secured political support and hosted a parliamentary hearing.
- Ethnic profiling was included in some political platforms.
- Bringing lived experience into the political debate allowed some potentially controversial recommendations to be unanimously accepted.
- Coalition included a range of diverse voices and organizations with common policy asks.

Challenges and lessons learned:
- Takes time to build consensus and common policy asks.
- Because grassroots organizations and activists are often excluded from advocacy processes, specific effort was required to ensure their voices and experiences were part of the campaign and events.
- Advocacy required a lot of time and capacity and patience—especially to develop necessary relationships and systematically follow-up. Capacity was key.

Developing Advocacy Asks

Advocacy involves persuasion, so advocacy arguments need to be concise, creative, and tailored to the specific audience or policy maker identified as the strategic target.

Include Those Most Affected

Campaigns are often guilty of deciding on what needs to be changed before they have asked the people most affected by profiling. Involving directly-impacted communities helps to shape demands that are appropriate and wanted by the community. When community members develop advocacy strategies, the sense of ownership drives ongoing pressure on politicians, leveraging the power of protest and the vote, generating political support and reform-focused resource allocation. A range of tools can be used to work with communities to identify key issues and the best ways to address them, including community or "town hall" meetings, focus groups and surveys, and simply exchanging contact information and creating communication networks for community members to share ideas.

CASE STUDY

Challenging the NYPD's Stop and Frisk

In New York City, successive legal actions challenging stop and frisk took different approaches.[76] In 2003, plaintiffs in the *Daniels* case reached a settlement with the NYPD that included an agreement to develop an anti-racial profiling policy, to audit stop and frisk activity, and to conduct public education. Local communities were not involved, and following significant non-compliance on the part of the NYPD and an increase in use of stop and frisk, advocates filed a new class action, *Floyd et al.* The judge in the *Floyd* case appointed a facilitator to consult with communities and identify priority remedies and reforms, and also listed 10 specific stakeholders in the process, including community organizations such as Communities United for Police Reform. In addition, the facilitator organized focus groups and community forums, focusing on the most affected geographic areas and populations: Black and Latino individuals aged 14 to 24.

Engage with a Broad Range of Stakeholders

In developing recommendations for reforms, it is useful to research the problem carefully and discuss possible solutions with policy makers, the police, and other stakeholders who can help to ensure that proposals are applicable and workable. Talking to the targets of advocacy campaigns where possible can also help to develop the strategy, refine messages, and focus activities for greatest effectiveness.

It can be helpful to share examples of successful reforms from other settings to show what might be changed and how. Finding supportive police officers with whom to test ideas and asks will help to develop well-conceived proposals, and to anticipate and respond to practical concerns, resistance, and counter arguments. Talking with the targets of advocacy can also help campaigners to consider novel approaches. In the US case of *Wilkins*, a challenge to racial profiling in stop and searches on the Maryland highways, the police were initially reluctant to provide complaint forms to all drivers they stopped—until it was suggested that the reverse side of the form could be used to provide compliments if the driver believed that the police had acted well.[77] Having some police allies and making practical suggestions will also make reforms more palatable to political authorities and policy makers who do not want to be cast as anti-police. Other good sources of insight include staff at police oversight bodies, academics, and policy aides.

> **"During the early stages, focus on the police who are willing to listen and 'lead by example.' Do their homework for them. The more specific the recommendations are, the more likely the police and politicians are to use them. Particularly if you can show they have been successful elsewhere."**

Make Asks Positive and Universal

Advocacy messages are most successful when they resonate with values. Many advocacy strategies focus largely on opposing biased and abusive policing practices. It can be helpful to focus messaging on positive alternatives, and grounding these in universal values such as fairness, transparency, and effectiveness can be hard for policy makers to resist. It can also be useful to frame advocacy asks around wider improvements in process and policy that yield broad social benefits.

> **"The debates had become well established—the arguments and the defense from the people we want to influence. So we needed to bring in new ways of looking at the problem to get a more authentic emotional response. We started to talk more about the impact of stops on children, and framing asks around child welfare. For many people, it's not their issue, they don't know many Black people and don't immediately understand or feel their experiences, but they do know children. People can identify with the vulnerability of children no matter what their race. It allows people to be more empathetic to the general reform agenda."**

Common Ethnic Profiling Reform Asks

Recommendations need to be clear and practical, and should anticipate unintended consequences as far as possible. The following five recommendations (followed by one caveat) are the most common asks in EU campaigns against ethnic profiling.

Ask 1: Acknowledge and speak out against ethnic profiling

Ethnic profiling will not be addressed unless its existence is recognized. Regional bodies, governments, police, and politicians must acknowledge that ethnic profiling exists and constitutes unlawful discrimination. It is critical for communities experiencing ethnic profiling to have their experiences heard and validated. This also creates direct pressure on policy makers to address the problem. Acknowledgement needs to make it clear that ethnic profiling is a structural problem and not the result of some bad officers (and this should be reflected in the definition of profiling), that it harms individuals and communities, and that it is not effective in the fight against crime. Limited definitions that fail to recognize the systemic nature of the problem lead to limited responses that fail to address ethnic profiling practices.

Ask 2: National legislation and police operating procedures should explicitly prohibit ethnic profiling and require reasonable suspicion for all police stops, ID checks, and searches

As well as the express prohibition on ethnic profiling, laws and implementing regulations should establish clear and limited circumstances under which police may use sensitive personal factors including ethnicity and religion, such as in a specific suspect description or clear, timely, and reliable intelligence. Law and police guidelines should set out clear and precise standards for initiating stops and making identity checks and searches based upon a reasonable suspicion standard. This legal standard should be supported with guidance and training on how to apply the standard in practice.

Ask 3: Police should record and disclose the data collected on their use of identity checks, stops, and searches—including the ethnicity of the person stopped—while respecting data protection standards

Data collection is essential in order to monitor and track disproportionate impacts, and to assess the effectiveness of police stop and search. Data provides important evidence for accountability and legal action seeking remedies for people who have been stopped without proper reason. Systems for data collection, analysis, and storage must comply with national and regional data protection standards. Data is essential to improve management practices, but is also key for public accountability and dialogue. Data collection, especially the collection of ethnic data, must be transparent, including sharing anonymized statistical data with the public. This is essential to gain pubic support, improve police legitimacy, and enable external assessment of the use of these powers. Police departments should discuss stop data with the community, and be open to change in response to concerns raised, in order to gain greater community support and reflect community priorities.

Recording police stops is a necessary first step, but data alone does not change practice. Once monitoring and data-sharing are in place, analysis and monitoring must be ongoing to identify the scope and patterns of profiling, and develop the right policy responses to those patterns. This means that campaigners and communities must either learn how to analyze data, or develop relationships with academics to obtain independent data analyses. Subsequent advocacy then focuses on addressing the problems highlighted by the data rather than asking for data.

Experience in France demonstrates some challenges of campaigning for the use of stop forms. For a decade, advocates have called for the use of a stop form to record police use of ID checks. Initial calls did not ask for ethnicity to be recorded, but insisted that individuals who are stopped should receive a copy of the form, providing proof that the stop actually took place. Recording police stops challenges a long history of French police resistance to public accountability. In a context of deteriorating police-community relations, the groups most affected by police stops do not trust police, or how the police might record, share, and use sensitive personal data such as ethnicity. A major public and political debate arose focused on stop forms, but no reforms have been achieved. Police union resistance objected that police "are not racist," and that stop forms "are too bureaucratic," "demonstrate mistrust in police," and "harm the police's ability to work." Greater discussion with police at various levels might have avoided some of this, as might a larger focus on a wider set of reforms, including legislative change, community engagement, and oversight.

Ask 4: Establish clear independent oversight and complaints mechanisms

Judicial oversight and other supervisory or inspection mechanisms must be in place to scrutinize the use of police powers and to ensure that all practices meet tests of necessity and proportionality, and comply fully with European anti-discrimination norms. These should be complemented by accessible complaints mechanisms that are capable of investigating allegations of ethnic profiling, through examining individual complaints and analyzing patterns of complaints. Effective, independent accountability mechanisms are essential in all areas of law enforcement, including intelligence agencies and counterterrorism operations.

As with stop recording, the demand for independent or civilian police oversight is one of the most common recommendations of campaigners. In reality, very few mechanisms have lived up to expectations and managed to challenge ethnic profiling. Many oversight bodies suffer the same ills: inert institutional structures, staff drawn from former police officers, no meaningful community engagement, limited resources, and little power to order systemic policy change. Establishing an effective oversight mechanism is a first step only, and leads to the longer advocacy battle to ensure the mechanism works effectively in challenging ethnic profiling.

Ask 5: Engage with communities to identify and address local problems and build trust

Engaging, listening, and responding to all parts of the community requires ongoing relationships and dialogue to identify local issues and priorities and build local police-community relations. Police can achieve this through surveys, research projects, public meetings, resident forums, police-community consultative groups, and special initiatives or projects. Most police departments will argue that they are already doing this, but as discussed in Chapter 7, the focus is often presentational, providing information to the community, but not listening or soliciting meaningful community input. The aims and outcomes desired for community engagement should be clearly stated in advocacy recommendations.

CASE STUDY

Reports on Collecting Stop Data

The Recording of Police Stops: Methods and Issues (2020)[78]
This report discusses the importance of data collection—what should be collected and why—and then assesses four different options for recording police stop-searches (paper forms, dispatch radios, mobile devices, and body-worn cameras/video) based on practical experience with their use across a range of jurisdictions.

Monitoring Racial Profiling: Introducing a scheme to prevent unlawful stops and searches by Victoria Police (2017)[79]
This report examines practical issues involved in the implementation of racial profiling data collection based on international experience. It considers issues such as defining racial profiling, the problems with monitoring, identifying race and ethnicity, recording the reason for stops, public release of data, and risks. It makes specific recommendations for the introduction of a scheme in Victoria, Australia but will be useful for all advocating for data collection.

Fair and Effective Police Stops: Lessons in Reform from Five Spanish Police Agencies[80] This report explores the experiences of introducing stop recording in five police departments in Spain. The results suggest positive effects of the introduction of recording, showing it is possible to reform police stop and search practices to make them less discriminatory and more effective, improving police-community relations in the process.

Asking for stop forms has been useful for advocacy in our context—whether it is achievable or not in the short or long term—as it allows you to rehearse all the main arguments. You get so much resistance to stop forms but it allows you to demonstrate the holes in their arguments.

For example:

They say: "It's only one-off incidents of ethnic profiling. It's not systematic or all officers."

We say: "Well then, make systematic recording and we will know if that is the case."

"It's getting better now because we acknowledge the problem and have some policies in place."

"We are still hearing examples. How do we know that your policies are actually getting the numbers and disproportionality down? Collect the data and show us the numbers."

"It's not our department—it's more in the big cities."

"Just record it and we will be able to see that."

"It's effective, we need it."

"If you record it, we will be able to see exactly how effective it is."

"But it's not just the serious 'hits,' it's the important information that we get out of stops."

"What type of information do you get? How do you know if you don't record them? If you are trying to gather intelligence from stops then you must be already recording some stops. So if you are already recording some, why wouldn't you systematically collect all so you could see exactly what is resulting from them?"

"You are so emotional."

"Well, you don't produce any data so we only have perception surveys and people sharing their personal experiences. If you want to take the emotion out of the debate, collect the data and we can talk about the actual patterns."

Caveat: What about training and diversity in the police?

Two frequent recommendations are for more anti-discrimination training for police and for the recruitment of more minority-origin officers to improve workplace diversity. Many police departments, oversight or equality bodies, and private companies offer diversity, ethnic profiling, and implicit bias training programs. Training is necessary to introduce new legal or policy requirements, and can be beneficial when combined with other measures. There is, however, little evidence that stand-alone training for police officers on ethnic profiling changes officer behavior, and some training may even aggravate bias.[82] Cultural sensitivity training, for example, can reinforce stereotypes and the misconception that ethnic minority individuals should be treated as part of groups that are inherently different to the majority population. Stakeholders and community members should engage with the design and delivery of any training, and independent evaluation should be sought.

It is a key principle of community policing that police organizations should look like the communities they serve, but—contrary to popular assumption—there is little evidence that increasing ethnic diversity in the police will reduce ethnic profiling. Improving representation and addressing ethnic profiling are two separate challenges that require specific reforms. In the US, where there are higher proportions of police officers of color in departments and in leadership positions, ethnic profiling remains a widespread problem. Most studies find similarities in police behavior irrespective of officers' racial or ethnic background, resulting from shared training and on-the-job socialization by fellow officers.[83] This is not surprising, given that ethnic profiling is a form of structural racism: changing personnel alone will do little if the structures, policies, and procedures stay the same. The presence of a diverse range of officers

within police departments can influence the overall culture of those departments, particularly as officers of color achieve leadership positions. Officers of color and their staff associations have often been supportive of initiatives seeking to challenge ethnic profiling, including speaking out publically about their experiences in and outside of law enforcement (see Chapter 7). However, ethical concerns about the risks of exposing officers of color to retribution in hostile workplaces must be taken into careful consideration.

Who Needs to Be Persuaded?

To be effective, an advocacy strategy must have a good understanding of who makes change and who or what influences them; also, of who or what may obstruct change. Chapter 1 shared tools for how to map stakeholders and their influence. Identifying key decision makers requires understanding the policing system and political system. In most contexts, national level elected officials have the power to modify a national law on stop and search powers. Local elected officials may modify municipal regulations, policies, or decrees. Introducing systems for recording stops may or may not require decisions by elected officials; a decision by local police hierarchy may suffice. Courts, police complaints bodies, or human rights commissions may also be able to bring about legal and regulatory changes or structural reforms. (See also the discussion in Chapter 6 on strategic litigation.)

Influencers are those whose opinions and recommendations count for decision makers, whose support is especially important, and whose opposition may block change. These may include formal institutions, such as courts, international monitoring mechanisms, national or local human rights bodies, police complaints

Questions to pose to identify key advocacy targets:

Which organization and/or person has the power to decide on reforms?

Which organization and/or person has the power to successfully oppose reforms?

Which organization and/or person has the power to influence or support these reforms?

Who can help convince or support these key stakeholders?

"We underestimated the resistance we would face from the 'deep state,' the Minister of Interior, the police, and heavyweights specializing in security within the governing party. They acted rapidly and powerfully to block conversations and reform. If we could go back, we'd spend more time preparing for this, and figuring out who and how to influence these insiders."

commissions, consultative commissions, local security councils, or political parties. Certain groups may be especially influential over legislation and policing policies, such as policing and security circles (including police unions and associations, security experts, and key players in the arms industry); legal circles (judges, prosecutors, lawyers, law professors); and academic circles (specialists in criminology, security, policing, integration). In most contexts, certain individuals have the ear of decision makers. Media is crucial in almost every context, and it is important to identify the media with most influence over key decision makers.

Understanding which other institutions, groups, communities, and individuals need to be persuaded will depend on local context. Groups to consider include police allies (associations, unions, police leaders, officers of color); community organizations and movements representing those directly affected by ethnic profiling; organizations working closely with those affected (youth organizations, parent-teacher associations); human rights organizations; religious organizations; and other advocacy movements on related issues (drug policy, prison reform, public health).

By What Means?

Advocates need to master the art of using carrots and sticks strategically, together with a strong dose of pedagogy and persuasion. Advocacy on discriminatory stop, frisk, and search involves transmitting information to target stakeholders about the reality and impacts of these practices, key reforms required, and the reasons to implement them. Stakeholders should be shown the incentives and opportunities to act (carrots) and the costs of maintaining the status quo (sticks). All efforts used to bring about policy reforms, including strategic litigation, communication, and mobilizing, are components of advocacy. It is important to consider which tactic is the best fit at any point in time to advance strategic objectives. Below are a few examples of advocacy tools used to push for policy reforms on ethnic profiling, but the list is definitely not exhaustive.

Direct Lobbying to Change Policy

Lobbying is the process of influencing members of a legislative body to pass legislation or take other action within their mandate, such as holding hearings, or requesting official information. It is important to identify the right legislators to lobby, and contact can be made through formal or informal meetings, letters, or questions to elected officials. Campaigners may do this directly, or via allies with access to the targeted legislators. Careful preparation is key: legislators face many competing demands for their attention. Good, preferably brief, information and clear and specific requests for action should be prepared before meetings. It can be especially effective to present a diversity of viewpoints, lived experiences, research data and evidence, comparative examples of good practice, the looming threat of legal action or public

protest, the possibility of support for pilots, and so on. Having police allies willing to join such efforts may be especially helpful for risk-averse elected parliamentarians.

Lobbying can be resource intensive. For instance, if modifying a law requires the support of the governing political party, persuading them may require meetings with various commissions in the party, leading politicians, and numerous rank and file members. It is important to assess the likelihood of success before investing limited resources. For example, Dutch advocates have recently focused their advocacy on encouraging local city councils to address ethnic profiling. Council members are elected by local voters, so arguably are more responsive to local concerns. City councils set most local policy and influence mayors, who generally have direct oversight of the police. Letter writing, meetings, and raising questions in council hearings has forced a number of municipalities to review policing policies, pass motions, and monitor police progress in reducing ethnic profiling.

Parliamentary Questions and Hearings

Parliamentary questions can be an important way to both get official information and data on police practices, and publicize the problem. Developing relationships with parliamentarians can be critical to such efforts. Activists in Spain faced the challenge of having no published data on stops and searches. They submitted parliamentary questions through friendly MPs to obtain data to show the existence of profiling. The answers provided by the Ministry of the Interior to the questions asked demonstrated that the state police did over eight million stops a year and provided a breakdown of the nationalities of those stopped. This demonstrated an alarming rate of stops compared to other countries. Even without ethnic data, activists were able to calculate disproportionality based on nationality and show that stop rates of people from African countries were the highest, followed by those from Latin-American countries—with much lower rates for those from European countries. This allowed activists to make the case to the authorities that ethnic profiling was a problem.

> "We obtained data due to a great collaboration with very nice MPs. A parliament is always very diverse, so you can always find the right persons. We tend to approach MPs from small parties sympathetic to our issues, but that are too busy to do the work themselves so they would just copy and paste from the materials we provided."

Another option is to work with friendly MPs to organize a hearing on ethnic profiling. This helps elevate the importance of the issue and educate policy makers about the problem, and enables activists to share recommendations and follow up with individual policy makers after. At the EU level, MEPs have lent their support to roundtable discussions on the problem, allowing impacted persons, civil society groups, experts, and policy makers from various member states to come together to put ethnic profiling on the political agenda and push for European guidelines. The Anti-Racism and Diversity Intergroup (ARDI), which aims to

promote racial equality, combat racism, and educate about non-discrimination in the work of the European Parliament, has provided support to such gatherings on various occasions.[84] A hearing can then be complemented with more targeted efforts to push for a resolution on ethnic profiling.

Public Campaigning

Mobilizing public support for change can be undertaken through many channels: media outreach, public events, demonstrations, art projects, and calls to action are common elements of public campaigning. Social media has opened up new possibilities to develop creative hashtags and post video with first-hand evidence of profiling. "Naming and shaming" is a popular aspect of campaigns that aim to educate a wider public and increase pressure on decision makers. (See Chapter 4 on strategic communications for examples of creative public campaigns to reach decision makers.)

International Monitoring Mechanisms

Regional and international monitoring mechanisms are mandated to monitor states' implementation of their human rights obligations. These include conventional monitoring bodies (based on a specific convention, such as the United Nations Convention for the Elimination of Racial Discrimination) as well as non-conventional monitoring bodies (such as the Universal Peer Review or European Commission against Racism and Intolerance). They also include specially-mandated mechanisms that appoint human rights experts to report and advise on implementation of human rights from a thematic or country perspective (in the United Nations system these are referred to as Special Procedures, including Special Rapporteurs, Commissioners, Expert Working Groups, or Committees). In addition to the reports that most bodies publish, they conduct other forms of dialogue with governments, including letters to national authorities, public statements, and in-country visits that can involve mediation or technical support. By providing information to monitors, advocates can help inform the work of these monitoring mechanisms.

International bodies' reports, decisions, and statements set out states' international legal obligations to address ethnic profiling. Their findings lend credibility and legitimacy to national campaigners' evidence of ethnic profiling and increase pressure on decision makers to act. A report by one monitoring mechanism can influence other actors, leading to further questions to states about ethnic profiling practices and reform measures. Authorities may pay more attention to local activists when they realize those activists have international credibility and can attract international attention. An increasing number of regional and international monitoring bodies have addressed ethnic profiling, and past findings can be referenced in ongoing advocacy.

CASE STUDY

Public Campaigning in France

The Open Society Justice Initiative worked with the photographer Ed Kashi to create a photo exhibition on the significant negative impacts of discriminatory stop and search practices.[85] The exhibition was displayed in a number of cities at locations with dense pedestrian traffic, such as the Place de la République in central Paris. This was a powerful way of raising awareness among those not directly targeted by these practices, thereby gaining support for reform efforts from new constituencies. It also provided a focal point that brought together activists and catalyzed local mobilizing, including collecting signatures for a petition requesting reforms. A smaller version of the exhibition continues to be used by activists during events on the subject.

"Un Bic Pour Un Flic" Campaign
When a French politician argued in the National Assembly that the costs of paper forms and pens were an obstacle to introducing stop forms in France, online activist group WeSignIt seized the occasion to launch a humorous Twitter campaign. #UnBicPourUnFlic called on the public to send pens to the police, effectively exposing the ridiculous nature of this excuse not to introduce stop forms.

In selecting which mechanism to approach, activists should consider which body has the greatest influence in the specific context, and the timing of regular reporting cycles. It may also be possible to find convergence between national advocacy moments and international proceedings. Most international rights bodies are keen to obtain activists' perspectives and to hear directly from affected communities. Activists can:

- **Send factual information and analyses to the bodies via their secretariats.** This information can include the scope and persistence of profiling practices, and what, if any, steps authorities have taken, their success or failings, and what additional steps are required.

- **Submit information for country and thematic reports.** Civil society groups may submit their own reports to the monitoring mechanisms, to counter-balance the information provided by the state. For convention-based mechanisms, reports are most effective if they are written following the specific applicable articles of the particular convention. Submissions should also indicate what national authorities have done in response to past recommendations by this or other international bodies, and flag any further action needed.

- **Participate in and publicize country visits.** Monitoring bodies often welcome civil society assistance in preparing meetings with non-governmental actors. Activists can provide contacts, suggestions of specific sites to visit, or even set up meetings for the delegation as well as meeting with them themselves, usually confidentially.

- **Make statements during meetings of monitoring mechanisms.** This can be done in plenary sessions, or by organizing side events and inviting members of the monitoring mechanism to attend. It may also be possible to provide information or ask questions via the embassies of countries that are members of a monitoring body.

CASE STUDY

Using International Advocacy to Drive National Change in Spain[86]
The 2009 UN Human Rights Committee ruling in the *Rosalind Williams* case was the first ruling to establish ethnic profiling as a violation of states' obligations under the International Covenant on Civil and Political Rights. The ruling provided a litmus test for subsequent advocacy in Spain and elsewhere. Spanish activists noted the government's repeated failure to fully implement the committee's recommendations. Subsequently, changes in the Spanish criminal procedure code integrated stronger standards for suspicion and stated that police must not use their powers in a discriminatory manner.

As this chapter has sought to illustrate, advocacy is a complex but essential element of any campaign against ethnic profiling. Although advocacy may take many forms and have many different targets, its central tactic is persuasion. Yet however compelling your arguments, persuasion may not always generate the results you are pursuing, and a more confrontational approach may be necessary. The following chapter looks at how activists can use the law to create the change they seek.

USING THE LAW

Lawyer Slim Ben Achour, with some of his clients, speaks to the media in Paris, France, on October 22, 2018, regarding a discrimination case against the state. © Julien Mattia/NurPhoto/Newscom

The law provides different avenues for confronting individual and systemic ethnic profiling. Chapter 1 set out national and international standards that can be used to challenge ethnic profiling, but going a step further, one can use freedom of information statues to request statistical information on police actions, use complaint and oversight mechanisms, take legal action to obtain redress for individual victims, or pursue strategic litigation aimed at changing the law or practice. This chapter explores how campaigners can put the law into action both as a tool for seeking redress for individuals or groups and as a vehicle for mobilizing around collective challenges to discriminatory police actions. It describes the challenges of using the law and reflects on practices that have been successful.

LESSONS

☐ Ensure that you have the resources, knowledge, and skills to provide appropriate support to individuals wanting to make complaints, and to see them through the entire process.

☐ The law can provide a tool with fixed procedures; each procedure provides a milestone around which movements can mobilize and generate attention.

☐ Legal avenues can provide an opportunity for people to have their experiences "recorded" officially.

☐ Select the right person or groups to participate in strategic litigation, making sure they are involved in designing the legal strategy, and supported before, during, and after the challenge.

☐ Legal challenges can have serious repercussions for those involved, their families, and communities. It is important to ensure that people know the risks and that these risks—and plans to ameliorate them—are factored into legal strategies.

☐ Remember that there are limits to what can be done by particular courts or complaints bodies—but also that creative arguments can help maximize the impact of a case.

☐ At best, the law only provides limited redress. In many cases, complaints will not be upheld. Even if a case is won, more work will be needed to push for the implementation of changes to policy and practice.

The Value of Using the Law

The law can provide important avenues for challenging ethnic profiling. However, success in using the law is dependent on having evidence that a specific police action took place and/or documentation of patterns in police practices to demonstrate systemic bias. It is also heavily dependent on having good relationships with local communities to support individual and collective complaints, strong lawyers with a genuine understanding of the issues, and effective advocacy and policy work to publicize cases and use them to push for change.

Litigation (taking a case through court) sets out a clear process, with a timeframe and outcome. This can include set times for the initial filing of a case (such as a complaint by an individual who has been stopped by the police or targeted in another way), presentation of evidence, arguments by both sides, and a decision by the judge. By contrast, other forms of advocacy can seem more open-ended, lacking a firm conclusion. Because of their formal nature, legal proceedings and decisions may carry more weight than other types of activism. A win in court can actually change the law, which is hard for the police and authorities to ignore. Unlike many forms of campaigning, some of the work in a legal process is done by others, such as lawyers and judges. This can help share the load and take some of the pressure off activists. The litigation process can provide opportunities for people's experiences with the police to be seen and heard—and noted in official documents that become part of the historical record. Legal cases can involve drafting witness statements and giving oral evidence in court by those who have been ethnically profiled by the police. This can allow people to tell their story in public, and to be heard by a judge and potentially others such as journalists. Litigation can be described as a theatrical process, with opportunities at each stage of the process to mobilize, campaign, and advocate. Even if a case is unsuccessful, it may garner enough official and public attention to influence the policies and practices of the police and authorities.

> **"With litigation, there is a direct route to being able to redress or address injustice. It's methodical, it's clear. And it's accessible—obviously, there's caveats to that but it's open. It's formal."**

Problems with Using the Law

There are particular complexities in using the law to challenge ethnic profiling that organizers should be prepared to encounter and address.

> **"The moment of filing is a dramatic moment, and each subsequent hearing is a moment. You can look ahead and plan advocacy and communication for each of these moments. There are less predictable things that can occur in between, but you can plan ahead."**

Proving a Discriminatory Encounter in Court

A legal case is not about what happened, but rather about what can be proved in court. Establishing proof is one of the main challenges in litigating discriminatory stop and search or other forms of ethnic profiling. The standard of proof and burden of proof set out what the plaintiff must show versus what the defendant must prove. These may appear to be technical details better left to lawyers, but activists need to understand requirements of proof in order to develop a successful legal strategy. Activists have a key role in gathering evidence and should discuss with lawyers the evidentiary needs for the specific jurisdiction and what forms of evidence should be collected.

Questions to pose to assess what evidence exists:

Did witnesses record the encounter(s)?

Did victims get medical certificates (if relevant)?

Are there official reports documenting a pattern of stop and search?

Are there parliamentary studies discussing police orders to focus checks on particular types of persons?

What rigorous independent studies or statistics exist?

Providing evidence that ethnic profiling has happened is not easy. The individuals who have been stopped by police often do not possess, and are not able to access, direct evidence supporting their claim of discriminatory treatment based on presumed ethnic or national origin, race, or religious beliefs. It is much easier if you are only required to bring enough evidence to make out a *prima facie* (apparent at first glance) case of discrimination in order to trigger reversal of the burden of proof, meaning the police must now prove that ethnic profiling did *not* happen. However, even this presents some challenges.[87] Generally, ethnic profiling cases require two types of evidence: 1) evidence proving that the encounter took place; and 2) evidence showing that the encounter was likely to be discriminatory.

Proving the Encounter Happened

Few countries record police stops in a systematic manner, and even fewer make the record of a stop available to the person who was stopped.[88] Other records of encounters with police, such as surveillance cameras, police body cameras, or police logs, are generally not accessible to the public. That an encounter took place and how it transpired may be proved through witness testimony or recording (witness or bystander mobile phone video, for example). Mobilization and community engagement efforts associated with strategic litigation campaigns may include information on evidence gathering, including training on: recording police checks safely, legally, and in the way that it may be used in legal procedures; and steps to take after a stop

(noting date, time, place, and context of stop; collecting witness contact information; and getting a medical certificate in case of injuries).[89] See Chapter 2 on documentation for more on this topic.

Without witnesses, an official record, or external recording, the case will be much harder to win as it may have to rely on the victim`s own testimony, material evidence of any injuries (such as medical certificates), and creative legal arguments asserting the state's responsibility to demonstrate that no discrimination took place.

Proving the Encounter Was Discriminatory

In addition to proving that an encounter took place, it is necessary to prove that the encounter was discriminatory. This is extremely challenging. Sometimes, this may be demonstrated if the police officer uses racist language or admits that a stop was based on appearance—and the officer's statement was recorded or witnessed. In some cases, police have had explicit operational orders such as a circular ordering police to round up Roma[90] or to evacuate "undesirable" people from public space.[91] Such official orders can be a powerful form of proof. Officer behavior during a stop is also relevant: was the officer polite, or aggressive, or abusive?

It is also helpful to include evidence that individuals singled out were behaving in an entirely ordinary manner when they were stopped—walking, talking with friends outside, shopping in the city center and so on—and not exhibiting any suspicious behavior that might justify a police check. This is not proof of discrimination per se, but focuses attention on why the person was singled out, and strengthens the argument that the stop was discriminatory. This is further enhanced if witnesses do not observe any White people being checked while in the same place and exhibiting the same behaviors.

Statistical and research evidence of patterns of biased policing are also important evidence, as are any official reports or recognition of ethnic profiling as a problem (for example, in parliamentary debates). It is important to discuss available proof of discrimination with lawyers early in any litigation process. It may be necessary to audit and collect all available sources and analyze gaps. If good data is not available, a number of documentation options for generating such data are discussed in the section on Documenting the Problem in Chapter 2.

Managing Legal Demands

Individuals targeted by ethnic profiling often approach activists and lawyers with a range of needs for legal assistance. The members of a collective case may face ongoing police attention or abuse and need legal support. Activists and lawyers need a strategy to address this, which may include making referrals to other local actors and lawyers, providing legal advice and representation themselves, and engaging in community organizing and communications. These choices are key to good relationships in litigating, where trust and credibility are crucial, but where the strain on limited human or financial resources must also be recognized.

Funding

Pursuing a legal complaint or strategic litigation case can be costly. It may involve lawyers' fees, court fees, organizational and co-ordination expenses, fees for experts, communication costs, and other expenses. Resource needs for collective cases, which usually require campaigning and a long-term strategy, rapidly add up even without additional legal demands. In some instances, these significant, ongoing costs can make strategic litigation unviable. It is important to discuss and plan how the case will be funded before it starts. Is there any assistance available from the state and, if so, what will that cover? What other options are available, including crowdfunding and philanthropic assistance? Is it possible to agree in advance on the lawyers' fees and put in place a court order that caps the other side's costs if the case is lost? Some of the money raised should be put aside for the costs of mental health support for those involved. If you are engaging in public fundraising, make sure that the clients have given informed consent and that no information is released that is confidential or could harm the case.

Time and Cumbersome Processes

There are often strict timeframes within which complaints need to be filed, which may not give people who have been discriminated against the time they need to process the police encounter and prepare for the many challenges of litigation. Conversely, complaints mechanisms and legal processes can take a long time to be resolved. When Rosalind Williams sought to challenge ethnic profiling in Spain, it took 17 years for her to get a successful resolution at the Human Rights Council.[92] Although extreme, it is not unheard of for cases to last years as they progress through the court. This can leave people feeling like they are in limbo and unable to move on. Institutional constraints and cultures mean that the investigation processes of compliant mechanisms and oversight bodies take years to reach a resolution. These processes can require victims of discrimination to restate their experiences over and over to different people. In addition, months or even years may pass with no communication from the complaints mechanism or oversight body, and it is rare that complaints are upheld in the favor of the person who complained.

> "To even find the person, that's a hurdle. People often don't talk straightaway about injustice, they have to internalize it. And then there's an explosion. So there's lots of these little explosions happening, trust me, but we're not connected to all of them. And I think that's really important to be connected to groups who are connected to individuals. So there is definitely a benefit to the legal challenge with the time constraints and getting people to move to those time constraints."

Physical and Psychological Toll

Going through a lengthy legal process which involves reliving a traumatic experience can take its toll on a person's health, including their psychological and mental wellbeing. It may lead to intense media, social media, or public attention; critical comments from police officers, prosecutors and judges; or even legal retribution. In Spain, activists observing and challenging stops found themselves charged with fines,[93] while in France, police officers often file counter charges—such as insult and rebellion or violence against an officer—against those who make complaints or who they fear may complain. There have been instances of physical retribution or increased stops and other forms of harassment against people who file complaints. Legal challenges can have serious repercussions for those involved, their families, and communities.[94] It is important to ensure that people know the risks, for these risks to be factored into legal strategies, and for plans to be made to mitigate and respond to these risks. As well as partnering with counselling and mental health services, activists should also consider establishing a peer support system by organizing meetings of people who have had similar experiences with police. This can provide a space for stories to be exchanged and for resilience to be fostered, to keep going through the long legal process.

> "It shouldn't just be about the systemic change. It should also be about survival of the people that are going through all those harms. Civil society has a real role to play in terms of providing that support. And so this is where strong partnerships can be formed with mental health organizations."

Outcomes and Implementation

It can be incredibly challenging to see a legal case through from beginning to end. Oftentimes people have to wait years for an outcome, which can be demoralizing and lead to questions about the value of litigation, given the major investment of time and resources it requires. Even if a case is won, very few jurisdictions have the power to order specific changes, which means the legal victory is only the beginning of a long battle to force police and government to implement structural policy changes. Even if they lose in court, police may continue to resist the implementation of the court's judgment.

> "I think it is important for organizations to recognize their capacity to support people [during the litigation process], because you don't want the person you're supporting to then lose trust in you."

Ways to Use the Law

Basic Legal Advice to Victims

Organizations working on anti-discrimination and policing issues often receive calls from people who have suffered police abuse, or requests from groups wanting legal advice on how to

respond to problematic police-citizen interactions. Not all organizations have the capacity or skills to respond to such requests. Organizations receiving these requests should ensure they have systems in place to address the requests themselves, or have links to other organizations that victims can be referred to. Organizations may provide emotional support, help to debrief the situation, place it in the broader context of systemic ethnic profiling, and provide links to psychological help or peer support, if necessary.

Organizations often seek to provide basic legal advice, including providing information as to whether police actions were lawful, and the potential options and avenues for seeking redress. Thus, organizations must be informed about the processes and obstacles that each avenue presents, in order to give people enough information to make an informed decision on whether or not to take legal action. Organizations will be asked to respond to a range of different experiences; in time, this may help them identify cases that are most suitable for strategic litigation to challenge a specific practice with the aim of forcing wider policy change. Organizations trying to help must be very clear about the role they can play and the limits of their ability to help. For example, it is essential to explain exactly what information and support you can provide, when and how this support will be available, and how will you manage queries or other requests at other times. It might be useful to designate one person as the main point of contact and have a plan in place in case that person leaves the organization.

> "It's often the same conversation again and again, to be honest. You have to be very patient with it and just let them speak. Often the person who has had a sort of trauma of being abused by the police doesn't feel they can get over it. They don't trust the system. And then get told: Right, we can complain or we can challenge this, both of which require tenacity, energy, drive, patience, and often you're traumatized by what you've gone through."

Confronted with the challenges of getting redress for people who have been profiled, some groups have focused on acting as a third party reporting center: either documenting people's experiences through phone calls or meetings, or setting up websites to record incidents. It can be useful to keep a log of all incidents, complaints, and cases. Even if someone does not proceed with a complaint or a case, or even when cases are lost in court, the information (including notes of people's experiences or the officers involved) can be used as evidence of a pattern, which can be used to support wider advocacy work.

Complaints to Police Complaint Mechanisms and Oversight Bodies

In many jurisdictions, complaints about police actions first have to be made directly to the police, for their internal investigation or resolution. Law enforcement oversight bodies and complaints mechanisms can address ethnic profiling. In order to investigate complaints about discrimination, it is important the police have the ability to generate and monitor stop data—including statistics disaggregated by ethnicity—that could be used to prove the existence and extent of ethnic profiling. To address ethnic profiling, it is essential to determine the extent of the practice and the qualitative differences in the experience that different groups have in being stopped, searched, questioned, or arrested. Often, complaints get reduced to individual circumstances. Where investigations are based on accounts given by the person and officers involved, whether there was a breach of policy or conduct and discrimination is assessed solely on whether the person can prove the officer had racist intent.

Internal complaints mechanisms are often viewed with considerable mistrust due to a perceived lack of independence and impartiality. In many cases, people will not want to complain directly to the institution that just subjected them to the negative experience and there are many instances where police institutions have downplayed or refused to record complaints. Complaints often have to be made within a set time after the incident, which can be a challenge if people are still processing and deciding which route they would like to use to seek redress. If someone does wish to proceed with a complaint, activists can assist by acting as a bridge to the relevant police or complaint body. For example, activists can provide information on when, how, and to whom to make a complaint, as well as how to follow up. This can include helping put the complaint into words, providing technical assistance in using digital complaints forms, explaining the complaints process, accompanying people to meetings, and providing emotional support (or links to counselling/medical services) if the person becomes further traumatized when putting the complaint together.

Many European countries have both national equality bodies and specialized police complaint or oversight bodies that are independent of the police. Such bodies have the power to adjudicate complaints and can sometimes do so even when there is not enough evidence to go to court. They can also play a role in identifying and drawing attention to discriminatory policing practices and recommending specific remedies. Activists have often campaigned for independent police oversight, believing that independent bodies will be more effective than internal mechanisms because of their greater autonomy and greater chance of community

CASE STUDY

Promising Practices by Equality Bodies[96]
Equinet, the European Network of Equality Bodies, brings together 49 equality bodies from 36 European countries. In November 2018, Equinet organized a seminar on ethnic profiling and produced a factsheet and compendium of good practices. The compendium identified equality bodies challenging ethnic profiling through research, individual case work, engagement with law enforcement, public statements, and awareness raising on ethnic profiling.

AN EQUINET FACTSHEET

2019

Equality Bodies Countering Ethnic Profiling:
Focus on Law Enforcement Authorities in Europe

EQUINET
European Network
of Equality Bodies
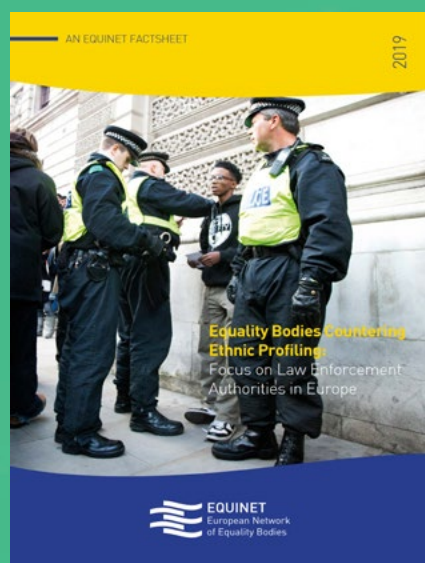
involvement. However, this has not always proven to be the case. Equality bodies and human rights ombudsman offices deal with individual complaints about discrimination and sometimes look at systemic patterns. As with police institutions, equality and human rights body complaints processes can be difficult to maneuver through.

There are some important benefits to using these mechanisms, such as keeping track of complaints about discrimination. Equality bodies often produce statistics or thematic reports on the prevalence of different types of discrimination, which can be used to support advocacy.

These institutions also have the power to gather evidence and make recommendations, including recommendations for changes in law and policy. For some individuals, these bodies might be more accessible than courts because they have more manageable timeframes and less intimidating processes. Some equality bodies offer mediation and other less formal types of resolution with the police. Even when non-binding, reports and decisions by equality bodies do have moral force and may be useful in a subsequent or separate effort to obtain a legal remedy from a court.

CASE STUDY

Working with the Ombudsperson
In Spain, campaigners assisted victims with making complaints to the Ombudsperson, working with grassroots groups and NGOs to show victims how to file their complaints online. As a result, the Ombudsperson issued a report containing strong recommendations on ethnic profiling. This led to a commitment by the national police to define and prohibit ethnic profiling, as well as to introduce stop forms including data on ethnic origin. The Ombudsperson does not specifically oversee the police, but the campaigners were able to liaise with the Ombudsperson's office to put ethnic profiling on its agenda as a priority issue.

There are some common challenges identified with independent complaints mechanisms and equality or human rights bodies:

- **Institutional constraints:** Some equality bodies lack the mandate to investigate systemic discrimination within the police, or lack the legal powers to compel the police to answer questions about their conduct. Some institutions have found creative ways to address ethnic profiling by using other means such as research, awareness-raising, or policy statements, which may push other bodies to take action.
- **Staffing:** Many of these institutions do not have staff with knowledge of ethnic profiling and/or policing and lack the cultural competency needed to build trust with affected communities. In independent police complaints bodies, some staff may be former police officers, employed due to their knowledge of and connections to police institutions and ability to conduct forensic investigations—but this means they may bring the culture and biases of the police with them, undermining notions of neutrality and independence.

- **Politics and funding:** These organizations are increasingly politicized and dependent on state funding, making engaging on ethnic profiling contentious, especially in the current climate of increased sensitivity around migration and terrorism. Further, these institutions are often inadequately resourced, so investigations may be lengthy and poorly conducted, perpetuating the image of these bodies as failing to provide a meaningful avenue for redress.
- **Decisions are non-binding:** In many instances, the decisions made by independent complaints mechanisms and equality or human rights bodies are non-binding. They can recommend further actions, such as internal discipline or criminal charges, but it is incumbent on other institutions to act on these. Some may make broader policy recommendations based on cases or broader investigations, but have no powers to ensure that these are implemented by law enforcement.

Individual Legal Challenges

In light of the challenges of using official complaint mechanisms, some people chose to take individual legal action by using criminal, civil, or administrative law to challenge police discrimination. In many jurisdictions, people will have to first go through the official complaints mechanism before they can take additional legal action. The benefits of individual legal action can include redress in the form of financial payment.[97] Often, complaints are settled out of court without an admission of liability from the police and so there may not be any action taken against officers involved or broader policy lessons learned. In other instances, legal challenges can be long and financially costly and not achieve a positive outcome.

Activists and groups may be asked by individuals to recommend lawyers who can bring legal challenges. It is important to plan ahead and make connections with lawyers who not only are legally qualified but who have other skills that make them suited to this area of work. When a case arises, it is possible that the person will want to work with a different lawyer or that other lawyers will approach you and seek to get involved in the litigation. Activists can play an important role of ensuring that people get the best representation possible, providing a bridge between lawyers and communities, and supporting people through complicated legal procedures.

> "I have to dance a really funny dance in terms of–excuse me–shit lawyers. I mean, they're legally qualified, but just because you're qualified doesn't mean you're good. Loads of people driving are not good drivers. And if the client doesn't know any better, they won't be able to tell. So there's really something about my role and how then I can influence and hold lawyers to account to ensure that people get good representation."

Considerations for Identifying and Working with Lawyers
- Individual complaints and strategic litigation should be conducted by skilled lawyers who can demonstrate authenticity, credibility, and understanding of the issues to ensure access and foster trust.
- Organizations should develop relationships with a range of different lawyers in advance of any actions so that when they receive complaints they have trusted lawyers they can contact immediately.
- A memorandum of understanding (a type of agreement less formal than a legal contract) should be developed between any organizations, clients, and lawyers to ensure all roles and expectations are clear.
- Strategic litigation should be conducted in partnership with community organizations or overseen by a reference group of stakeholders (including impacted communities), to ensure that the challenge and remedies sought reflect the campaign and community needs and desired resolutions.
- There must be full transparency over the costs of litigation and how to fund them; specific funding should be sought for client care and any ongoing psychological help that clients might need.
- Make links with lawyers and activist groups challenging ethnic profiling in other countries to see what legal arguments and case law has been used elsewhere. This can help to make legal strategies more creative.

Freedom of Information Requests

Freedom of information (FOI) laws can be an important way to obtain information on how the police are using stops, and to gain statistics that may not have been disclosed publicly regarding police actions. In many countries, FOI laws provide public access to information held by public authorities, although the degree of access to information on police and security services may vary. FOI laws require that public authorities publish certain information about their activities, and allow members of the public to request information from public authorities. FOI requests have formal timeframes that can make data collection through this method fairly rapid in comparison to other tools. In the UK, activists regularly use FOI requests to get information and statistics about police activities. For example, Children's Rights Alliance for England produces a yearly review of the state of children's rights in relation to policing and criminal justice, drawing on official statistics and responses to FOI requests.[98]

Institutions have the right to refuse to provide information, if the request will take up too much of their time, so be judicious in what you ask for. Before you submit a request to an institution, it is important to be clear about exactly what information you want and in what format. For example, you might want to provide very specific definitions of police actions and activities (in case they use different internal language) or list the timeframes, age ranges, or ethnic groups you would like the data disaggregated by, so you get the data in a form that allows comparison with other available data such as census population or local housing data.

Strategic Litigation

Strategic litigation can be an important tool in challenging ethnic profiling. Although it can be risky (there is never a guarantee that a case will be won), time consuming, and expensive, when used wisely litigation can help overcome political, police, or public resistance to change. Legal decisions can trigger reform efforts, or reinvigorate stalled progress. Litigation may also strengthen the position of those inside the police and political institutions who are helping to create change. Sometimes, despite its drawbacks, litigation may work when nothing else does. Litigation is inherently confrontational, however, and if it appears possible to advance meaningful reforms through dialogue and engagement with police, litigation strategies should be kept in reserve as a tactic to adopt should engagement prove limited or fruitless.

Although lawyers are essential for litigation, they need guidance from and the support of activists. This ensures that the experience and insights of activists and community members targeted by ethnic profiling inform the litigation process. It also ensures that lawyers do not

> "Legal cases have the power to change the law, but they also have the power to change someone's life."

Plaintiff Zeshan Muhammad discusses his case at a press conference with activist Alba Cuevas and lawyer Mercedes Melón in Barcelona, Spain, on September 18, 2018. © Alan Ruiz Terol/Catalan News Agency

overlook the many communication and advocacy opportunities provided by litigation, which are essential to obtaining the full range of outcomes, not all of which are legal in nature. If remedies are ordered, activist and community engagement are key to monitoring police compliance with remedies.

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CASE STUDY

Strategic Litigation: *Zeshan Muhammad v. Spain*[99]

Ethnic profiling continues to be a persistent and pervasive practice throughout Spain, particularly in the context of alleged immigration control, despite the UN Human Rights Committee rejecting this practice as unlawful discrimination in *Rosalind Williams v. Spain* in 2009. In May 2013, National Police officers stopped Zeshan and his friend, asking them to show their ID cards. The officer referred to the color of Zeshan's skin to explain the reason behind the stop. The police did not stop or request the ID of any White people standing nearby.

The Open Society Justice Initiative and SOS Racisme Catalunya are assisting Zeshan in challenging this stop on the basis that it was discriminatory and violates his fundamental rights, including his right to respect for private life. The Spanish Constitutional Court ruled the matter inadmissible in November 2016, and Zeshan appealed the case to the European Court of Human Rights (ECtHR). The court communicated the case in 2018, and a judgment is expected soon. The case has received extensive coverage in Spanish media and campaigners have used the case to raise awareness of the problem and experience of ethnic profiling.

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We define strategic litigation as "a legal action, in a court or tribunal, taken with the explicit intent of changing law, policy, practice, and/or public attitudes." It can be contrasted with ordinary litigation, which seeks direct benefits—such as financial compensation—only for the plaintiff (the person bringing the case). As the phrase implies, strategic litigation involves some planning to ensure the case helps achieve the aims of the movement against ethnic profiling. The following section should help to map your strategy.

Legal Strategy Checklist

1. Know what you want to achieve
2. Plan ahead
3. Determine how many people should participate in the litigation
4. Decide on the type of legal procedure
5. Identify potential plaintiffs and circumstances
6. Find others who can support the litigation

Know What You Want to Achieve

Litigation can be used to pursue a number of different legal remedies for ethnic profiling. Review the possibilities set out below to help identify those most important to you, your client(s), and your movement.

Rapid relief: Rapid halt or reduction of discrimination and abuse. More likely when a particular police unit or group of officers is involved in a limited space. Even before a case makes it to trial, changes may result from public attention garnered by the procedure. In some cases, orders made by courts under fast-track or emergency procedures may halt practices until a final decision is made by the court.

Redress:
- Reparations for persons/communities targeted, including damages (money), and public apology. In some cases, police will make changes to practice to avoid possible future litigation.
- Sanctions against perpetrators: punitive (prison time, fines), reformative (community service, training), or employment changes (suspension, transfer, dismissal).
- Structural remedies and reforms: repeal or modification of law or policy that drives discriminatory practices; law and policy reforms to reduce and prevent ethnic profiling (reasonable suspicion requirement, data collection and data sharing); disciplinary/accountability processes (community-police dialogue, training).

Recognition:
- Shine public spotlight on the problem.
- Recognize illegal nature and impacts of ethnic profiling.
- Narrative shift (through personal stories and legal arguments) and truth-telling.

Information gathering and documentation: Obtain access to data, records, orders, and other documents. This can be through the "discovery" phase of the litigation process, when the court orders the police to release documentation to the claimants before the final hearing.

International name, shame, and obligation:
- Ruling by an international court or commission. National courts have to dismiss the case quickly in order to reach an international court, otherwise a litigation process may take years.
- International attention on country's human rights violations, even when ruling is non-binding.
- Political and diplomatic endorsement of legal (and possibly political) arguments, adding credibility to national campaign.

Mobilizing and movement building:
- Build, sustain, and catalyze the movement against ethnic profling.
- Focus attention on the issue.
- Boost advocacy for reform.

CASE STUDY

Need for Rapid Relief in a Paris Neighborhood[100]
Young people in a Paris neighborhood were being subjected to sexual abuse, physical violence, and illegal detention by a specific police unit. Seventeen individuals filed a collective criminal complaint against 11 police officers. Within a few months, during the preliminary investigation, the officers were removed from that area (placed on sick duty, office duty, or transferred) and the sexual abuse ended. In addition to this temporary relief, litigation and mobilizing are ongoing.

CASE STUDY

Prison Time for Police in Connecticut[101]
In East Haven, Connecticut, in the United States, two police officers were convicted of violating the civil rights of several Latinos during arrests and in more general police work, as well as obstruction of justice. One was sentenced to five years' imprisonment and the other to 30 months. Two other officers pleaded guilty to lesser charges, with one sentenced to two years in jail.

CASE STUDY

Three Class Actions in New York City Lead to Changes[102]
The *Floyd, Ligon,* and *Davis* cases all challenged the stop and frisk practices of the New York City Police Department. They followed a prior case, *Daniels* (1999), in which the City of New York agreed to—but failed to successfully implement—measures to address ethnic profiling. Communities United for Police Reform, a grassroots police reform coalition in New York City, and other activists, worked closely with legal teams at every step of the process. Remedies achieved included:

- Requiring police officers to record the details of stops in their activity logs.
- A one-year pilot program of police body-worn cameras.
- Revised police policies, training, and stop forms, developed with input from activists/affected communities.
- A "joint remedial process" overseen by a facilitator who consulted with activists/affected communities and other stakeholders for three years and reported to the court on further potential structural reforms, including greater transparency and accountability in police supervisory and disciplinary processes, such as the monthly publication of information about police officers who have been disciplined for misconduct.

Truth-telling in a Paris Civil Case against Discriminatory Stops[103]
On October 22, 2018, the First Instance Court of Paris heard a civil case against the state for alleged discriminatory stops of three high school students. The students, supported by their teacher and a resource center called Vox Public, shared video and other information through social media, and sent information about the hearing to journalists, teachers, and high-school students, asking them to attend the court hearing in solidarity. The courtroom was packed and the hearing widely covered in mainstream and social media. This attention served to elevate police discrimination, sometimes seen as a marginal or niche concern, into mainstream media outlets and political debates.

Plan Ahead

Ideally, you should have a legal strategy ready even before a suitable case is identified. This preparation is likely to involve meeting with experts, including lawyers, to work out what is possible in your country and what type of case might work best to achieve the outcomes you have identified from the above list. This involves finding out more about and understanding the legal landscape around you. For example, if you would like your country to be named and shamed internationally, you may have to seek advice from lawyers about the legal procedures for taking a case to a court like the European Court of Human Rights. If you want to change the law, find out what type of case could make that happen. Often, the ordinary courts do not have the power to directly change the law, but through litigation you can put pressure on politicians to change the law by using court action to gain media attention, raise awareness, and build support. The media are often very interested in court actions.

Determine How Many People Should Participate in the Litigation

A common goal of strategic litigation is to show that ethnic profiling is not restricted to isolated incidents, but rather that these incidents form a larger pattern. Some campaigners, such as in Spain, have chosen to do this through individual litigation based on a single discriminatory incident, but demonstrating that it is part of a larger pattern of discriminatory policing. Others have decided to develop a collective procedure focused either on a number of separate incidents or on general ethnic profiling practices.

"We decided against taking only a single case and decided to do collective litigation, because our litigation had to be political, including organizing. We were inspired by litigation around labor issues in France, the one area where there was a strong tradition of strategic litigation in France, where it was part of a general struggle for rights."

A collective case can take different forms. Some jurisdictions allow class actions, or cases on behalf of a defined group of individuals affected by a particular practice; some permit *actio populairs,* litigation brought by a third party (often a human rights organization) in the interest of the public as a whole. In other jurisdictions, there may be no provision for collective legal proceedings but it may be possible to join similar cases together (either formally or informally) so that they are heard by the same judge.

> "At the time, there was no provision for class actions, so we had to file many cases, 13, at the same time. We challenged the discriminatory nature of the checks. Then, there was another case of police harassment focused in a specific part of Paris—that became a collective criminal complaint. Others had previously tried bringing criminal charges against individual police officers but these were virtually impossible."

Collective cases can help to demonstrate the widespread nature of the problem and pattern of police practice and are more likely to result in legal and policy measures to address the problem. Collective cases can reduce the risk of loss due to evidentiary issues around any one incident, or efforts to discredit a particular plaintiff. *Actio popularis* cases do not require an individual plaintiff, enabling collective litigation even where affected parties may not wish to bring suit against the state due to fear of reprisals or for other reasons. Big collective challenges can be especially "media-worthy," presenting compelling information on patterns of discrimination and offering interview opportunities with multiple victims. This serves to catalyze mobilizing and organizing on ethnic profiling.

> "We had two legal strategies: one in case we received a complaint in the moment a person was being stopped and one for when we received the complaint sometime after the stop."

> "We use our documentation (we collect data and conduct studies) to demonstrate problems in different areas. Based on this we decide what issue we want to pursue through strategic litigation."

Collective proceedings can be more challenging to develop than individual cases, given the involvement of multiple plaintiffs. The bigger the case, the more extensive the need for client care and relations, and the greater the costs of paying lawyers and other costs around the case. It also increases the level of complexity in managing relations among multiple clients, lawyers, and organizations involved.

Decide on the Type of Legal Procedure

Typically, legal options at the national level include civil, criminal, administrative, and constitutional courts. Lawyers will provide their professional opinions on each option (including the chances of the case being successful in each type of court), and you may require different specialist lawyers for some courts. It is important to ask questions to ensure that the forum you choose can deliver the remedy you seek. Lawyers may prefer the type of law they habitually practice or legal procedures most commonly used for police abuse; this risks ignoring more innovative and strategic choices. Good lawyers will enjoy having their thinking stretched, and should discuss the likely outcomes and impacts of each legal option on the situation being addressed, as well as on the individuals and communities involved. For more on this topic, see the Choosing the Type of Legal Procedure to Pursue section, below.

If a case is lost before all national courts (that is, through the appeals process right up to the highest court or tribunal in the country), all domestic remedies will have been exhausted. This is often a requirement for seeking a decision from a regional or international court or body. Regional or international options may be part of a strategic litigation plan from the start, especially if lawyers advise that there is little chance of success nationally but that international courts may view the case favorably.

The most prominent options include the European Court of Human Rights, the Court of Justice of the European Union, the UN Human Rights Committee, and the UN Committee on the Elimination of Racial Discrimination. Decisions by the European Court of Human Rights or the Court of Justice of the European Union are binding on all European states, although compliance can be weak in practice.[104] These courts can also order money damages, which states must pay. The rulings of the UN committees are non-binding; that is, these bodies have no ability to enforce state compliance with their ruling. Nonetheless, they have strong moral and advocacy value as they indicate whether a state is complying with its commitments to international human rights treaties. The main drawback to litigating before regional and international bodies is the length of the procedures.

Choosing the Type of Legal Procedure to Pursue

Generally, the main legal procedures available at the national level are: civil, criminal, administrative, or constitutional. Independent equality bodies are also an option. And, where it isn't possible to achieve your aims before national bodies, then regional and international courts or commissions are options to consider.

CRIMINAL

Strengths

Provide sanctions such as prison time, dismissal, suspension, fines.

Rapid short-term relief, such as removal of officers from sector.

Information and evidence-gathering.

Shine public spotlight on problem, truth-telling, mobilizing.

Weaknesses

Focus on individual perpetrators, not wider problem.

Even if successful, guilty individuals may be dismissed as "bad apples," but wider problem remains unrecognized.

Proof is especially difficult - high evidentiary requirements make it difficult to make out a successful case of discrimination.

CIVIL

Strengths

Legal and policy reform.

Reparations to victims (money damages or apology).

Shine public spotlight on problem, truth-telling, mobilizing.

Group or collective actions for discrimination possible.

Easier to make out a successful case of discrimination.

Benefit from lower thresholds for proof and a facilitated burden.

Weaknesses

No prison time – may not be fully satisfactory to victims.

Not considered to be as symbolic as criminal cases. This may be compensated via collective or group actions.

ADMINISTRATIVE

Strengths

Similar to civil, depends on jurisdiction.

May have more powers to order public authorities to carry out reforms.

Annul or modify a particular law or policy.

Weaknesses

May be a more conservative and less independent court than civil.

CONSTITUTIONAL

Strengths

Annul or modify a law or policy.

Shine public spotlight on problem, mobilizing.

Weaknesses

May be a highly political body.

Consider

- What you want to achieve
- Whether you want to engage in a collective or individual procedure
- Available evidence
- Strengths and weaknesses of different possible legal procedures

Identify Potential Plaintiffs and Circumstances

Once a decision is made about the type of case(s) to pursue, it will be important to envision the profile and circumstances of the ideal plaintiff, given the objectives. For example, would you like to include people of diverse professional backgrounds, to counter stereotypes about the type of individuals checked by the police? Would it be useful to look for cases of checks that take place at different times and locations, to argue against justifications that particular checks were related to a particular criminal act or public disturbance that took place at a given location? Do you want to focus on incidents that were witnessed by others or where there is some other available evidence that would help win a case in court?

"Sometimes, we see people that want to pursue litigation but are not necessarily the best cases, which is unfortunate because it's this sense that there is injustice, but because you don't fit a mold, or aren't 'squeaky clean' in the words that the lawyers tend to use, you don't get to have justice. It can be quite detrimental in terms of how the courts perceive you. But also detrimental to people, if you are not seen as worthy of taking a case to court and getting justice."

Local context and legal rules may limit the ability to select plaintiffs (and note that lawyers may not be allowed to directly solicit clients), and the very notion of selecting plaintiffs may be off-putting to activists who feel a moral obligation to fight for all those impacted by profiling.[105] But these difficult choices may be important to the success of the undertaking. There may be individuals who should not, in normal circumstances, be included, such as persons without a regular legal status. In selecting clients, issues of vulnerability should also be considered in the face of possible smear tactics against plaintiffs. Advocacy and communications plans should formulate responses to hypothetical attacks in advance. Resilience and ability to cope with an extended and uncertain legal process are also factors to discuss frankly with potential clients. Special care is required with minors, whose parents must consent to their participation. Activists and lawyers need to plan for client care and ensure sufficient resources are available.

Find Others Who Can Support the Litigation

Equality bodies can sometimes file a third party intervention or *amicus* brief with the court, and lawyers for the plaintiffs may request that they do so if they have experience receiving and addressing ethnic profiling complaints. In France, the Human Rights Defender`s office submitted a third party intervention to the civil court, arguing for the application of non-discrimination law to ethnic profiling, which was key to ground-breaking decisions on evidentiary standards by French courts.[106]

CASE STUDY

Collective Civil Case in France[107]

The Justice Initiative supported extensive strategic litigation in France, after documentation and advocacy efforts failed to overcome political and police resistance to reforms. The litigation aimed to challenge discriminatory police checks that were rarely discussed in public debates and had become so normalized in affected communities that very little mobilizing was taking place.

On April 11, 2012, 13 individuals of North African or sub-Saharan origin simultaneously filed cases before a civil court in Paris alleging discriminatory identity check practices. All had been stopped during routine activities, with no further action taken by police. The claim was against the French state rather than individual officers, to highlight state responsibility for a systemic problem.

Establishing proof was a significant hurdle. The lawyers decided to rely on witness affidavits, which are standard in French civil proceedings. Each claimant provided at least one eyewitness statement, which were accompanied by reports on ethnic profiling, including statistical data showing police disproportionality, issued by international and national monitoring bodies, academics, and NGOs.

In court, the claimants argued that non-discrimination law should apply to police stops in the same manner as other sectors (employment, housing), meaning that evidence supporting a *prima facie* presumption of discrimination should shift the burden of proof to the state to show that the checks were objective and necessary—and thus not discriminatory. They also argued that the statistics and reports alone created this presumption. State lawyers argued that the higher burden of proof akin to that applicable in criminal cases should apply, and that this higher threshold was not met by the claimants.

In 2016, four years later, the highest civil appeals court (Court of Cassation) ruled that non-discrimination law does apply to policing, enabling reversal of the burden of proof (a position advanced by the French equality body in a third party intervention). Because the court applied a narrow interpretation of the evidence of discrimination that was presented, it found the state at fault in only three of the 13 cases. Six are now seeking appeal before the European Court of Human Rights.

French courts do not issue orders for policy measures in civil cases, only monetary damages. However, the litigation had a major impact in raising the visibility of ethnic profiling and spurring new mobilizing and further challenges to policing practices. Organizers turned each phase of the litigation into an event, holding press conferences with the plaintiffs accompanied by the lawyers in their robes on the steps of the courthouse, even when merely filing legal papers (normally an invisible and dull bureaucratic step). A blog provided background information and explained complex legal arguments for journalists and the public, with regular updates at each key moment.[108] Activists, community members, academics, politicians, and journalists packed the courtroom during hearings, which received extensive media coverage. Ethnic profiling became an issue in the 2012 elections. The attention has shifted French public opinion, and reinvigorated mobilizing and activism. Activists are now working with communities to generate a pipeline of new cases to keep up the pressure on authorities to introduce reforms.

CASE STUDY

Actio popularis in Hungary[109]

Actio popularis litigation has been used in two ethnic profiling cases in Hungary. In one, a court clerk in Rimóc complained to the Equal Treatment Authority that police were targeting local Roma with spot fines for not having required bicycle accessories. The Hungarian Helsinki Committee represented the Roma of Rimóc and took the _actio popularis_ case in the public interest.[110] Another NGO, Hungarian Civil Liberties Union (HCLU), launched an _actio popularis_ case against the Heves County Police Department for failing to protect Roma in Gyöngyöspata against vigilante groups and instead imposing fines on Roma for the most minor offenses.

Creative evidence-gathering played a key role in the Gyöngyöspata case. Police were issuing fines to Roma for the most minor violations, such as pushing a stroller in the road rather than on a dilapidated sidewalk, throwing away cigarette butts or seed shells on the street, and lacking required bicycle accessories. Non-Roma doing the same things were not fined. The HCLU presented three main bodies of evidence: a report by the national ombudsman's office on discriminatory fining practices, victim statements, and witness affidavits. In addition, HCLU made an information request of the county police, asking for data on all fines during the disputed period, disaggregated using proxies for Roma ethnicity (like surname and address). The data clearly showed that Roma were being disproportionately targeted for minor offenses. The police disputed the data, asserting that a unit of the auxiliary police—which was also present in the village for an undisclosed period—had disposed of its relevant records, making the data submitted incomplete.

The first-instance court ruled against the police, finding the documents showed that they had fined local Roma at a disproportionately high rate, predominantly for pedestrian and bicycle violations. The court noted the police had likely noticed similar violations committed by the non-Roma population as well but had brought no action against them. However, on appeal, the court made a different interpretation of the evidence, arguing that HCLU had not shown a presumption of discrimination. It said that in order to do so, and shift the burden of proof, HCLU would have had to

analyze the full set of police data on petty offenses sanctioned in the village (which was impossible due to the missing records), observe in detail alleged petty offenses left unsanctioned, or substantiate intent to discriminate either by the police institutionally or police officers individually. The Supreme Court upheld this finding, ruling that the data and witness statements HCLU presented were not sufficient to establish the presumption of discrimination against the Roma.

Roma families gather to evacuate their homes due to fear of further violence from far-right groups in Gyöngyöspata, Hungary, on April 22, 2011. © Bela Szandelszky/AP/Shutterstock

ENGAGING WITH THE POLICE

At some point, every campaign that seeks to challenge profiling will face the question of whether to engage with the police and, if so, how to go about it. That decision will reflect considerations about what you are trying to change and whether that change can be made by the police; it will also reflect values and who is best-placed to engage with police, and may be influenced by specific opportunities for engagement. This chapter examines the factors that play into the choice to engage with police or not, including challenges and risks for individuals, communities, and campaigns.

Controle Alt Delete co-founder Dionne Abdoelhafiezkhan (standing, right), with ethnic profiling researcher Sinan Çankaya, at their event with community activists, advocates, and police in Amsterdam, Netherlands on December 3, 2015. © Controle Alt Delete/Les Adu

LESSONS

- ☐ Map the police structure, competencies, and oversight, and where power/decision-making sits within different parts of that structure.

- ☐ Find "friendly" officers, including officers of color, who can provide insider information and/or formally support campaigns.

- ☐ Public statements from police officers or institutions acknowledging profiling or publicizing initiatives designed to address the problem can be helpful for general advocacy.

- ☐ Be clear as an organization what your strategy and boundaries are regarding engaging with the police and ensure this is communicated to all stakeholders.

- ☐ Protect yourself and those engaging with the police and prepare for any personal repercussions and/or co-option by police.

- ☐ Activists can use a number of different means to engage with police institutions and it can be useful to have a range of voices applying pressure from different angles at different times.

- ☐ Think through and prepare for intended and unintended consequences of engagement with the police.

Pros and Cons of Police Engagement

Not everyone from a campaign or movement wants to engage with the police in the same way. Mainstream and policy-focused organizations may have established communication channels and relationships with police, making engagement easier. For those most impacted by ethnic profiling, it may be hard to engage personally with police officers. Some groups may prefer an "outsider" strategy that avoids engagement and focuses on building public pressure to challenge profiling, or on supporting individuals and communities affected by police abuse. All organizations and campaigns must decide on the parameters of engagement and roles, and ensure that the strategy and agreed boundaries are clear. The strategy may change over time and should be regularly revisited and re-negotiated. In such reassessments, it is important to distinguish between contact with individual officers and contact with the police as an institution. It may be necessary to change or end "official engagement," yet valuable to retain informal, ongoing contact with individual officers.

THOSE WHO ARE AGAINST WORKING WITH THE POLICE SAY:

The question is about values. We are a membership organization and if young people decide to engage with the police that's their choice. In 20 years, not one young person has said, "I want to work with police officers." Young people are growing up over-policed and hyper-surveilled. I come from a household where my Grandad, his son, his grandson, and his great grandson have been stopped, humiliated, and abused by the police. And that's the story of most people in my hood. That choice not to engage comes from 500 years of history and our everyday experiences of the police.

This decision also reflects an understanding that police officers need to buy into change. We've won quite a bit in New York over the last seven years, and we've seen some change, but every single moment was met with pushback by the police department. The police culture absolutely needs to change. But I don't think we need to be waiting on the police in order to change policing policy and practice.

Engaging with the police leaves movements and individuals vulnerable to police infiltration and intelligence gathering; it damages community movements and stifles our radical imagination. It is naïve to think that policing is anything more than social control. It might sound good to be talking about reform and policy but you only legitimate an organization which is invested in control of racialized populations. Reform is not benign; you're obscuring the fundamental problem of the police being designed to control racialized populations.

I'm not interested in shaping interactions with police; I'm interested in not having those interactions, period. I'm about figuring out solutions so we need less police; start decriminalizing certain kinds of activity instead.[112] The most concrete example is drugs policy; I'm interested in treating drug use as a public health issue. If we think about that as our challenge—not shifting police behavior, but shifting laws—if we did that today, we can get to a place where we release two-thirds of our prisoners, we reduce two-thirds of our police officers, and invest in community-based safety solutions in local neighborhoods.

THOSE WHO ARE FOR POLICE ENGAGEMENT SAY:

This is an understandable expression of anger and frustration at the police. The argument is that the police are not a straightforward organization to deal with and so we shouldn't bother, but I reject this because it is a form of surrender and politically naïve.

There are three arguments put forward by the opposite side, which are flawed and incorrect:

First: "All police officers cannot and will not change." For sure, the police are a defensive organization and resistant to change. But it is more complicated. My work suggests that there is a culture war within the police over the heart and soul of policing. There are progressive officers who want change. We need to work with these officers because quite simply, they know where the bodies are buried. They know the organization, how it works and where change might be possible... If we do not engage with the police, to find these progressive officers and push positive projects, these opportunities will die off.

Second: "Positive change can happen without the police." This is naïve. Resistance within the police is stronger to external attempts to introduce change. The only way meaningful change happens is if the police own and promote the changes. You might think that it is not our job to come up with the ideas but the police will not do it themselves. While many of us might support abolition of the police, this creates its own set of problems. Abolition will be a long road because the majority of the population do not agree with you. Why should we engage with our abusers? Because if we don't, other people will continue to be abused. By engaging with the police we can attempt to get those abused some form of redress and stop the most egregious practices.

Third: "There is something unique about the police, about their failure and racism." Seriously, is there an institution in any of our countries, or in public life that isn't affected by racism and an inability or unwillingness to respond to it? If we only speak with institutions where there is no racism, we are going to be sitting at home talking to each other.

Who Are "the Police"?

When we talk about "the police," whom are we referring to? For those on the receiving end of disproportionate stops, ID checks, and searches, it is not always easy to know who is conducting the stop. It could be local police, national police, gendarmerie, or even private security guards hired by the state to perform policing functions. Many countries have multiple police agencies, with different—but sometimes overlapping—competencies, different organizational structures and systems of oversight. Mapping policing structures and powers, especially the rules governing their discretionary powers such as ID checks, is a crucial first step in thinking about the potential pathways to reform. It is worth considering the power of police unions and associations and whether they will oppose or support change.

"You need to understand the relationships in the police. Not just formally but also informally. Need to know what the formal relationships are in terms of management and oversight, structure of the police, what are the roles and responsibilities of the parliament, city council, of the mayor. You also need a more political analysis of who is bringing about change, who can push the right buttons."

A full mapping of institutions connected to policing can usefully include governance and oversight structures such as government/municipal departments, policy agencies, the judiciary, inspectorate bodies, independent and civilian complaints systems, and oversight and advisory groups. Understanding how these groups relate to each other and the dynamics among them may help you engage with these institutions to influence the police and change policy.

Not all police are the same, so it is important to consider organizational culture and which police departments may be more open to engagement and change. In the UK, national standards govern the use of stop and search for all 43 police departments, yet practice varies widely even between departments of comparable size, socio-economic conditions, demographic profiles, and rates of crime. Dorset and Thames Valley are comparable, but in Dorset, Black people are stopped at 20.4 times the rate of White people, while the Thames Valley police stop Black people at 4.2 times the rate of White people.[113] Differences in leadership, policies, and local history drive police culture and practice. In Spain, the Fuenlabrada local police was a young police agency with progressive leadership open to piloting new tools to examine racial bias. The department took part in Strategies for Effective Police Stop and Search (STEPSS), a project to collect and use stop data to address disproportionality. The positive results stemming from the STEPSS reform process have emerged as a model that has since been replicated by other local police throughout Spain.

Police are often influenced by the policies and practices of their peer police departments, but different departments have different weight in terms of their reputation and size and thus their

ability to drive change in other departments. It may be worth considering where to focus advocacy to promote wider change. For example, reforms by local police in Spain have not elicited any interest from the National Police.

Who holds influence within a specific police organization also varies from department to department. Mapping internal roles and power within the department can help to direct your advocacy focus and resources. It may even be possible to identify potential allies within the police. Despite the strong culture of policing, individual officers are not a monolithic group, but have different identities and values. Some sympathetic officers or groups may be willing to provide insider information, and advice on strategy and messaging. Some officers may even be willing to speak out. In 2017, 1,400 Dutch police officers signed the Blue Manifesto against ethnic profiling (right), which accepted a broad definition of ethnic profiling and set out steps to address it.

Officers from minority backgrounds are often victims of ethnic profiling and internal racism in their workplace. These officers and their staff associations have supported campaigns against ethnic profiling by sharing their experiences and documenting institutional bias. In 2015, 12 Black and Latinx NYPD officers filed a class-action suit challenging the NYPD policy requiring officers to meet fixed numerical goals for arrests and court summonses each month, arguing that this drove racial profiling in New York City.[114] Communities United for Police Reform created a film, *Stop-and-Frisk: The Police*
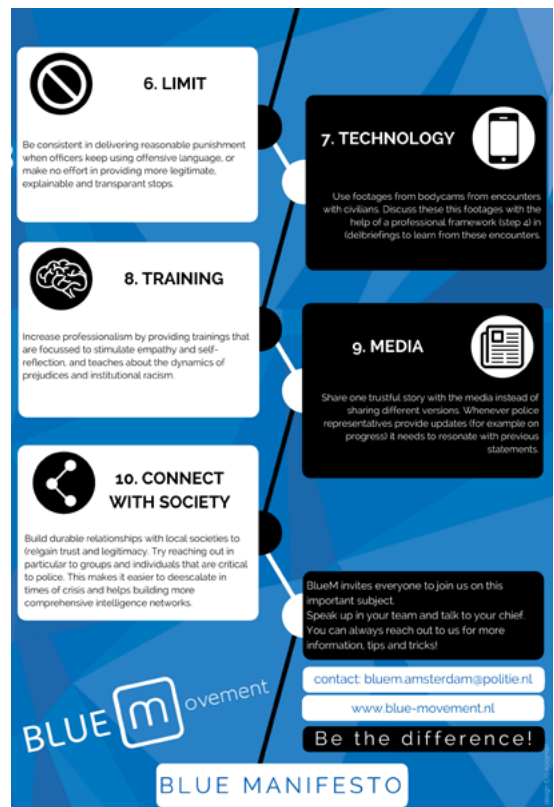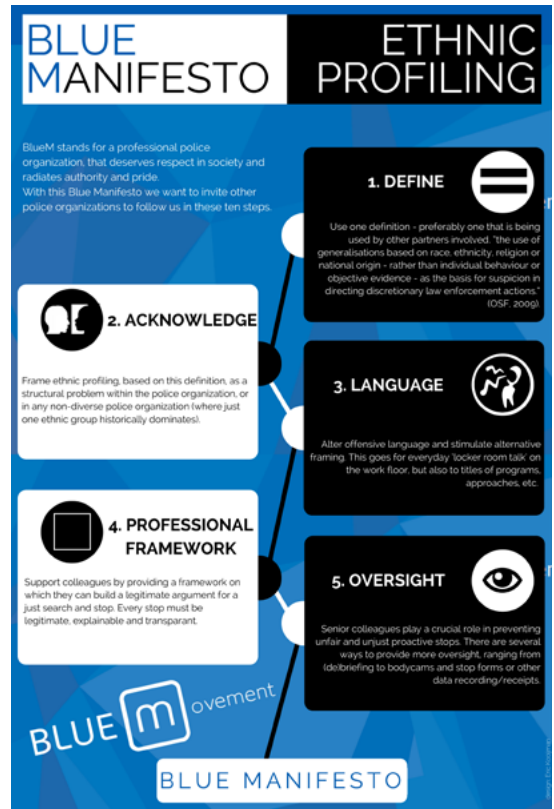
"You need information from inside the police. It is such a decentralized, chaotic, and dysfunctional organization. It's not a monoculture. The farther you are on the outside, the more they all look the same; but the closer you get, you see all the different shades and tones… I have been to many police conferences on discrimination and diversity. The quality of the debate is pretty crappy but it is the way to see who is willing to speak out, who is not policing themselves in front of their own peers. That is the way to really map the people with the formal positions but also to see whether they show any courage or leadership and share information or will push for something"

Officer, sharing the experiences of police officer Adhyl Polanco from the NYPD and his views on stop and frisk quotas and their impact on communities.[115] The Justice Initiative has produced films and publications that included officers of color speaking about their experiences of being ethnically profiled. Officers taking visible and critical stances can face repercussions (not only from peers but also in their career path), and this should be discussed to assess risks and take ameliorative steps including possibly hiding the officer's personal identity.

Challenges of Engaging with the Police

Resistance to reform: Police institutions are notoriously reluctant to change. This is likely true of any reform imposed from outside, and particularly those that police perceive as questioning their professionalism or integrity. This is especially true of ethnic profiling, where police typically deny there is a problem and resist reform. Engaging with the police is difficult and often takes resilience and perseverance. These challenges extend to complaints and oversight bodies that are often staffed by former police officers and share cultural and structural traits.

"If you are serious about bringing about change in another organization, you have to occupy the psychological space of that occupation. Because unless you do that, a lot of what you do is likely to have unintended consequences. You run the risk of routinely activating defense mechanisms that has the opposite effect of the change you want to bring about. Put very simply, calling the police racist is probably not the best way of encouraging the police to bring about positive change."

Understanding and experience of ethnic profiling: There is a deep chasm between how police experience making a stop, and how those being stopped experience it. For police officers, who may stop and search people every day, the experience is routine and unremarkable, and it is easy to lose sight of the impact on individuals and communities. Police will often say, "If you have nothing to hide, then you have nothing to fear." By contrast, communities of color talk about trauma and the humiliation of being singled out for suspicion. For many of those affected, police stops are a manifestation of wider state attitudes and convey a larger message about identity and belonging. It is very hard for impacted individuals and communities to hear their lived experiences denied when police refuse to accept that ethnic profiling exists or offer justifications for racist police behavior. Trying to overcome this chasm between police and civilians' experience of stops is difficult and takes time.

Talking about race and racism:

This conversation is difficult in most settings. Discussing race and racism with police is a herculean and often painful task. Discussions on ethnic profiling are commonly experienced—or deflected—by police officers as "calling us racists" or sometimes even "asking us to be racist by noticing and recording ethnicity during stops." Challenging ethnic profiling is often taken as an attack on police professionalism. The 1999 Macpherson Report

> "I do agree with the people that say the police is a racist institution, they have to say it because it is true. But when talking with individuals belonging to this institution, it is also important to see the human there. Police officers need to be seen as humans, as humans that work in defense of the rights of people."

in the UK deliberately focused on institutional racism, defined as the "collective failure of an organization to provide an appropriate and professional service to people because of their color, culture, or ethnic origin."[116] Yet officers often chose to interpret the finding as related only to individual racism and successfully resisted reform efforts.[117] Officers have strong identity affiliation with their organizations, and criticisms of structural patterns can be taken as attacks on both personal and organizational reputation.

Discussions of race and racism cannot be avoided, and solutions cannot be identified without understanding institutional racism and how it drives ethnic profiling. Recent reforms in the UK have improved regulation and oversight but have not changed ethnic disparities, precisely because they have failed to acknowledge and focus on racism. Yet the question of how, when, and whether to engage with the police on race and racism is a central tension in many campaigns. Some campaigns have chosen to play down discussions of race and racism and

push for broader reforms to improve accountability for all. The UK experience indicates likely limitations of this approach. In a campaign, downplaying the role of racism also risks alienating affected groups who need recognition of their experience; it is an issue to acknowledge and negotiate. On the other hand, campaigns addressing racism directly risk backlash from the police and others. Where discussions do take place, they must be designed and led by those experiencing ethnic profiling. Conversations need to be structured to shift the power balance, to privilege the harm that must be corrected. But care must also be taken to avoid putting the burden of managing these conversations and the reactions of police offices on people of color and ensure that support is put in place throughout any process.

Practical risks: Challenging ethnic profiling can be perceived as an attack on the integrity of the police and there are many examples of community members engaging with the police and then suffering negative consequences, including being targeted by police officers, or having their personal details shared and reputations intentionally damaged. In a recent example from the UK, community members who act as community advisors to London's Metropolitan Police were stopped, searched, and arrested. In France, young people involved in a project designed to improve relationships with local police officers found themselves subject to more ID checks and contact after they joined the project. This can extend to groups or organizations, with police regularly trying to discredit groups by labelling them "anti-police" or isolating them and refusing to engage with them.

Infiltration and co-option: In recent years, it has emerged that the UK police have infiltrated racial justice and environmental groups, spied on campaigners, and gathered information in an attempt to discredit those involved.[118] In some cases, undercover officers were exposed as playing "agent provocateurs," trying to get members of the groups to commit criminal acts leading to those involved being criminalized. Individuals and groups can also become overly friendly toward the police, won over by insider access to privileged information; these groups may then dominate others seeking engagement with police, preventing new voices from participating. Police officers or departments are also very keen to show that they are committed to community engagement, so will be quick to co-opt the names of groups and individuals to demonstrate their outreach and community credentials. Failing to maintain an independent position from the police can reduce your ability to provide robust challenge. Most importantly, it risks undermining your legitimacy with communities that are victims of ethnic profiling.

Engagement with the police is difficult and potentially dangerous and therefore will need to be continually reviewed, negotiated, and conducted in such a way that respects peoples' time and experiences and adds value to campaigns against ethnic profiling.

An annual event, organized by Controle Alt Delete, that brings together activists, police, and the public to dicuss ethnic profiling in Amsterdam, Netherlands, on December 12, 2016. © Controle Alt Delete/Les Adu

Tips for Engaging with the Police

- Ensure there are clear agreed outcomes for all meetings and ensure agreements are recorded (and made public) so that you can hold officers to the commitments they made.
- Prepare the police (and communities) for public exchanges. Ensure that everyone knows the purpose of the meeting; what reactions, questions, and issues to expect; and what outcomes you want to achieve.
- Understand the motivations and anxieties of police officers and organizational dynamics they are working in, and factor this into the planning for all interactions.
- Protect yourself and your campaign: never assume you are talking off-record with a police officer and ensure there are at least two people present at all meetings.
- Expect and prepare for defensiveness.
- Set out the problems and ask the police to offer operational solutions. Actions and projects are more likely to get buy-in if they are suggested by police officers.
- Provide examples of pilot projects or good practices that have been effective elsewhere; having concrete examples will help to reduce anxiety and encourage officers to support change.
- Frame messages/actions around positive goals or values, such as "supporting public safety," and "working towards fair and accountable policing." Positively-framed values are hard for the police to reject publically and difficult to discredit as "anti-police."
- For long term engagement through pilots and other projects, written agreements should be made at the beginning to establish roles, decision-making powers, acceptable behaviors, and expected outcomes.

Different Modes of Police Engagement

It is helpful to think about engaging with police as a continuum of interactions and activities, ranging from modest contact to intense cooperation and joint working. At any time, engagement can shift across this continuum and different forms of engagement may be used in conjunction to pressure for change.

CONTACT	PARTICIPATION / INVOLVEMENT	CONSULTATION	CO-PRODUCTION
Formal or informal contact with individuals or groups of police.	At public events, meetings, or projects that involve formal contact with police agencies. In training for police officers.	Through surveys, research, meetings, formal advisory boards of police agencies. Providing specific feedback on project proposals, policies, and specific police operations and use of powers.	In specific projects, scrutiny panels, and initiatives. Shared responsibility for project design and activities Joint decision-making around services and outcomes.
Provides opportunities for exchange of information. Possible police support for advocacy and campaigns.	Provides opportunities for public contact with police officers representing the organization. Public discussions on ethnic profiling. Learning opportunity for police officers to hear peoples' lived experience.	Provides the police with insights into perceptions and experiences being policed. Provides opportunities to comment on police policies or practices.	Provides opportunities to co-design police policies, practices, and oversight.[119]

CASE STUDY

Public Events on Ethnic Profiling

Controle Alt Delete, a Dutch activist coalition, organizes big public events bringing together police representatives and community members for discussions on ethnic profiling as well as for smaller meetings focused on specific, local issues with the police. These provide the opportunity for public discussions and the development of a shared understanding of experiences and problems. They also provide an opportunity to solicit from police public promises for policy changes. These public events are filmed and can be viewed on Control Alt Delete's website.[120]

"For the annual event we personally invite the police. We use it to celebrate success and look forward to things that need to change and it's always in collaboration with the police force. We ask for officers from the highest level as they have the mandate to commit themselves. We would always have a lot of cooperation with the police in advance to see their views on the issues, where they saw possibilities to make change, where there are no possibilities for change and why not. Discuss it with police in advance, which is a moment to wield influence, also about face time with the police. The opportunity to pass on experience and to influence policy. We realize that it is important to prepare them because we know that our crowd is frustrated and critical and we need to funnel the frustrations into the possibility of making change because if you are only angry nothing will happen. So we try to bridge the gap."

StopWatch organizes public events around stop and search in the UK. One of the most successful was "Stop and Search: The Human Face," which was held in 2013 and attended by 150 people. Unlike the usual format, where senior police officers, politicians, and policy officials give presentations, in this case members of the public gave testimony on their experiences of stop and search. Only at the end were the policy makers invited to respond to what they had heard.

CASE STUDY

Piloting Promising Practices with the Police: The Strategies for Effective Stop and Search (STEPSS) Project

The STEPSS project was a three-country initiative in which participating police forces developed tools to monitor the use of identity checks and stop and search powers, to determine whether they affect minority communities in a disproportionate manner, and to enable an analysis of the stops' effectiveness in detecting and investigating crime.[121] Throughout the process, police met with local community groups to share and discuss the stop data. The data revealed that police were engaging in ethnic profiling. In every pilot site, police were profiling people based on ethnicity or national origin. Minorities were more likely to be stopped, often more likely to be searched, but, almost without exception, were no more likely to be found to be offending than the majority group.

Requiring officers to gather stop data and record their grounds for the stop reduced discretion and increased the effectiveness of officers' use of stops. In both Hungary and Spain, officers in the STEPSS project tended to make fewer stops over the period that they were required to record stops, but the proportion of stops that produced an arrest or other positive law enforcement outcome increased. In one Spanish site, Fuenlabrada, the force dramatically reduced ethnic dipartites in their stops. STEPSS also developed new relationships forged through police-community dialogue and civilian engagement in monitoring police stops. In Fuenlabrada, these discussions directly helped the municipal police in identifying and addressing crime patterns and other community concerns. In Hungary, where the project used regular ride-alongs of civilians accompanying police to monitor the data gathering, the police and Roma representatives developed new understandings and insights. The pilot project was replicated with other police forces in Spain, albeit with less positive results. The strong resistance of police officers and the lack of feedback and oversight from supervisors to guide officers toward change may have played a part.[122]

My City Real World

This youth-police engagement project piloted in the Dutch city of Gouda in 2013-2015 was adapted from the work of Second Wave, a London youth arts center.[123] The project formed a partnership among the police, the local municipality, civil society, and young people. The approach builds trust through bringing young people and police together in a safe and creative workshop setting to share experiences. In Gouda, it focused on predominantly Dutch-Moroccan young people, whose relations with police were problematic. The process created a cohort of young people with deep insights into policing, some of whom continued engaging on ethnic profiling. Police participants also gained new insights, and revised their policies on stops and implemented new training.

Some common forms of engagement have particular risks for civil society. Training programs and community consultation forums are among the common initiatives taken in response to demands that police address profiling. While such engagements may have value, depending on their approach, they often have little impact and risk legitimizing police practices through creating veneer of community approval. It is generally understood that training alone does not change police practice unless it is reinforced by policy and management.[124] Diversity training or cross-cultural competency training in particular is often tokenistic. Activists or community members are invited to provide stereotypical introductions to their "culture" with no consultation on training design or approach, and then face police hostility when they raise their negative experiences of police actions. In the UK, the Ipswich and Suffolk Council for Racial Equality (ISCRE) formally withdrew from diversity training because the officers' failure to accept or even try to understand community members' experiences of racism was so damaging for those participating. These approaches repeatedly place the burden of addressing racism and White guilt on the shoulders of those with lived experience of racism, and the reactions of police officers and institutions can compound the trauma communities are experiencing.

"The pilot projects are important, they have a value, not only because of the project, but also the wider impact they've had. With the media for example, when you work on a piece on ethnic profiling, it is great when you can suggest a police officer they can interview that is working to prevent it and provides examples that other police can follow."

Police interact with members of the Muslim community at a mosque in London, on July 22, 2005. © Justin Jin/Panos

Participating in diversity training allows police to report that civil society and/or affected communities are working with them to address the issue, while doing nothing to change structural factors driving ethnic profiling. The UK's community monitoring system has been described as providing a "fiction of accountability" while failing to change stop and search practices. These community panels are often characterized as "explanatory and co-operative," but police are not under any legal obligation to act on the feedback provided by the panel.[125] Many police-community forums fail to address the power imbalance between the police and community, do not adequately represent community diversity, and lack independence from police structures.[126]

Campaigns should think through and, to the degree possible, plan strategies for unintended consequences of policy changes. In response to a pilot project which sought to monitor and reduce ethnic profiling in Girona, Spain, police officers angered by the policy actually increased their stops of people of color. Police are very good at meeting superficial targets while failing to address the larger goal. If campaigns push for reductions in the number of ID checks or searches, it may just lead to a reduction in recording of stops or an increase in the use of other, less regulated police powers.

For campaigners, a common source of frustration is the frequent turn-over of police personnel. Police officers move between posts frequently and activists or community members who have developed relationships with officers may find that knowledge and progress is lost when the officers leave. This can be avoided by seeking some formal institutional engagement rather than relying solely on individual relationships.

Another common challenge is disillusionment with engagement processes when they do not produce any change. The StopWatch Youth Group in the UK found value in supporting young people to advocate directly with the police. The group worked carefully to prepare and debrief each session, and the young people were able to articulate concerns and suggest solutions in positive meetings with police. However, when nothing changed in wider police policy and practice, the young people soon became disenchanted with the process.

Change within the police is usually slow and incremental. It is common to find that progressive police leaders face resistance and repercussions for pushing through even modest changes, so advances need to be acknowledged and small wins celebrated. The Platform for Good Police Management of Diversity, a Spanish coalition, gives out annual good practice prizes, which are awarded at the annual conference of the Association of Chiefs of Local Police, raising the profile of positive steps with a wide police audience.[127] In the US, the Leadership Conference on Human and Civil Rights developed the Body Worn Video Scorecard to rate police departments' policies on criteria such as personal privacy, access to footage, and misuse.[128] The scorecard uses the power of comparison and ranking to motivate the police through publicly praising or embarrassing police departments and, ideally, creating healthy competition.

The question of whether and how to engage with police is both incredibly important and incredibly fraught for activists seeking to challenge ethnic profiling. How an activist, an organization, or a campaign answers that question will depend on a host of factors, including the local context. The answer to whether and how to engage with police may also change over time: it may be appropriate and productive at some points, and inappropriate or even counter-productive at others. It is important to be flexible enough to change your approach as needed, because conditions may change and challenging ethnic profiling is a long-term undertaking. The next and final chapter considers that long timeline for making change, and how to sustain activism over time.

SUSTAINING ACTIVISTS AND MOVEMENTS

Participants embrace at a Black Lives Matter demonstration in Berlin on June 6, 2020. © Gordon Welters/laif/Redux

Awareness of and concern over stress, trauma, and burnout are increasing within the human rights and racial justice movements. Social movements rely on the commitment and capacity of individual activists to push for change. Passion, lived experience, and guilt may drive activists to work constantly, exposing them to stress, sometimes taking considerable risks. Many activists are not paid professionals, but volunteers doing this work in addition to other commitments. Many are people of color, who live with the burden of racial injustice in their daily lives as well as in their activism. Furthermore, challenging an institution entrusted with powers including deprivation of liberty and use of force—including lethal force—can be particularly difficult and frightening.

LESSONS

☐ Both individual activists and organizations can and should take steps to protect and improve well-being.

☐ Self-care and collective-care are crucial to movement sustainability and personal well-being. Failing to recognize and address stress and trauma will damage individuals and movements, and may make them more vulnerable to external adversaries.

☐ Racial justice struggles are grounded in wider realities of structural racism and it is essential to create spaces where this can be discussed, particularly in predominantly White and ethnically-mixed organizations.

☐ Activists of color, from communities affected by racism and police profiling, have distinct and acute self-care needs, reflecting the inescapable reality of living with discrimination every day; when added to their activism on the issue, this creates a double burden.

☐ Changing deeply-rooted discrimination is hard and slow work, making it essential to identify and celebrate achievements and wins, even when they appear modest.

Creating a sustainable campaign against police discrimination and brutality requires taking measures to protect activists' personal well-being and sustain the racial justice movement. This chapter reflects on the specific experiences of activists challenging ethnic profiling, drawing on interviews to highlight risks and harms, draw lessons, and point to good practices for individuals and organizations seeking to sustain activism and avoid burnout. The sections below discuss motivation, guilt, burnout, and boundaries; managing internal conflicts; the double burden on activists of color; resources and movement health; and coping with the slow and uneven pace of change. The sections reflect personal considerations and organizational factors, as well as implications for campaigning and movements.

Motivation, Guilt, Burnout, and Boundaries

Many activists start their work inspired to challenge injustice and seek structural change only later to go through periods of exhaustion and burnout. It is common for individuals to feel guilty about taking time for themselves, to struggle to keep going, and then hit a wall and burn out. Activist movements rely on energy and commitment of people who bring their mental, emotional, and physical beings into their work. It is important to recognize signs of exhaustion or depression and step back if necessary. Causes do better when driven by committed and passionate activists for limited periods, rather than emotionally-drained and disillusioned activists struggling on year-after-year.

It is helpful to take time out, and also to set personal boundaries. Setting boundaries means maintaining space between oneself and others or the immediate surroundings, to allow healthy relationships but also to enable self-preservation and healing. Boundaries can apply to one's time and energy but also to physical limits and emotional needs and capacity. It is about saying "no" when necessary as much as it is about clearly articulating one's needs, and conversely also about respecting what another person is able to give or not give. It is a crucial foundation for healthy and sustainable activism.

"Burnout is real, and lots of community activism can be tiring. If you can only do it for six months and then take six months off, that's ok."

"It's really important to rest. If you stop for a moment, nothing happens. I tend to think that things will get even worse, and you feel as if the weight of the world is on your shoulders. You have to trust others, to delegate."

"After I had a burnout I changed my ways as an activist. I started saying 'no' more, getting over the idea that you have to take part in every single debate or every single action to create change. I also started taking more time to do joyful things, whereas before I would feel guilty about doing anything for myself. I feel I am more hopeful and positive now, and I find it's easier to put things into perspective."

Incorporating personal health in daily routines can help to limit stress and avoid burnout, and is far preferable to pushing through to a point of excessive stress or personal crisis. Each person needs to find their own healthy habits, such as a break or walk during the day, breathing, meditation, exercise, consciously debriefing with colleagues, taking time off-line, reducing time commitments, and spending more time with friends. What matters is finding the approach that nourishes body and mind, recognizing the need for health and balance.

> "One of my students, after working really hard on research, once said to me, 'I'm going to take a week off, because I need to heal my mind,' and I sat there thinking, 'What are you on about?' We then engaged in a conversation and it was poignant how in that moment she made me realize how I neglected the impact and the toll of what I'm involved with on the mind and emotions. I began to take on board that sense of needing to heal the mind, and step back. I have begun to create spaces and moments where I can just be, to try to detach myself from the everyday concerns that I'm actively fighting against."

> "It's important to guard your own boundaries, but I think we should also take care of each other. We should be able to tell each other once in a while, 'I need a chat.'"

> "There are negative ways in which you can react as well. When I meet friends in the pub for a drink, I think I'm taking time out but actually I'm not. What I'm doing is self-medicating to try and manage that sense of dissonance you get from the disruptions of encountering the rationalization of racist policing, the everyday realities of racism, and inequalities and injustice. Also, being in echo chambers and speaking with likeminded individuals all the time so they're only reaffirming the very problems you're fighting against. I think it's good to get out of these spaces sometimes."

> "I'm quite fortunate that I have grown-up children and a wife who understands exactly what work I'm involved in. Politically she recognizes the importance of this work and what it's about, so when I have meetings and I am not available, or working on a weekend, she will get that. I'm not sure it's acceptable, but she understands."

> "I used to always cancel on my family and [non-activist] friends when they had gatherings and parties, for political activities and meetings with activists. Until I realized I needed them to feel loved and cared for and to give me energy, because the activism left me depleted. I spend much more time with family and friends now, and it's weird, but I enjoy being with them more and I am so much more grateful than I ever was, probably because I realize more than before how valuable it is to have them in my life."

A number of activists have noted the importance of having external support systems, including friends and family, or even paid coaches and counsellors. For all approaches to self-care, the greatest challenge is to find time for them, rather than always putting them second.

Organizations also need to recognize these dynamics, acknowledge mental and emotional distress, and provide reasonable supports. Some groups may be able to offer flexible work options (flex or part-time work or remote work, providing counselling or mental health resources), while others may seek to reduce stress related to workplace culture and practice (such as not expecting immediate responses to all emails, fewer meetings, supportive management and teams, inclusive and clear decision-making). While the availability of resources will inform the scope of possible responses, every group can make investments in the well-being of its people. Even volunteer-driven campaigns without budgets can invest some time in taking care of each other: being sure to debrief or check-in after intensive activities, recognizing and complimenting good work, encouraging collaboration and collegiality, ensuring clarity and shared commitment around strategic decisions, and sharing responsibility and being accountable for follow-through on the work.

The hostility that often meets racial justice campaigners can be incredibly taxing mentally, emotionally, and physically. Sometimes, the simple act of checking in, being available, and debriefing—especially when facing critiques and attacks from opponents or trolling on social media—can go a long way to alleviating stress.

"We are bombarded all day long, every week, with people's experiences with the police. It's about ethnic profiling, about police violence, but also about other forms of abuse of power and insulting remarks. So you just get a lot of negative shit. And that's tough. It helps to then sit down with your colleagues and talk about it."

"We kind of signal to each other, and then we drop everything and just sit in a meeting room. And we just say 'I have to talk.' Our organization is really a family. It's a very nice and pleasant atmosphere, especially because we do a lot of heavy emotional work."

"This is a very vulnerable position to be in, especially if they're going to come after your livelihood. But yeah, it just made me more resilient, to be honest. It opened my eyes to the fact that you can become a target. ... Once they come with the fire, you have to say this is not appropriate, write strong letters, and actually make a complaint about the police officer because he's at work."

It remains sadly common for activists, particularly grassroots activists challenging ethnic profiling and police violence, to face police intimidation or reprisals. Experienced activists anticipate and plan for this, as discussed in Chapter 3. It is essential in such situations to seek or provide good legal advice as well as other forms of support. Timely support can also help individuals who wish to do so in standing up to police intimidation.

INTERVIEW

"We set out to fight racism and injustice, they set out to destroy us."

We set up our organization when a friend was stabbed to death. He never mixed with the wrong crowd, but because he was a Swede of Somali background, his death was associated with gang violence and he was portrayed as a gang member. When media portrayed our friend as a gang member, we decided to organize against the structural racism. It was the first time second-generation youth organized to address issues of inequality and racism. We started focusing on policing because of our experiences being constantly stopped and searched in different areas for no reason. People were frustrated but didn't know what to do. We did what we could by writing and educating, and organizing demonstrations. Although many people were excited, others in our community did not see any change and believed the only way things would change was if they used violence, only then people in power would listen and take action. It was hard to convince them our way was better given the slow pace of change.

When in 2013 police shot an older man from our community, and people found out the police lied to the media about the circumstances of his death, riots erupted. It became clear to us that police could simply get away with anything without ever being held accountable. The riots started in our area but quickly spread to the rest of Stockholm. For an entire week cars, businesses, and other places were set on fire and there were clashes with police. The media wanted us to condemn the violence, but we couldn't, even if we didn't agree with it, because we understood the conditions in which it erupted. It would have destroyed our legitimacy and our political voice. Our organization was vilified and discredited. We were naïve. We actually believed the media wanted to hear us out and understand our side of the story and give an objective account of what happened, but they only wanted a condemnation and portrayed us as anti-police when we didn't give it to them.

Growing up, all I tried to do was be a good Swede, walk and talk like them, carrying some kind of self-hatred of which I didn't understand the origin. Now all of a sudden we were enemies of the state just because we called out injustice, picking holes in the false image Sweden has of itself.

Media pitted activists and community members against each other. Those who condemned the violence were good, and those who didn't - us - were bad. This destroyed many relationships within our community. The municipality threatened to close down the one office we had as a base. I also received violent threats, and this scared me most because I still lived at home. I was scared for my parents and little brothers. My mom begged me to stop giving interviews. I continued for a little while but then I had a burnout.

I didn't meet my activist friends for months and focused on my law studies. I traveled and met with activists and lawyers who worked on racial profiling and movement lawyering in the US and Latin America. Being outside of my own context with like-minded people really helped me gain perspective, learn, and feel less alienated and alone. Writing and sharing experiences and lessons also helped me process things. I came to realize we were but one organization with a strategy and that it is ok for others to do things differently. I wish we could have been more aware of this and honest about this with each other. Especially because the lack of understanding we allowed to develop between us radical activists and others, was quickly exploited by the media and politicians. We became very radical very fast when we should have taken things a bit slower. Of course, we were young. We believed change would happen overnight if you gave it everything, but that's not how it works, change takes time.

Judgmentalism and Managing Internal Conflict

One coping strategy is to create safe spaces and networks of non-judgmental and caring fellow activists and allies. Safe spaces can also help to counteract the judgmentalism that can creep into activism. It is the nature of activism to fight passionately for principles and ideals. Within these ideals, many valid differences exist—for example, regarding whether or not to work with police—and these disagreements can create challenges to movement solidarity.

> "I saw activists going at each other and bringing each other down so many times, especially on social media. I have been at the receiving end of attacks myself. It is more painful than being attacked by opponents. It made me want to give up, and there weren't many of us willing to take a stand publicly in the first place. I'm happy I didn't because it blinded me from seeing the huge support from within the community that became apparent after. I think it really undermines our struggle when we cannot even manage to show solidarity and peacefully co-exist with people who are on the same side."

"The punishment of mistakes within activism is super hard. It's as if you made a mistake on purpose. I'm a man, I try to be a feminist, but I make mistakes. It makes it very hard to work; it breaks down commitments."

"After I had a burnout, I realized we are all human beings trying to make sense of this world and make it better. I used to waste so much energy thinking I wasn't aware enough, didn't master all the latest social justice theories and concepts, just never good enough. I was hard on myself, and I became hard on others. But why? At least we were all trying to fight racism, and trying really hard. That should be enough, considering what we're up against. We need to cherish and value every person's efforts. We also need to be open to listen and learn, and allow ourselves to be challenged in a way that is respectful, dignified, and compassionate if we are ever going to bring about a world that treats all people equally."

Some may find the specific lens of ethnic profiling too narrow, and desire a wider engagement with other, intersectional rights and values. It is not uncommon for critiques to arise; calling out colleagues and allies for failures to understand or engage with wider issues. This risks eroding and weakening the campaign and movement. On the other hand, achieving freedom and equality for all ultimately entails dismantling all forms of oppression and their intersection. This is a long path, requiring patience and determination. It also demands that individuals and organizations model the behavior they wish to see in a free and equal society, including empathy and forgiveness—for oneself and for others. Good organizational practices can help to create a culture with space for negotiating and respecting differences while moving a campaign forward.

"Sadly, the most difficulty I've had has been in my own community—not the Black community, but the world of activism. It's human nature that we compete, we want to lead, to build knowledge. Maybe it's very utopian, but I think we need to build a more collectivist spirit—not a commune—but these spaces to know each other and take care of each other. Sometimes our work is limited by little things, by personal relations."

"In every group, there's a Martin Luther King and a Malcolm X. Both are necessary, but it always generates conflict."

"There is even something they [leaders of different community groups] told me, what they 'like' about ethnic profiling is that it is a cause that really affects all communities so it's something that allows them to work together."

The Double Burden on the Activist of Color

Specific challenges arise from being a campaigner who is also from a community directly impacted by ethnic profiling. The burden of living on a daily basis the abuse that you are also working hard to challenge can be traumatic. The psychological impact of this trauma is exacerbated when it is not seen, or worse, is denied or not supported by the wider public and political authorities.

Activists with personal experience inhabit workspaces where ethnic profiling is discussed and analyzed by people who have never been profiled or discriminated against. They face the pressure of trying to ensure that challenges to ethnic profiling reflect wider structural issues and community needs, and may be challenged regarding the "objectivity" of their position, or due to a desire to have greater "expertise" drive discussions. Such arguments are themselves often driven by racial bias.

Activists of color are repeatedly asked to describe the experience of being profiled and to represent the perspective of the victim of police bias. This quickly becomes tiring, as constantly re-telling and re-living the experience can become a form of secondary victimization.

"As a person with a migration background, who also works on this topic, it's just very exhausting. Apart from the fact that you work on this topic, you are also confronted with it in your personal life. You're constantly seeing confirmation of the problem."

"As a White activist, I think we have to be really careful to find the right balance between making sure that the people with lived experience of profiling have a voice and lead, but at the same time making sure that we're not asking people 'to represent' all the time and bear that burden. We have to learn to be more respectful and to listen."

"I realize I am more guarded than some of my colleagues, and more concerned about how research looks when it's being published and when the data is being analyzed. As an academic, you want to present as objective and independent, but then they are the same tools that can be used against the activist scholar. There's often the concern about how to present arguments in a way that can affect change."

"They always look at me, when you're a victim, as though you're just the person with lived experience. I also studied this and did my own research. Why do you [only] call me someone with lived experience? Yes, I'm in the streets, I know what's happening, I'm experiencing it myself. I don't want to talk about what I've been through anymore, I want to tell you what I think needs to be done."

Furthermore, this focus can be very disempowering, as it obscures the lived and learned expertise that activists of color bring to the table.

A further challenge arises when discussions of ethnic profiling fail to engage with the root causes of institutional racism. In these settings, community leaders can find themselves feeling isolated and marginalized, preventing them from establishing agendas and solutions to the problem that most affects them and their communities. Structural racism is omnipresent, and it continues to pervade racial justice struggles in too many countries where the formal NGO community remains predominantly White. It is crucial that all racial justice organizations create safe spaces to have honest conversations about race.

> "We recently hired a project leader for youth work and police, who is someone with a migration background. When he started working for us and I started coaching him, I'd say, 'Know that considering your color, at a certain moment you will have to deal with racist statements or aggression or hurtful comments or something like that.' I try to say that in advance, and make it clear that these things can be discussed, and to say, 'When that happens, come to me and know that we will act on it.' I think just mentioning it already ensures a certain level of security."

> "At a professional level, I have not dared to confront the status quo. I haven't had the occasion, but I haven't dared either. I'm in an NGO that works with migrants and sometimes there are orders that shock my values, but I haven't found the courage, I suppose for fear that my economic stability could be cut off."

> "I'm in an organization that is mostly White, that has a narrative of inclusion of people from racialized groups and migrants, but as a sort of tokenism. They're well-intentioned, but it limits you a lot. It cuts things off when you have to teach them things; it ends up being quite difficult to find a space and a way to tell them things."

These spaces must protect members of racialized groups, provide them with opportunities to raise issues, and follow up with appropriate action to the best of their abilities. Trying to raise issues in spaces where others are upset, or take offense and respond defensively, ends up silencing and oppressing the voices that must be heard to bring about any change.

Movement Health and Resources

A frequent lament of campaigners is resource scarcity, especially scarcity of human resources. At times, building the movement is as important as advancing a specific campaign. Activists can become so caught up in activities that they neglect to invest in enlarging the movement, even when there is clear latent potential for wider support. While the long-term benefits of movement-building are great, it takes a lot of time and effort in the short run to bring people up to speed and build their capacity. Groups and organizations have come up with creative solutions to carry out actions and encourage greater participation. Offering a range of options for levels of engagement, from minimal to greater time investments, is a useful tactic.

> **"We are totally waging an underdog battle. There's just a few of us while the people we want to change are with tens of thousands and are supported by millions."**

> **"We need more leaders. I can do many things, but I am often doing them alone. We need more capacity in our community. Everyone comes to me to fix their problems and ask me what to do. With all the work and stress, you can end up getting sick. You can't do it alone, or with one deputy. I feel alone and everyone is asking me for things. You have to delegate to those who can, and train those who can't, to build capacity in the community."**

> **"There was a lot of support in the community for our struggle so we tried to give people different options to become engaged: from joining the activist group, to volunteering at events or for particular actions, making and soliciting donations from people, leafleting or simply sharing our op-eds online. At least once a year we'd organize a big fundraiser in the community, where we used to report back on developments and inform people about what was happening. We would also organize debates to politicize and educate passive supporters. Although we have many supporters on our Facebook page, we didn't make optimal use of that by crowdsourcing ideas from people, even if it's just to build a stronger connection to the cause. That's something we should do better moving forward."**

Activists find it healing and inspiring to engage with others of like mind, be it locally or from other countries addressing similar dynamics, or drawing lessons from other movements. Organizations that have sufficient resources should convene activists periodically, in person or even online. Such gatherings allow activists to reflect on past experiences and/or new challenges, share lessons and tactics, or just network and provide moral support.

"These kind of meetings, I think they can be part of self-care. The fact that you get together with many people and think about the problem can be really strengthening and redemptive."

"Participating in demonstrations. I'm always very encouraged when you walk along with a protest, everyone who has taken the time and thinks it's important. It helps guard against pessimism."

"I went to a seminar in the US that brought together activists from all around the world. It was one of the most inspiring and educational events I ever took part in, at least it was at that time in my life. We had a lot of differences about what needed to change and how given our different contexts, but being in the same room with people from all walks of life who believed change was needed and was possible was incredibly inspiring."

As they seek additional resources, many campaigns—especially in the wake of some success—ask themselves whether they should form an NGO and, through incorporating, open the door to formal funding to finance staff and further activities. While this may be the right decision for some, it is important to examine the costs as well as benefits. The process can be burdensome, taking time and energy away from the actual campaign. While incorporation is required to receive some kinds of funding, this is not always the case. An early exploration of the full range of options may avoid a great deal of bureaucracy and the drain on time and energy. Some groups also place a particular moral value on remaining as a volunteer organization while others may see clear benefits to professionalizing.

Traditional funding sources include private foundations, EU institutions, and government programs, but a wider range of creative options is rapidly expanding, many aided by social media platforms. These include crowdfunding, creating and selling merchandize carrying the campaign message, organizing events and charging reasonable entrance fees, and possibly developing fee-based trainings and workshops. These may offer more flexible and independent approaches to resourcing activism than the classic, often project-specific, NGO grant model.

Another approach to building resources and capacity is to develop collaborations with legal experts, academics, and others who share your values and your concern with policing, while also bringing specific skills and possibly institutional or professional resources to the campaign.

"I love my independence. I don't want to be dependent on funding."

INTERVIEW

Academic Research in Support of Communities

"My work consists mostly of research and evaluations in service of a range of activist organizations. My life and experiences before the university allow me to bring an applied understanding of the issues. Rather than just being academic research, this is important advocacy work. I think it's important to give some of my research time and capacity to certain causes. I am shifting away from viewing it as activism, seeing it instead as part of my role and responsibility.

There is stress and pressure because you know if you're not doing the work, then it won't be done. Alternatively, you can have some mainstream academic who thinks these are worthy issues but who doesn't understand them, and ends up exacerbating the very problems our communities are enduring. I do call out academics who are peddling this nonsense, which of course scares them away, leaving few academics who want to work with you. Then again, there is a growing group of young academics, young Black and brown academics who are on point. It's about supporting them and discussing and challenging issues together.

The university mostly cares about research that generates income to the university or is picked up by the media and/or people in positions of influence. For me, the work has to have purpose. It needs to alleviate the harms and concerns experienced by Black and brown communities. I remember when I first got involved in work around ending gangs and youth violence. We found a clear disconnect between those involved in so-called gangs and those involved in violence. While attributed to Black and brown communities, the reality was that violence was taking place in predominantly White communities across [the area]. This research allowed us to show how the gangs label was racialized to Black and brown individuals, who may not be perpetrating violence, as was assumed. The [university's] press team got hold of that report because a number of people began to speak about that finding. They called me saying they would love to promote that research by doing an interview for the website. It turned out the university was about to formalize a relationship with the [local] police, and they didn't want to put them off. Since then, the UN rapporteur on race picked up on that work, as have others. Now, the university wants to use that research to demonstrate impact. Whilst I recognize the cynical nature of the institution's approach, it's important that it acknowledges the impact for our communities of the work we're doing and wants to support it. This might open a door for others to engage in this type of research, which will progress the agenda further.

Together with a few colleagues we have been discussing ideas like community-facing independent research centers focused on particular areas. As a number of us work on resisting crime and criminalization, we work collectively and collaboratively, plugging in with a range of activist organizations. It's a starting point to develop and explore community centred and focused research, but also to start passing on the baton. That means engaging with students and actively encouraging them to pick up these issues, but also equipping them with the academic and research skills to really push things. It is within these walls that we need to develop and create tomorrow's activists, activist scholars, and academics, etcetera. At the same time, I'm thinking of some of my students being involved in research that is very upsetting and how I don't want to create this type of world for them because there is a heavy emotional toll that is involved with doing this type of work. Whilst I recognize the need for certain voices to be heard and for my students to be equipped and trained and developed to hear those voices, there is also an emotional toll for each of us.

Looking back, even with the limits we faced, there have been important achievements realized through this work: being able to generate an evidence-based counter narrative and counter discourse to challenge dominant views of who we are, who I am, and who my community is, who my parents are, who my friends are, who my children are. These, for me, are important accomplishments. However, what the accomplishments also reveal is that there's more work to do. We know that once we disrupt one narrative, we begin to see a shift or modification of the discourse to something else. Equally, that means my young students will pick up those issues and chase the blueprint in place that says, 'This is how we disrupt.'"

The Pace of Change

Policing is notoriously resistant to change. It is hard not to be disillusioned or discouraged when confronted by the depth of the root causes of profiling and the strength of vested interests in the status quo. It is important to identify key pressure points, while realizing that structural change takes time.

> **"I genuinely and honestly believe in the capacity and ability of things and individuals to change. I don't believe anyone is born evil. Who we become is contingent on the context within which we live, and on that basis, if the individual becomes, then the individual can also un-become. If society wants to construct a particular individual as a problem, then I can have a responsibility in changing that belief, the ability to argue and use a set of skills to undo those arguments and seek to impact people's everyday lives."**

> "My trust in the police—even though I don't have any negative experiences with them myself—I don't know how much lower it can get. The Ministry of Justice, the complaints body, the Ombudsman, the Human Rights Commission, all those institutions that have to ensure there are checks and balances, are dysfunctional. I will continue though exactly because it is so shit and because I truly believe the government should treat everyone equally."

Good preparation and having realistic expectations can also help prevent burnout and disillusionment in the face of resilient racism. Experienced activists realize that a large part of the struggle is refusing be discouraged, and instead preparing for and dealing with failure while also developing a more nuanced understanding of what progress looks like.

> "It made a huge difference for me at one point to realize, and consciously make that click, that fighting racism and racial injustice, in whatever way it manifests itself, will take generations. When I first became an activist and saw the immediate reactions of people in power and how things shifted, I guess on some subconscious level I fell into the trap of believing that we would achieve change soon. But that's not what happened, in my country or anywhere else. I wish someone had sat me down, and made sure I understood this well when I was younger."

For many activists, in addition to fighting against police discrimination and brutality, it is motivating to articulate a positive vision of the future. Setting out positive policy alternatives can also inspire others to join the movement. Offering concrete alternatives to current practices also strengthens advocacy and messaging.

Many activists and campaigners may focus so much on the abuses they are trying to end that they neglect to appreciate, or celebrate, the many minor and major achievements that constitute the interim steps towards achieving their final goal. Focusing only on what is going wrong, or setbacks, or the limits of progress towards ambitious goals, can be discouraging and demotivating. Morale and energy are boosted through taking time to celebrate and take pride in achievements, including modest ones. Visible celebrations of advances can also attract more supporters galvanized by the hope for change.

> "One thing that helped is that I expected to fail and failure is very common in this work. It's very difficult because we are challenging power structures of hundreds of years. But you don't need to win, you just need to make the cost of victory too high for the other side."

History clearly shows that the fight for racial justice and equality is multi-generational. Maintaining faith in the possibility of change and finding signs of progress takes nurture, realism, and often, optimism. It can be important to have a multi-faceted understanding of progress that reflects on the movement itself and shifting social narratives, as well as concrete outcomes in police practice. Many of the lessons captured in this guide point to important advances in raising awareness of profiling, increasing legal challenges, developing and sharing good practices, winning new policy commitments, and, most importantly, fostering the emergence and evolution of a new racial justice movement in Europe. These steps may feel modest at times, but they represent important advances that set the stage for the next generation. It is important to reflect on and celebrate this movement. The quotes below provide examples of such reflection from activists; it is appropriate for this guide to give the final word to the activists who are the lifeblood of efforts to challenge ethnic profiling.

> "I think that we are a kind of forerunners, even though we may be cynical sometimes about the pace, about the progress.... If we go from 1% to 2% in a year, that's actually a 100% improvement."

> "My children are a little older, and they discuss ethnic profiling in the context of [school] assignments that they have to do, in a way that we had not thought about at all amongst ourselves eight years ago. So something is really changing."

> "Apart from system change, victims tell me that my work makes it better for them and that's amazing."

> "It's very encouraging to literally see people feel empowered when they're better informed about their rights."

> "I've learned so many skills through this work that I could not have learned in another arena. Yes, we're victims of a system, but we can stop being victims through our own willpower. We're not condemned to live as victims."

> "I learn a lot from what I do. I'm also developing myself tremendously by doing what I do. I make friends and colleagues throughout [my country]. We're building something, and it's going to lead to something, but I don't know exactly where to yet."

"It makes me really happy to be able to solve someone's problems. I feel powerful when I can help claim someone's rights, and empower them by helping them to understand their rights."

"I am doing something for the world. This is me, and I can do this. In my organization, we made this for ourselves. We made it, it's for us, we are the team. There are a lot of groups in Spain working against racism and for migrants, but if you look at them, from top to bottom, there is not one migrant. Or if they have one, it's the secretary or the person at the door."

"I SEE THINGS CHANGING: THE DISCOURSE IS CHANGING; THERE ARE MORE DIVERSE VOICES NOW. IT'S STILL LIMITED. BUT IT'S CHANGING."

ENDNOTES

1   Because this guide reflects on lessons and experiences from a decade of work (2010-20) to tackle ethnic profiling, it includes the UK in references to the EU. Even after having left the EU, the UK will continue to be an important source of case studies looking at efforts to counter ethnic profiling.

2   The authors guaranteed full anonymity to allow interviewees to speak freely and not worry about potential consequences for their work or person. Quotes were selected based on their relevance and the lessons they contain for activists in different countries and contexts. Some quotes have been lightly edited for clarity.

3   It is worth noting that the terms "racial profiling" and "ethnic profiling" are often used interchangeably. There is an increasing use of "religious profiling" as well, referring to the increased targeting of persons who are assumed Muslim based on their appearance. This guide uses the term "ethnic profiling" to capture all unlawful targeting based on the above-mentioned grounds.

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5   Open Society Justice Initiative (2009), *Ethnic Profiling in the European Union: Pervasive, Ineffective, and Discriminatory,* (Chapter II: Ethnic profiling: what is it and when is it unlawful?, p. 20-21), online: https://www.justiceinitiative.org/uploads/8cef0d30-2833-40fd-b80b-9efb17c6de41/profiling_20090526.pdf.

6   The term "discriminatory ethnic profiling" was used in the 2010 publication *Towards More Effective Policing: Understanding and preventing discriminatory ethnic profiling, a guide,* by the European Fundamental Rights Agency (FRA), a key standard-setting EU agency. In its subsequent 2018 report, *Preventing unlawful profiling today and in the future: a guide,* the FRA dropped this term and its definition now aligns with other European agencies.

7   Open Society Justice Initiative (2016), *International Standards on Ethnic Profiling: Decisions and Comments from the UN Systems,* online: https://www.justiceinitiative.org/publications/case-digests-international-standards-ethnic-profiling-decisions-and-comments-un. It includes standards from the International Covenant on Civil and Political Rights (ICCPR), the International Convention on the Elimination of all forms of Racial Discrimination (CERD), and the Convention on the Rights of the Child (CRC); decisions of the Human Rights Committee and CERD; and recommendations from the Special Procedures and the Universal Periodic Review.

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19   Nani Jansen-Reventlow (29 July 2020), "Data collection is not the solution for Europe's racism problem: Structural racism can be combatted only if there is political will, not more data," Aljazeera Opinion, Online: https://www.aljazeera.com/opinions/2020/7/29/data-collection-is-not-the-solution-for-europes-racism-problem/?gb=true.

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61   See: https://media.curio.ca/filer_public/4f/a3/4fa39215-bfa5-4fb7-95b3-90de2a77ecf5/skinwereinhdguide.pdf.

62   For more information about this case, see a blog created by local residents: https://echosdu12.blogspot.com/search/label/Le%20proc%C3%A8s?&max-results=10.

63   As part of its communication efforts, CPR developed a video campaign called "Where I Am Going?" that featured the experiences of ordinary New Yorkers—a teenager, a clergyman, and a police officer—who have experienced stop-and-frisk. The videos got close to 200,000 views and were shared more than 7,000 times. "Where I Am Going?" campaign, Communities United for Police Reform, online: https://www.changethenypd.org/resources/where-i-am-going-%E2%80%94-cpr-video-series-human-impact-stop-and-frisk#PoliceOfficer.

64   See also "Mon Premier Contrôle d'Identité," films featuring well-known French rappers describing the first time they were stopped by police, in Chapter 2 on Documenting Ethnic Profiling.

65   See http://procescontroleaufacies.blogspot.fr/

66   See the section on coalition-building in Chapter 3 for more information about CPR.

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The Open Society Justice Initiative uses the law to promote and defend justice and human rights, through litigation, advocacy, research, and technical assistance. Working as part of the Open Society Foundations, our staff are based in Abuja, Berlin, Brussels, The Hague, London, Mexico City, New York, Paris, Santo Domingo, and Washington DC.

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"We underestimated the resistance we would face from the 'deep state,' the Minister of Interior, the police, and heavyweights specializing in security within the governing party. They acted rapidly and powerfully to block conversations and reform. If we could go back, we'd spend more time preparing for this, and figuring out who and how to influence these insiders."

"I'm not interested in shaping interactions with police; I'm interested in not having those interactions, period. I'm about figuring out solutions so we need less police; start decriminalizing certain kinds of activity instead."

"I've learned so many skills through this work that I could not have learned in another arena. Yes, we're victims of a system, but we can stop being victims through our own willpower. We're not condemned to live as victims."

All over Europe, campaigners and organizers are challenging the systemic injustice that is ethnic profiling. During the past decade, they have confronted ethnic profiling by police and others, despite facing severe personal risks, including retaliation, re-traumatization and burnout. Today, communities and activists are developing new strategies, launching creative campaigns, building community power, and bringing innovative litigation to combat ethnic profiling and achieve lasting change.

This guide provides an international overview of what is happening in the field, distilling key lessons and strategic insights learned from over a decade of work on the ground. Filled with dozens of examples, case studies, exercises, and quotations—such as those above—from leading local actors, it provides both concrete ideas to push for change, and inspiration to continue the hard work of challenging ethnic profiling in Europe.

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