



HUMAN
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“They Talk to Us Like We’re Dogs”

Abusive Police Stops in France



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Summary 1
 Key Recommendations3

Methodology 5

I. Background 7

II. Police Stops Targeting Children Under 16 13
 Independent Studies and Views of UN Bodies on Searches Involving Children 18

III. Indefensible, Intrusive, and Insulting Police Stops 21
 Ethnic Profiling 22
 Discrimination in Policing is Harmful28
 Intrusive Pat-Downs and Illegal Searches 30
 Unjustified Frisks and Searches Violate Privacy 33

IV. Insufficient Oversight and Accountability Mechanisms 35

V. Way Forward 37

Recommendations 40

Acknowledgments 44

Summary

I was 10 the first time I was stopped [by the police]. The last time was three days ago.

—Valoua, Paris, 23, April 2019

When I was little, I wanted to be a police chief but after what I've seen, I'm disgusted. The police should be there to protect us but that's not what we see.... If I were a police officer, it wouldn't be to mistreat little kids.

—Abdul, 18, Lille, July 2019

French police use broad powers to stop and search Black and Arab youth even when there is no sign or evidence of wrongdoing. These “identity checks,” as they are known in France, often involve invasive searches of bags and cell phones as well as humiliating body pat-downs, even of children as young as 10. In poor neighborhoods, where people of immigrant origins represent a significant part of the population, Human Rights Watch takes the view that police use identity checks as a blunt instrument to exert authority.

There is little evidence to demonstrate that identity checks are effective in identifying and preventing potential criminal behavior. The French state does not collect the kind of data necessary for any kind of assessment, including reliable data on the number and outcome of identity checks. The testimonies gathered in this research provide ample evidence, however, that identity checks drive a deep and sharp wedge between police and communities.

Accounts of police stops, video footage, and official data, suggest that police stops related to enforcement of lockdown measures beginning in mid-March 2020 amid the Covid-19 pandemic showed a bias towards stops targeting minorities in poor neighborhoods. Within the first 10 days of lockdown, videos began circulating on social and other media of police stops that appear to be abusive, violent, and discriminatory. By late April, government statistics showed that police had conducted over double the national average of stops in

Seine-Saint-Denis, the poorest area of metropolitan France, and that 17 percent of those stopped were fined, a rate almost three times the national average.

Abusive and discriminatory identity checks are a longstanding problem in France. Pent-up anger over police abuses, including heavy-handed identity checks, played a role in riots in 2005 in cities across France and appears to underlie countless lower-intensity conflicts between police and young people in urban areas and the poor suburbs—often referred to in French as the *banlieues*. Statistical evidence gathered by social scientists and nongovernmental organizations indicates that Black and Arab men and boys, or people perceived as such, living in economically disadvantaged areas are particularly frequent targets for such stops, suggesting that police engage in ethnic profiling (that is, making assumptions about who is more likely to be a delinquent based on appearance, including race and ethnicity, rather than behavior) to determine whom to stop.

In 2012, Human Rights Watch published *The Root of Humiliation: Abusive Identity Checks in France*. This report, based on research in Paris and its suburbs, Lille, Strasbourg, and Grenoble in 2019 and 2020, takes stock of the progress as well as the stagnation with respect to reforming abusive police identity check practices in France.

Over the past eight years, concern over police practices moved from the *banlieues* to the halls of power and courts of justice, and the issues were taken up not only by community organizers and civil society organizations but by state institutions. The Defender of Rights, France’s independent human rights institution, issued reports in 2014 and 2017 criticizing abusive practices and calling for reform. In 2012, then-presidential candidate François Hollande pledged he would “fight against ethnic profiling.”

In 2016, the Court of Cassation, France’s highest court, found that three young men had experienced identity checks based on profiling without any objective justification, constituting “gross misconduct that engages the responsibility of the state.”

Yet, despite these advances, the law and practice of identity checks in France remain problematic. Parliamentarians tabled numerous bills proposing reforms to more narrowly circumscribe police powers—none have passed. Police unions and hierarchies have rejected proposals to institute the use of “stop forms”—a written record of the procedure—which would help produce reliable statistics and contribute to accountability for abuses.

President Hollande failed to follow through on his pledge to tackle ethnic profiling during his time in office, and his successor Emmanuel Macron has not taken up the issue.

These are tough times for police-community relations in France. The police came under severe criticism for excessive use of force against participants in ‘yellow vest’ (*gilets jaunes*) protests, including by Human Rights Watch, in 2018. The 2019-2020 protests over pension reforms have pitted citizens against police. High-profile deaths in police custody have focused the nation’s attention on police tactics like the “prone restraint,” or forcing a person to lie on their stomach while applying pressure to their torso. Police unions complain of unrelenting pressure, insufficient resources, and unfair criticism. In 2018-2019, a reported 94 police officers committed suicide.

Many of the Black and Arab men and boys interviewed in the course of this research were resentful of what they consider targeted police harassment and humiliation. This was the case also when we conducted research in 2011. However, the failure of French authorities to rein in police stop-and-search powers, despite the clear evidence of harm and criticism from the Defender of Rights and others, coupled with the perception of impunity for excessive use of force during demonstrations, appear to have reinforced resentment and fatalism among minority communities. Stops that target children, including boys as young as 10 years old, and involve intrusive body pat-downs and other intimidating behavior, risk having a negative impact on their well-being.

Cleavages between communities and law enforcement make neighborhoods less safe for everyone. Mistrust in the police means they will be less effective. Discrimination on the basis of race or ethnicity is damaging to individuals and to social cohesion. For all these reasons, the French state should urgently reform police powers to stop, search, and frisk.

Key Recommendations

- Reform article 78-2 of the Code of Criminal Procedure to:
 - Require reasonable, individualized suspicion for *all* identity checks, pat-downs, and searches;
 - Explicitly prohibit discrimination by police officers in the conduct of identity checks.
- Introduce “stop forms” or another effective means to ensure that data on stops are systematically collected and that individuals receive a record of stops.

- Adopt specific rules and guidance for stops and searches on the permissible grounds, circumstances, and manner of conducting a stop, a pat-down, or a search of personal belongings involving children.
- Collect, analyze, and publish anonymized data on identity checks in keeping with respect for privacy.
- Ensure appropriate and continuing training for all law enforcement agents on proper conduct of identity checks, in keeping with the Code of Ethics and consideration of the best interest of the child.
- Ensure accountability for violations of the law enforcement Code of Ethics.
- Ensure diligent investigation by an independent authority and accountability for all complaints of abuse.
- Commission an independent public review of law enforcement, in close consultation with affected communities, to identify the structural conditions (policies, practices) that foster discriminatory and abusive practices. The commission should also review practices around issuance of fines, including during the Covid-19 pandemic.

Methodology

This report is based on Human Rights Watch research conducted in and around Paris in April 2019 and in January 2020, in Lille and Strasbourg in July 2019, and in Grenoble in September 2019 and February 2020. We spoke with a total of 91 people about their experience with police identity checks. We conducted individual interviews with 23 children, and group interviews with 25 additional children. We conducted 29 individual interviews with adults and spoke with an additional 14 adults in group settings. Finally, we conducted five phone interviews in May 2020 during the confinement period due to the Covid-19 pandemic.

This research focused on men and boys because anecdotal evidence indicates they are far more likely to be subject to be stopped by the police for identity checks than women and girls.

Of the 48 children we interviewed, 14 were between 16 and 17 years old; 16 were aged 15, and 10 were aged 14. We spoke with three 12-year-olds and three 13-year-olds. Two 10-year-olds participated in group interviews. Of the 43 adults we interviewed, 36 were between the ages of 18-25.

We spoke with three women about the experiences of their sons with the police, eight community organizers, an assistant educator, and one teacher. We spoke with two representatives of the Sud Intérieur police union. The UNSA Police and Alliance Police Nationale police unions turned down our request to meet; the Unité SGP Police union never responded to our request; and we were never able to schedule a meeting with the Alternative Police–CFDT union. We interviewed one police officer, to whom we have granted anonymity. We met with staff of the Defender of Rights, the national independent human rights institution.

The deputy police advisor to the Interior Minister turned down our request to meet, indicating we should meet with the General Directorate of the National Police (DGPN). Eric Morvan, director of the National Police, declined to meet with us in person and requested

questions in writing. At the time of publication of this report, we had not received a reply to our letter with questions dated January 17, 2020.

Unless otherwise noted, we use pseudonyms for everyone we interviewed in order to protect their privacy and avoid negative consequences for having spoken with us.

We have translated the French expression *contrôle d'identité* as “identity check.” We also refer to “identity check operations” as “police stops” or simply “stops” throughout this report.

In accordance with international human rights law, in this report the word “child” refers to any person under the age of 18. We also use the term “youth” throughout this report to refer to children and young adults.

The term “Black” refers to persons of sub-Saharan African and Caribbean descent. The term “Arab” refers to persons of North African descent. We use the term “white” or “ethnic majority” to refer to the majority population. To our knowledge, all the individuals whose testimonies are featured in this report are French citizens.

The focus of the report is on pedestrian stops because these are the identity checks that most affect youth. Older interviewees—as well as some youth—we interviewed, complained about repeatedly being stopped while driving cars or motorcycles.

I. Background

Police in France enjoy broad powers to stop anyone for an “identity check.”

Carrying an identity card is not obligatory for French citizens, and there is no age at which people must acquire an identity card. However, everyone must be able to prove their identity to the satisfaction of a law enforcement officer conducting a check. The police are authorized to detain a person for up to four hours for the purposes of establishing their identity—if they cannot provide satisfactory proof in the form of a document or testimony of a credible person, or the police have doubts about the proof under a procedure called “identity verification” (*vérification d’identité*).¹ This normally involves remaining at the local police station until someone can bring the detained person a valid proof of their identity or the police can establish their identity by some other means.

Under article 78-2 of the Code of Criminal Procedure, law enforcement officials have the authority to stop anyone to verify their identity with no requirement that these stops be based on a reasonable suspicion of involvement in crime or illegal activities. The code empowers the police and gendarmerie to stop anyone, “whatever the person’s behaviour,” anywhere on broad public order grounds. The police and gendarmerie may stop anyone at transportation sites (train stations, airports) without any grounds at any time. Prosecutors may issue orders for specific areas, during specified time periods and for specified offenses; once these authorizations have been granted, police may stop anyone without providing any justification. Finally, the police may stop anyone when they have grounds to believe he or she has committed or attempted to commit, or is preparing to commit, a crime, or may have information of use to a police investigation.²

Counterterrorism legislation currently in force also gives prefects the authority to designate public spaces or events as “perimeters of protection” for up to a month, allowing police to search people, bags, and vehicles, without having to show any demonstrably serious or

¹ French Code of Criminal Procedure, art. 78-3.

² Ibid., art. 78-2.

imminent threat.³

These grounds are far too broad, giving police a discretion to stop virtually anyone at any time, and leaving ample space for prejudice to play a role in who is stopped. Qualitative and quantitative research on police identity checks in France (and elsewhere) show that police stops have a disproportionate impact on members of minority groups.⁴

Bias may play a role also in how people are treated during a police stop, even if the stop itself was justified. French law and jurisprudence give officers a broad justification to conduct so-called security pat-downs that include touching genitalia and buttocks, leading to abusive recourse to this measure and constituting a strongly felt grievance among many interviewees.

Unless a police stop leads to another procedure—for example, detention at the police station for further verification, a fine for a specific infraction, or an arrest for possession of an illicit object or substance—there is no written record of the stop. Where police are required to provide people with a written record of the procedure, commonly called a stop form, there is evidence this can help limit unmotivated use of stop powers, as long as these powers are properly circumscribed, as well as increase accountability.

In practice, the police appear to use their stop and search powers in disadvantaged neighborhoods as the default engagement with youth, particularly with Black and Arab youth. Gaétan Alibert of the Sud Intérieur police union said identity checks “have become the basis of police practice.”⁵ Alibert noted that the community policing approach, which incorporated more emphasis on dialogue and mediation, was replaced during the years of

³ French Code on Internal Security, art. 226-1, as modified by the Law on Internal Security and Terrorism (2017-1510 of October 30, 2017). This power brought into normal law a power previously applied under France’s two-year-long state of emergency. These powers are renewable, in theory, on a rolling month-by-month basis, and are available for prefects to use until December 31, 2020.

⁴ Open Society Justice Initiative (OSJI), “Profiling Minorities: A Study of Stop-and-Search Practices in Paris,” June 2009, <https://www.justiceinitiative.org/publications/profiling-minorities-study-stop-and-search-practices-paris> (accessed June 08, 2020); Défenseur des droits, *Enquête sur l’accès aux droits*, volume 1, *Relations police/population: le cas des contrôles d’identité*, January 2017, <https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/enquete-relations-police-population-final2-11012017.pdf> (accessed February 2, 2020); European Union Agency for Fundamental Rights (FRA), “European Union Minorities and Discrimination Survey. Data in Focus Report. Police Stops and Minorities,” EU-MIDIS, 2010, <http://fra.europa.eu/fraWebsite/attachments/EU-MIDIS-police.pdf> (accessed October 10, 2011); Second European Union Minorities and Discrimination Survey. Main Results, https://fra.europa.eu/sites/default/files/fra_uploads/fra-2017-eu-midis-ii-main-results_en.pdf (accessed February 2, 2020), p. 69.

⁵ Human Rights Watch interview with Gaétan Alibert, Paris, November 19, 2019.

then President Nicolas Sarkozy (2007-2012) with a “logic and rhetoric of zero tolerance, of intervention policy ... there is now a problem of training and of method.”⁶ While successive interior ministers and representatives of law enforcement argue that identity checks are key to combating crime and disturbances, there is no statistical evidence in France to back this up.

Often the motive for the identity check is unclear and unspoken; the police are not bound to explain the motive for a stop. While many youths we interviewed readily acknowledged the police are justified to stop them when they disturb the peace or commit a crime, there is deep resentment over police stops and searches that are experienced as unjustified and humiliating. A “routine” identity check is often accompanied by lengthy questioning, intrusive pat-downs, orders to empty pockets, bag searches, and searches of cell phones. Stops can involve verbal and physical abuse.

In response to the Covid-19 pandemic, France adopted lockdown measures on March 17, 2020, and declared a state of health emergency that went into effect on March 24 throughout the country. Under a special decree, failure to respect lockdown rules was subject to a €135 fine (US\$146), while repeated breaches are punishable by up to six months in prison and a €3,750 (US\$4,065) fine.⁷ Individuals were required to carry with them self-certification forms to justify their movements.

Within the first week, accounts emerged of abusive, violent, and discriminatory stops linked to lockdown enforcement, sometimes accompanied by racist insults. Videos posted on Twitter from Asnières, Grigny, Ivry-sur-Seine, Villeneuve-Saint-Georges, Torcy, Saint-Denis, and elsewhere in France allegedly showed police officers beating people, spraying them with tear gas, and, in one case, running into a person with a motorcycle. In some cases, police officers made xenophobic or homophobic comments.⁸ While official data on regular police stops are difficult to obtain, the French authorities did publish statistics on stops and fines issued in connection to lockdown measures. These show considerable concentration of police stops to enforce lockdown measures in “quartiers populaires”—

⁶ Ibid.

⁷ Décret n. 2020-264 du 17 mars portant création d’une contravention réprimant la violation des mesures destinées à prévenir et limiter les conséquences des menaces sanitaires graves sur la santé de la population, <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041731767&categorieLien=id> (accessed May 27, 2020).

⁸ Joint NGO Statement, “Mesures de confinement ; les contrôles de police ne doivent être ni abusifs ni violents ni discriminatoires,” March 27, 2020, <https://www.hrw.org/fr/news/2020/03/27/mesures-de-confinement-les-contrôles-de-police-ne-doivent-etre-ni-abusifs-ni> (accessed June 8, 2020).

working-class neighborhoods with a high number of visible minority residents and higher fine rates. On April 23, Interior Minister Christophe Castaner said that 220,000 checks had been carried out in Seine-Saint-Denis, the poorest area of metropolitan France—“more than double the national average.”⁹ Official statistics for April also indicated that the fine rate in Seine-Saint-Denis, at 17 percent, was almost three times the national average.¹⁰

The data and accounts suggest discriminatory behavior against citizens depending on where they live and a disproportionate impact of fines on socially and economically disadvantaged households.

Human Rights Watch interviewed two young men and one 16-year-old in Paris who said they had received questionable fines in the mail for breaching restrictions of movement during the lockdown, which were unwarranted. One 19-year-old told us the police officer tore up his self-certification, while the 16-year-old said the officer never asked to see his self-certification—both received fines in the mail.¹¹ A 20-year-old said he received a fine in the mail even though he hadn’t been stopped by the police.¹²

Media articles have documented the same phenomenon in a number of poorer Parisian suburbs: people receiving fines in the mail without having been stopped by the police and given an opportunity to show their self-certification. Some reports suggest the police are using closed-circuit cameras to identify people in the streets and mail them fines.¹³

Others interviewed in the course of this research said the police were increasingly imposing fines on them for minor infractions, leaving even adolescents saddled with significant debt. A study of 600 fines and 55 interviews found that persons receiving repetitive fines were mostly young men under the age of 25, living in large housing estates, and often from minorities. The study also found that those receiving the fines were issued

⁹ Joint NGO letter to the government of France, “The French Authorities Should Urgently Take Concrete Measures to End Discriminatory Police Checks and Fines,” May 13, 2020, https://www.hrw.org/sites/default/files/media_2020/05/france_letter_may_13.pdf (accessed June 8, 2020).

¹⁰ Emmanuel Fansten, “Confinement: en Seine-Saint-Denis un taux de verbalisation trois fois plus important qu’ailleurs,” *Libération*, April 26, 2020, https://www.liberation.fr/france/2020/04/26/confinement-en-seine-saint-denis-un-taux-de-verbalisation-trois-fois-plus-important-qu-ailleurs_1786462 (accessed May 24, 2020).

¹¹ Human Rights Watch telephone interviews with a 19-year-old living in Paris, May 14, 2020, and a 16-year-old living in Paris, May 13, 2020.

¹² Human Rights Watch telephone interview with a 20-year-old living in Paris, May 15, 2020.

¹³ Florian Loisy, “Essonne: des centaines d’amendes pour non-respect du confinement établies sans contrôles,” May 11, 2020, *Le Parisien*, <http://www.leparisien.fr/essonne-91/essonne-des-centaines-d-amendes-pour-non-respect-du-confinement-etablies-sans-contrôles-11-05-2020-8314800.php> (accessed May 26, 2020); Mehdi Gherdane and Nathalie Revenu, “Des PVs de confinement abusifs dans les cités sensibles d’Île de France,” April 2020, *Le Parisien*, <http://www.leparisien.fr/yvelines-78/confinement-des-amendes-abusives-dans-les-cites-sensibles-d-ile-de-france-28-04-2020-8307525.php#xtor=AD-1481423553> (accessed May 26, 2020).

them for being in the same places and for the same kind of infractions. Most of the time, the persons receiving the fines were subject to police checks before and are therefore known by the police.¹⁴

Identity checks have been the context and catalyst for fatal violence. In 2005, two boys aged 15 and 17 were electrocuted in an electricity substation in Clichy-sous-Bois, a disadvantaged suburb outside Paris, after they ran from police. A third boy who survived said they had run instinctively, to avoid an identity check, even though they had not done anything wrong. The deaths of Bouna Traoré and Zyed Benna provoked weeks of unrest and rioting across France.¹⁵ On January 5, 2020, a 46-year-old named Cédric Chouviat died after police immobilized him following a stop.¹⁶

In the course of this research, Human Rights Watch heard strong concerns about police violence. Numerous interviewees evoked the case of Adama Traoré (no relation to Bouna) who died in 2016 of asphyxiation in police custody after being chased and immobilized by the police.¹⁷ He had run away when the police approached to question his brother in relation to an investigation. Some mentioned Theo Luhaka, a 22-year-old seriously injured in 2017 during a police stop.¹⁸

¹⁴ Camille Polloni, “Les amendes, ‘une forme de justice rendue dans la rue,’” *Mediapart*, April 9, 2020, https://www.mediapart.fr/journal/france/090420/les-amendes-une-forme-de-justice-rendue-dans-la-rue?page_article=1 (accessed May 12, 2020).

¹⁵ Alice Leclerc, “En 2005, trois semaines d’émeutes qui ont ébranlé la France,” *Le Monde*, October 26, 2015, https://www.lemonde.fr/banlieues/article/2015/10/26/en-2005-trois-semaines-d-emeutes-qui-ont-ebbranle-la-france_4796977_1653530.html (accessed March 3, 2020).

¹⁶ Pascale Pascariello, “Le père de Cédric Chouviat: j’ai demandé au ministre l’interdiction du plaquage au sol,” *Mediapart*, January 13, 2020, <https://www.mediapart.fr/journal/france/130120/le-pere-de-cedric-chouviat-j-ai-demande-au-ministre-l-interdiction-du-plaquage-au-sol> (accessed March 3, 2020).

¹⁷ *Le Monde*, “La mort par asphyxie d’Adama Traoré confirmée par une contre-expertise,” July 4, 2017, https://www.lemonde.fr/police-justice/article/2017/07/04/le-deces-par-asphyxie-d-adama-traore-confirme-par-une-contre-expertise_5155625_1653578.html (accessed March 3, 2020).

¹⁸ Anna Mutelet, “Affaire Théo: une nouvelle expertise révèle des séquelles à vie,” August 30, 2019, *Libération*, https://www.liberation.fr/france/2019/08/30/affaire-theo-une-nouvelle-expertise-revele-des-sequelles-a-vie_1748276 (accessed March 3, 2020).

Boubacar Dramé

On the evening of June 13, 2019, Boubacar Dramé was chatting with a youth he knows through his job as a social worker in Gennevilliers, outside Paris. He had just helped a woman find her lost daughter and, having called the police in relation to that incident, he was unconcerned when two police officers approached him. It turned out to be an unrelated identity check that quickly degenerated. According to Boubacar, he had a polite exchange with the first police officer, but the other one immediately proceeded to do a harsh pat-down.

While he had his hands in my pockets I told him, “Officer, I live here, I am an educator, I am embarrassed to be put in this situation could you be more discrete.” He put me on the ground and he was smashing my head with his knee and his colleague was grabbing my throat and I was thinking, nothing happened for it to be escalating that much, so when I was on the ground I was panicking, I started yelling “You guys are policemen?” because they were being really violent. So they were smashing my head, my throat, both of them had their knee on my throat then the torso then the stomach Then I felt some pressure between my legs ... I felt like he was crushing me the same way you would crush a cigarette so I yelled in pain.

The officers handcuffed Boubacar and then forced him into their car. He cried for people who had gathered to film with their phones. Video evidence appears to show him grimacing as an officer pokes him violently with a key, and at one point Boubacar screams “Oh my balls, my balls” when, he says, the officer used his left hand to grab his testicles violently.

Boubacar said he tried to tell the officer in charge at the police station what had happened, but the officer told him, “I believe my colleagues.” Boubacar was held in a jail cell, hand-cuffed, for about half an hour and then released without any charges.¹⁹

II. Police Stops Targeting Children Under 16

Most people interviewed for this research, both in 2011 and in 2019, agreed that police generally target younger people for identity checks, with adult men less likely to be stopped than younger men and children. However, even though the police appear to stop more children than adults, the procedures and treatment are in no way adapted to interactions with young people and children. There are no specific regulations or laws governing identity checks involving children, nor does there appear to be any specific guidance to police about how to conduct stops involving children.

Human Rights Watch spoke with 48 children in the course of this research; the majority (34) were 15 or under. Children as young as 12 told us about being forced to put their hands against a wall or car, spread their legs and submit to an invasive pat-down in which officers touch every part of their bodies, including buttocks and genitalia. Adults described experiencing these kinds of stops when they were as young as 10.

In a group of seven kids, aged 12 to 14, we interviewed in Grenoble, only one of them had never experienced a police identity check. Twelve-year-old Fadil said he had already been stopped 5 or 6 times. Ali, 13, said he had been stopped four times.

Marius is 14. He estimates he's been stopped by the police "around 30 times" since the first time when he was 13 years old. "I don't even calculate anymore because it's useless in the end. In the end, they [the police] have the last word."²⁰

Hugo, 14, and Ali, 13, had been stopped by the police the day before we spoke. "We were just walking down the street, three police in civilian clothes got out of a car and said, '*Contrôle*.' They put us up against the wall and frisked us. They felt my phone in my pocket. They forced me to show them photos on the phone to prove it was mine. It was around 5 p.m. on Rue Ampère. I don't like to be checked in front of people because they can think I did something wrong."²¹

¹⁹ Human Rights Watch interview with Boubacar Dramé, Paris, January 23, 2020.

²⁰ Human Rights Watch interview with Marius, Paris, April 17, 2019.

²¹ Human Rights Watch interview with Hugo, Grenoble, September 4, 2019.

Oumar, 14, has only been stopped once but said the experience was very upsetting.

I was stopped once, this year. It was before Ramadan. My mother sent me to buy some bread. I was walking in the alley and the police caught me. They caught me, pushed me against the wall, and searched me. They put their hands in my pocket and pulled out the five euros. ‘What are these five euros?’ I was cryingIt was a team of three, they were trying to catch someone. I didn’t go buy bread after that, I was scared.²²

His father talked to the police, but they denied they had done anything wrong.

We also heard from older children and adults about their first identity checks at a young age.

Valoua, now a 23-year-old law student, told us about his first experience with the police growing up in Bobigny:

When I was 10 years old, I would get out of school and go to the sandbox to play with friends. [One day] the police were doing an operation in the neighborhood ... [w]hen I walked [out], the policemen came out from behind a concrete structure with flashballs, a policeman pointed at me, shouting “don't move!” I was extremely scared, I thought, “What am I doing?” I put my hands in the air and I put my knees on the ground, in front of everybody, there were a lot of people watching from the windows, I was humiliated. They put me on the side, pushed me up against the railing with the others, two or three of my friends were crying. They started to threaten us: “We're going to take you to the police station,” “We're going to call your parents.” Then they let us go. That was my first contact with the police.²³

Abdul, now 18, said he would always remember the first time the police stopped him. He was 13 years old.

²² Human Rights Watch interview with Oumar, Grenoble, September 5, 2019.

²³ Human Rights Watch interview with Valoua (real name), Val de Fontenay, April 16, 2019.

I was playing football and there was a police raid in the neighborhood, but we had nothing to do with it. Straight up, the cops pushed us up against a wall. All the kids were crying, I was crying. The police told us things like, “Go cry in your mother's skirts,” “Cry, you'll pee less.” We didn't have any papers with us, we were young I came home crying. My father went out to see the police, but they had already left.²⁴

We heard of police stops in front of schools, near schools, as children were on their way to class or were on recess, and even on school field trips.

Koffi, a 12-year-old, said he and his entire class were subjected to a police identity check on the sidewalk in front of their middle school in Bobigny, as they were leaving on a field trip to visit the Louvre art museum. It was November or December 2018. He said three police officers searched all of their bags. “They put their hands in my pockets. They spread my legs and touched my genitals,” Koffi said, adding that his teacher objected but the police told the teacher they had the right to do whatever they wanted.²⁵

Despite repeated attempts, Human Rights Watch was unable to speak with the school's principal or Koffi's teacher.

A number of children we interviewed said they had been stopped on their way to school, during recess, or in proximity of their or another school. Bahir, a 16-year-old who goes to school in Villeneuve, said he's gotten to school late several times because of police stops. “They make me wait until the next lesson starts, so it's an unjustified absence.”²⁶

Amad, 15, was stopped by the police on his way back from the bakery where he and four or five friends had gone during recess.

They put us against the wall, in front of the school's football area. They frisked me and took my bag to search it. I told them my name, they checked it. They asked me a lot of questions: are you already known to the police,

²⁴ Human Rights Watch interview with Abdul, Lille, July 19, 2019.

²⁵ Human Rights Watch interview with Koffi, Bobigny, April 18, 2019.

²⁶ Human Rights Watch interview with Bahir, Argenteuil, April 17, 2019.

do you have anything on you, what are you doing here? It took time, recess had ended, so I had to get a late note. I didn't say I had been stopped by the police, I said I'd gone to the bathroom. Otherwise, they would have told my parents and that wouldn't have been good.²⁷

Drissa, 15, figures he's been stopped a dozen times in his life. The last time was in front of a school, where he was sitting with a friend. He thinks someone had called the police about something that had happened in the school. "The police came, just started yelling at us to get up. They searched and they patted me down not like normally but in the private parts. They really pressed hard." When asked why he thought the police stopped him like that, he said, "I think it's because I live here."²⁸

In March 2017, police stopped and searched three students from a school in Epinay sur Seine at the Gare du Nord train station as they returned from a class trip to Brussels.²⁹ The students were singled out on the platform where many passengers intermingled; they were not standing as a group with the other students. With the support of their teacher, the three students brought a lawsuit against the French state for racial discrimination.³⁰ In December 2018, the court ruled against the students, arguing that there had not been any discriminatory treatment since only 3 out of a group of 18 students, all of immigrant background, had been stopped and searched. The police had argued they singled out the three students because of their large bags. The Defender of Rights issued an opinion in the case, finding that there were "elements suggesting the existence of discrimination," and that the police explanations for the stop were "insufficient and unconvincing ... leaving room to suppose the person performing the stop had other reasons for choosing the three students."³¹ At the time of writing, the appeal filed by the students against the lower court ruling was pending.

²⁷ Human Rights Watch interview with Amad, Strasbourg, July 4, 2019.

²⁸ Human Rights Watch interview with Drissa, Grenoble, September 5, 2019.

²⁹ Richard Duclos, "Le ras-le-bol des enseignants de banlieue des discriminations envers des élèves en sorties scolaires," *Le Monde*, March 21, 2017, https://www.lemonde.fr/education/article/2017/03/21/le-ras-le-bol-des-profs-de-banlieue-contre-les-discriminations-des-eleves-en-sorties-scolaires_5098415_1473685.html (accessed December 9, 2019).

³⁰ *Le Monde* with AFP, "Contrôle au faciès : trois lycéens assignent l'état en justice," April 10, 2017, https://www.lemonde.fr/societe/article/2017/04/10/contrrole-au-facies-trois-lyceens-assignent-l-etat-en-justice_5109094_3224.html (accessed December 9, 2019).

³¹ Defender of Rights, Décision 2018-257 du 18 octobre relative à une procédure en responsabilité de l'état pour contrôles d'identité discriminatoires, October 18, 2018, https://juridique.defenseurdesdroits.fr/index.php?lvl=notice_display&id=26661 (accessed December 9, 2019).

The case prompted a petition, that would gather over 45,000 signatures, calling on the Interior Ministry to prohibit identity checks of children on school field trips.³² No further steps were taken by the authorities, and the impact of abusive identity checks on younger children, including how it might intersect with their schooling, receives relatively little attention in France. Children interviewed in the course of this research consistently said the issue of identity checks was never discussed in school, and most said they would never raise the subject themselves with their teacher or parents.

People we interviewed who work with youth expressed their concerns about the impact. Bakary Soukouna, a street educator and founder of a community association in Saint Denis called Nuage, told us he sees how abusive treatment by the police “has immediate consequences, it translates into distrust of [state] institutions.”³³ An assistant teacher working in a Paris suburb said she was “shocked” by the relationship kids have with the police, and concluded that “abusive identity checks negatively affect life in the neighbourhood.”³⁴

Two boys told us about explicitly racist insults during police stops. Fadil, a 12-year-old boy who lives in Grenoble, said an officer once said to him: “Go home, dirty Arab.”³⁵ Gadi, a 15-year-old in Paris, told us about a time the police stopped him and his friends after they’d played football. “I heard one of the officers say into his walkie-talkie, ‘we’ve got six nigger kids.’ Another time a police officer said to me: ‘Stop, you little negro.’ It bothers me. Nothing physical but it’s the way they talk to us and we never know why.”³⁶

Human Rights Watch spoke with several parents who expressed deep concern over their sons’ interactions with the police. Annick Bousba said she remembered her son coming home when he was 14, crying, because the police had stopped and frisked him in front of his school. “He said they’d done it ‘in front of all my friends like I’m some kind of thug.’ My

³²<https://blogs.mediapart.fr/edition/les-invites-de-mediapart/article/181018/pour-linterdiction-des-controles-policiers-lors-des-sorties-scolaires> and <https://www.change.org/p/pour-l-interdiction-des-contr%C3%B4les-d-identit%C3%A9-sur-des-%C3%A9l%C3%A8ves-en-sortie-scolaire> (accessed December 9, 2019).

³³ Human Rights Watch interview with Bakary Soukouna, Saint Denis, January 24, 2020.

³⁴ Human Rights Watch interview with an assistant teacher (anonymous), April 16, 2019.

³⁵ Human Rights Watch interview with Fadil, Grenoble, September 4, 2019.

³⁶ Human Rights Watch interview with Gadi, Paris, April 17, 2019.

son doesn't think the police are there to protect him. What my son has experienced has made me question a lot the actions of the police and their training.”³⁷

Hasnia Djerbi, who told us about two police stops her son experienced, said both, she and her son were shaken. “It's hard for him to talk about it. Everything is fine until one day, and you don't know why, you become suspect. It makes you feel like you're not part of this society. I could see how affected he was. And I was revolted. I understand why young people hate the police. I find them racist now. I used to think differently.”³⁸

Independent Studies and Views of UN Bodies on Searches Involving Children

Interactions with the police of this nature have a negative impact on children's well-being, as research elsewhere has demonstrated. In the United States, for example, a recent study based on nationwide data from over 900 youth who had reported being stopped by the police concluded that “intrusive officer behaviors”—defined in the study as frisking, harsh language, searches, racial slurs, threat of force, and use of force—were correlated with post-traumatic stress and perceptions of social stigma among the affected youth. The research also demonstrated that youth stopped at school by the police were particularly affected by emotional distress.³⁹ A separate study in the United States found that police stops of young boys were not only ineffective in deterring crime but actually proved counterproductive:

[I]n our sample, prior law-abiding behaviors did not protect boys against future police stops, yet being stopped by police was associated with increased engagement in delinquent behavior Although proactive policing may be associated with reduced crime within a geographic area, our findings suggest that the single most common proactive policing strategy—directing officers to make contact with individual boys and young

³⁷ Human Rights Watch interview with Annick Bousba, Grenoble, September 6, 2019.

³⁸ Human Rights Watch telephone interview with Hasnia Djerbi, Grenoble, September 6, 2019.

³⁹ Dylan B. Jackson, Chantal Fahmy, Michael G. Vaughn, Alexander Testa “Police Stops Among At-Risk Youth: Repercussions for Mental Health,” *Journal of Adolescent Health*, 2019; DOI: 10.1016/j.jadohealth.2019.05.027. Summary available on “Impact of police stops on youth's mental health, <https://www.sciencedaily.com/releases/2019/10/191009075125.htm> (accessed February 2, 2020).

men in “high-crime” areas—may impose a terrible cost. Our findings suggest that police stops are associated with harmful outcomes for young boys in those neighborhoods, and that they may be even more harmful when they occur earlier in boys’ lives.⁴⁰

The UN Committee on the Rights of the Child has emphasized that authorities must ensure that all children in conflict with the law are treated equally, paying close attention to “de facto discrimination and disparities, which may be the lack of a consistent policy and involve vulnerable groups of children, such as ... children belonging to racial, ethnic, religious or linguistic minorities.”⁴¹ The Committee urges states to engage in training law enforcement professionals who deal with children to ensure that treatment that “is consistent with the child’s sense of dignity and worth ... reinforces the child’s respect for the human rights and freedoms of others ... [and] takes into account the child’s age and promotes the child’s integration and the child’s assuming a constructive role in society.”⁴²

Other countries have adopted specific rules for police stops of children. The Scottish Code of practice for police constables exercising the power of Stop and Search, adopted in 2017, has an entire section dedicated to the conduct of searches involving “a child or young person.”⁴³ The Code stipulates that the well-being of the child or young person should be the “primary consideration” when taking a decision about conducting a search and that other measures should be taken when a search would be more harmful than not.⁴⁴ If a child or young person becomes distressed during a search, officers are advised to discontinue or pause the search until a responsible adult (a parent, carer, or adult sibling, for example) can be present.⁴⁵

⁴⁰ “The criminogenic and psychological effects of police stops on adolescent black and Latino boys,” Juan Del Toro, Tracey Lloyd, Kim S. Buchanan, Summer Joi Robins, Lucy Zhang Bencharit, Meredith Gamson Smiedt, Kavita S. Reddy, Enrique Rodriguez Pouget, Erin M. Kerrison, and Phillip Atiba Goff, *Proceedings of the National Academy of Sciences*, 201808976, doi:10.1073/pnas.1808976116, 2019, <https://www.pnas.org/content/early/2019/04/02/1808976116> (accessed December 5, 2019).

⁴¹ Committee on the Rights of the Child, General Comment No. 10 (2007), Children’s Rights in Juvenile Justice, U.N. Doc CRC/C/GC/10, 25 April 2007, <https://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf> (accessed November 5, 2011), para. 6.

⁴² *Ibid.*, para. 13.

⁴³ Stop and Search of the Person in Scotland: code of practice for constables, January 13, 2017, <https://www.gov.scot/publications/code-practice-exercise-constables-power-stop-search-person-scotland/pages/1/> (accessed February 4, 2020), chapter 7.

⁴⁴ *Ibid.*, art. 7.4.

⁴⁵ *Ibid.*, art. 7.17-7.18.

The Scottish government also published in 2017 “Stop and Search in Scotland—What You Need to Know: A guide for Children and Young People.” The guide explains in clear, plain language that officers must have reasonable grounds for stopping someone, and cannot stop someone “just because you belong to a particular ethnic group, you are wearing a particular type of clothing, you live in a particular area, you are young, you’ve been in trouble with the Police before. There must be another good reason....”⁴⁶

⁴⁶ Stop and search: a guide for children and young people, May 11, 2017, <https://www.gov.scot/publications/stop-search-scotland-need-know-guide-children-young-people/> (accessed February 4, 2020).

III. Indefensible, Intrusive, and Insulting Police Stops

At my school, I don't see Louis getting stopped. They never stop him. I think they [the police] don't consider us French, even though we are French. What bothers me the most is how they talk to us and the pat-downs. They talk to us like we're dogs. If there weren't so many identity checks, there wouldn't be so much tension in the neighborhood. If they respected us, we'd respect them.

—Abdul, 18, Roubaix (Lille), July 2019

The police come here a lot, at least once a week. They ask for our papers, then they frisk us. They get annoyed real quick if we ask them why, when we demand our rights ... I have the impression they do it to humiliate us.

—Issa, 29, Bobigny, April 2019

It's the way they talk and the way they look at us. They lump us all together. They think that kids from the neighborhood steal or do bad stuff. Everyone I know in the neighborhood went to school, they have jobs. They don't do anything wrong.

—Yacine, 22, Strasbourg, July 2019

Virtually everyone interviewed in the course of this research complained of what they perceived to be unjustified stops that involved humiliating body pat-downs and disrespectful treatment.

While many interviewees said they had experienced uneventful, quick checks during which the police were polite and simply asked to see their papers, most also complained that on other occasions they had experienced rude and insulting behavior by the police.

One of the most common complaints is the systematic use by the police of the informal, familiar mode of address that is regarded as disrespectful.⁴⁷ The 2014 Internal Security Code requires police officers and gendarmes to use the formal *vous* when addressing members of the public.⁴⁸ In practice, however, police officers use the informal *tu* with adult men and younger boys alike, a grammatical slight people experience as a gesture of contempt. Sadiq, 24, said simply: “I don’t care but it’s a question of respect.”⁴⁹

Ethnic Profiling

I have a white friend. One day the police did a check on both of us, and he said it was the first time for him. I said, well, welcome!

—Malik, Paris, April 2019

The European Commission against Racism and Intolerance (ECRI), a Council of Europe body, defines racial (or ethnic) profiling as:

The use by the police, with no objective and reasonable justification, of grounds such as race, colour, language, religion, nationality or national or ethnic origin in control, surveillance or investigation activities.⁵⁰

Many of the people interviewed for this research felt they were targeted by the police because of the way they look or because of where they live and spend time. Since the police rarely explain the reason for a stop, and there are no public records of stops that do not lead to another procedure—verification of identity at the police station, a fine, or an

⁴⁷ In the French language, the most respectful manner of address is the formal second person plural you (“vous”). Use of the informal second person singular you (“tu”) can be perceived as inappropriately familiar or disrespectful in certain situations, such as exchanges with public authorities.

⁴⁸ Code de la Sécurité Intérieure, art. 434-14, <https://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000028285893&cidTexte=LEGITEXT000025503132&dateTexte=20140101> (accessed January 13, 2020).

⁴⁹ Human Rights Watch interview with Sadiq, Strasbourg, July 4, 2019.

⁵⁰ ECRI General Policy Recommendation No. 11 on Combating Racism and Racial Discrimination in Policing, CRI (2007)39, adopted June 29, 2007 and published October 4, 2007, <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/recommendation-no.11> (accessed October 24, 2011), p. 4. The Council of Europe’s European Code of Police Ethics requires police officers to discharge their duties “in a fair manner, guided, in particular, by the principles of impartiality and non-discrimination.” Police investigations should be based on “a reasonable suspicion of an actual or possible offence or crime.” European Code of Police Ethics, <https://rm.coe.int/16805e297e> (accessed November 19, 2011), art. 40 and art. 47.

arrest—it is difficult to ascertain the scale of the problem. The fact that police stops are widely perceived, including by young children, to be based on prejudice is in and of itself a matter of deep concern.

Sekou, a 14-year-old who lives in the 11th arrondissement of Paris, reckons he’s been checked by the police at least six times, “when I’m with my friends, when we walk down the street, when we go to the square.” Sekou believes it’s because he’s Black.

The stops are a pain in the ass They always stop the same people: Blacks and Arabs. We never see white kids getting checked [by the police]. As far as the police are concerned, there's only a type of people who are suspects. It's an injustice, but there's nothing we can do about it. When I'm with my white friends, the police don't even look at them They say "freedom, equality, fraternity," but there is no equality when it comes to this kind of thing.⁵¹

Jean-Uriel, a 41-year-old living in Compiègne, in Oise, told us by phone that he believes the police targeted him for a check during the pandemic lockdown, in April 2020, because of the color of his skin: “It was profiling because the officers turned back to target me, the street was full of people and I was the only Black person ... and I have long hair and dreadlocks, so I tick several boxes.”⁵² He said the stop took place on his doorstep, in front of his two-year-old son, and that one of the officers almost immediately grabbed him by the collar to move him away from the front door of the house. After Jean-Uriel reacted by lifting his left arm—he thought the officer was going to hit him—the others tackled him to the ground, where he says they put handcuffs on one of his ankles. They took him to the police station, where he was detained for 10 hours and ultimately charged with resisting authority.

Shackling the ankles, that’s reminiscent of slavery, of France’s colonial past, of how they treated the slaves in the Antilles ... at the police station, when I was cuffed to a bench in the lobby, I said ... we’re not in a police state, and that they couldn’t shackle someone like that, and that I wasn’t a

⁵¹ Human Rights Watch interview with Sekou, Paris, April 17, 2019.

⁵² Human Rights Watch telephone interview with Jean-Uriel, May 15, 2020.

negro. The same officer who had grabbed me by the collar said, ‘We see negros like you every day and you’re not the first or the last.’⁵³

A 17-year-old Black youth in Argenteuil, on the outskirts of Paris, told us he had been stopped twice the day before we spoke, in April 2019.

Yesterday a friend of mine [also 17 years old, also Black] was downtown [Argenteuil] and got stopped. At first he was alone, he got stopped by the national police. Then me and my friends joined him, there were four of us. Another police team came and did an identity check on us. My friend asked, ‘why are you stopping us?’ and one of the officers said, ‘it’s profiling.’ And they teased him, saying ‘negro’ and things like that. And then again, later, another team came and they check us again. Every time, the police frisked us, they asked us for our identity documents, and they searched our bags.⁵⁴

Valoua, a Black 23-year-old law student, lives in the 20th arrondissement after growing up in Bobigny. Three days before we spoke, in April 2019, Valoua was walking his dog in his neighbourhood when he stopped to chat with an acquaintance who was also walking his dog. “He’s Arab. And two minutes later, the police come Right away, they say ‘what’s your name?’ I answered, hello When I asked them why they stopped us, they said, ‘Be quiet if you don’t want any trouble.’ ... I don’t even have the right to go around like I want I don’t think I would have been stopped if I hadn’t been wearing sweatpants, a hoodie, and headphones. They wouldn’t have stopped a white guy.”⁵⁵

Roger, of North African descent, now 21, told us about one of the first police stops he ever experienced, when he was around 13 or 14 years old.

I had gone to visit my dad who lived near the Gare du Nord [train station]. I was walking down the street [and] I locked eyes with a police officer. He was in a police car [coming towards me], they turned around and came back towards me. They made me put my hands up against the wall. I was wearing

⁵³ Ibid.

⁵⁴ Human Rights Watch interview with Paul, Argenteuil, April 17, 2019.

⁵⁵ Human Rights Watch interview with Valoua (real name), Val de Fontenay, April 16, 2019.

two pairs of jogging pants, and they pulled down one of them right there on Boulevard Magenta. They put their hands down the front of my pants. They told me I looked at them in a suspicious way.⁵⁶

“Plenty of times the police have ignored me during a stop because I’m white. I could have a joint on me and they don’t frisk me. You see the racism right in front of you,” Liam, a young man in Argenteuil said.⁵⁷ Another man, 22, who identified as white, told us “I’ve been separated from my friends during a police check, they’ve checked everyone but me, it’s happened maybe four or five times.”⁵⁸

Dabir, a 15-year-old who lives in the 11th arrondissement of Paris, told us he had been stopped in April 2018:

It was after school, it was a group of 10 of us, there were Blacks and Arabs, and one white [kid]. We were walking to the Franprix [a supermarket]. A police car came, the officers got out and came towards us. They touched everyone’s pockets except the white guy. They checked all of us except him. They checked to see if our phones were stolen. They asked us to turn them on and put the code. They asked our ages.⁵⁹

Hasnia Djerbi told us her son, 18 at the time, was badly affected by the only two identity checks he’s experienced to date. He himself did not want to talk to us about what happened. According to his mother, in the spring of 2018, police stopped him as he was about to get on a bus in Lyon to return to his home in Crolles, a town nestled in the mountains 20 kilometers outside Grenoble, along with the only other person of color boarding the bus. Only a few months later, a police squad stopped him and a friend—and no one else—outside a store in downtown Grenoble. “They stopped him, asked for their ID, asked them if they had drugs on them. My son of course said no. They made him take his shoes off, he ended up shoeless on the sidewalk, humiliated, in socks, in front of everybody, I mean, it’s incredible,” Hasnia said.⁶⁰

⁵⁶ Human Rights Watch interview with Roger, Argenteuil, April 17, 2019.

⁵⁷ Human Rights Watch interview with Liam, Argenteuil, April 17, 2019.

⁵⁸ Human Rights Watch interview with Jules, Argenteuil, April 17, 2019.

⁵⁹ Human Rights Watch interview with Dabir, Paris, April 17, 2019.

⁶⁰ Human Rights Watch interview with Hasnia Djerbi, Crolles, February 14, 2020.

Many felt their style of dress—their “look”—played a significant role, with some arguing it was more of a determining factor than ethnicity or race. The look considered most likely to invite a police stop includes a hoodie, sweat pants, and tennis shoes. A 17-year-old boy of North African descent we talked to in Argenteuil said it all depends “on what you wear, if you’re wearing black, if you have a bag, if there are two or more of you, and the location. But it doesn’t depend on what you’re doing.”⁶¹

It may be true that a Black or Arab man dressed in a mainstream manner in some instances will be less likely to be singled out, whereas a white or “European type” dressed in a style associated with the *banlieues* will be. There are concerns, however, that dress is serving as a proxy for race and ethnicity. As two prominent French sociologists have pointed out, targeting individuals on the basis of their style of dress can be a hidden form of racial profiling, in that two out of three people stopped because they are dressed in a “typically youth fashion” will be Black or of North African descent.⁶²

Quantitative studies tend to confirm that French police are using ethnic profiles—an idea of who is more likely to be a delinquent based on appearance, including race and ethnicity—in determining who to stop. While criminal profiling and use of detailed physical descriptions, including skin color, origin, or any other physical characteristic, can be a legitimate preventive and investigative tool when police are looking for a particular suspect, it is discriminatory and unlawful when police systematically target certain groups for stops, even when these actions are grounded in unconscious stereotyping rather than an intentional policy.⁶³

A seminal study conducted by the Open Society Justice Initiative (OSJI) and the French National Center for Scientific Research (CNRS) between October 2007 and May 2008 found that compared to white people, Blacks were six times more likely to be stopped, and Arabs

⁶¹ Human Rights Watch interview with Mehdi, Argenteuil, April 17, 2019.

⁶² Fabien Jobard and René Lévy, “Police, justice et discriminations raciales en France: état des savoirs,” in *La Lutte contre le racisme, l’antisémitisme et la xénophobie*, National Consultative Commission on Human Rights, 2011, p. 181.

⁶³ For a detailed discussion of when profiling is legitimate and when it is discriminatory, see Open Society Justice Initiative, *Ethnic Profiling in the European Union: Pervasive, Ineffective, and Discriminatory*, May 2009, <https://www.justiceinitiative.org/publications/ethnic-profiling-european-union-pervasive-ineffective-and-discriminatory> (accessed June 08, 2020); European Network Against Racism, *Factsheet on Ethnic Profiling*, <https://www.justiceinitiative.org/publications/fact-sheet-ethnic-profiling-europe> (accessed June 08, 2020); and FRA, “Understanding and Preventing Discriminatory Ethnic Profiling: A Guide,” October 2010, http://fra.europa.eu/fraWebsite/attachments/Guide_ethnic_profiling.pdf (accessed October 24, 2011).

were almost eight times more likely.⁶⁴ The study also found a strong correlation between style of dress and probability of being stopped by the police.

The Defender of Rights, France’s independent human rights institution, found in a 2016 survey of over 5,000 people that a “young man perceived to be Black or Arab” was 20 times more likely to experience a police stop than others. Black and Arab youth surveyed also reported significantly higher experiences of insulting behavior and physical abuse during police stops.⁶⁵

In April 2019, the Defender of Rights denounced that the police in an unspecified arrondissement of Paris had issued discriminatory orders between 2012 and 2018. The Defender of Rights documented “discriminatory orders and instructions to carry out identity checks of ‘Black and North African gangs’ in a defined area,” and concluded this constituted “racial and social profiling contrary to the norms prohibiting discrimination and to the ethical obligation of impartiality and non-discrimination that is imposed on police officers.”⁶⁶ The Defender of Rights reiterated its call for reform of the Code of Criminal Procedure to explicitly prohibit discrimination in identity checks.⁶⁷ The government response, according to the Defender of Rights, was to qualify the incident as a “poor choice of words” and to reject the call for an official investigation.⁶⁸

⁶⁴ Open Society Institute Justice Initiative (OSJI), “Profiling Minorities: A Study of Stop-and-Search Practices in Paris,” June 2009, <https://www.justiceinitiative.org/publications/profiling-minorities-study-stop-and-search-practices-paris> (accessed June 08, 2020).

⁶⁵ Défenseur des droits, Enquête sur l’accès aux droits, volume 1, Relations police/population: le cas des contrôles d’identité, January 2017, <https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/enquete-relations-police-population-final2-11012017.pdf> (accessed February 2, 2020). Black and Arab youth reported being addressed by the informal you (40 percent compared to 16 percent overall average), insulted verbally (21 percent compared to 7 percent overall average), and physically abused (20 percent compared to 8 percent overall average).

⁶⁶ Défenseur des droits, Décision du Défenseur des droits n. 2019-090, April 2, 2019, https://juridique.defenseurdesdroits.fr/doc_num.php?explnum_id=18796 (accessed February 17, 2020). The discriminatory orders also instructed police to systematically target Roma and the homeless for evictions.

⁶⁷ Ibid.

⁶⁸ Human Rights Watch interview with Benoît Narbey, Head of section, Protection of Rights – judicial affairs, Deontology of security forces, Défenseur des droits, January 24, 2020.

Discrimination in Policing is Harmful

Discrimination is illegal under French law. Article 1 of the French Constitution guarantees “the equality of all citizens before the law, without distinction of origin, race or religion.”⁶⁹ In 1993, the Constitutional Council affirmed that “the practice of generalized and discretionary identity checks would be incompatible with the respect for individual liberty.”⁷⁰ The Code of ethics of the police and the gendarmerie in France (*Code de la sécurité intérieure*) in effect since 2014 prohibits law enforcement officers from basing an identity check on “any physical feature or distinctive mark ... unless there is a specific alert justifying this,” and requires that stops be conducted without “harming the dignity” of the person.⁷¹

In November 2016, the French Court of Cassation found the government guilty of “gross misconduct” in the police stops of three young men in a shopping area in La Défense district of Paris in 2011. The Court ruled that the stops were discriminatory because they were “based on physical characteristics associated with a real or supposed background, without any objective justification.”⁷² The Court established that when there is credible evidence of a discriminatory practice, the burden of proof lies with the authorities.

In January 2017, the French Constitutional Council judged the wording of article 78-2 of the Code of Criminal Procedure, which regulates identity checks, to be constitutional, but insisted that identity checks must be carried out “exclusively on the basis of criteria excluding any discrimination of any kind between persons.”⁷³

⁶⁹ Art. 225-1 of the French Criminal Code defines discrimination as “any distinction ... by reason of their origin, sex, family situation, physical appearance or name, state of health, disability, genetic characteristics, sexual morals or orientation, age, political opinions, union activities, or ... membership or non-membership, true or supposed, of a given ethnic group, nation, race or religion.”

⁷⁰ Constitutional Council Decision no. 93-323, August 5, 1993, <https://www.conseil-constitutionnel.fr/decision/1993/93323DC.htm> (accessed October 13, 2011).

⁷¹ Code of ethics of the police and the gendarmerie of France, official English version, <https://webcache.googleusercontent.com/search?q=cache:3Flz4mhYfuUJ:https://www.interieur.gouv.fr/content/download/92271/718772/file/code-deontologie-police-gendarmeie-version-anglaise.pdf+&cd=1&hl=it&ct=clnk&gl=it> (accessed February 15, 2020), Art. R434-16.

⁷² Court of Cassation, press release, “Contrôles d’identité discriminatoires (09.11.16),” https://www.courdecassation.fr/communiqués_4309/contr_identite_discriminatoires_09.11.16_35479.html (accessed February 15, 2020).

⁷³ Constitutional Council Decision, n° 2016-606/607, January 24, 2017, para. 26.

International human rights treaties and the European Convention on Human Rights prohibit discrimination against anyone, adult or child, on the basis of race, ethnicity, or religion, among other grounds.⁷⁴ There is clear consensus among UN human rights authorities that racial or ethnic profiling by law enforcement bodies constitutes a violation of international human rights law and has a pernicious impact on individuals, communities, and community-police relations.⁷⁵

Recognizing the importance of the issue, the UN Committee on the Elimination of Racial Discrimination (CERD) is currently drafting a general recommendation on “preventing and combating racial profiling.”⁷⁶ CERD in the past has urged all state authorities to “take the necessary steps to prevent questioning, arrests and searches which are in reality based solely on the physical appearance of a person, that person’s colour or features or membership of a racial or ethnic group, or any profiling which exposes him or her to greater suspicion.”⁷⁷

The European Court of Human Rights has applied article 14 of the Convention (non-discrimination) to law enforcement activities and has found that indirect discrimination—patterns of discriminatory impact resulting from policies or practices even in the absence of discriminatory intent—is prohibited by the Convention.⁷⁸

⁷⁴ International Covenant on Civil and Political Rights (ICCPR), art. 26; International Convention on the Rights of the Child, art. 2; International Convention on the Elimination of All Forms of Racial Discrimination; European Convention on Human Rights (ECHR), art. 14. France has not ratified Protocol 12 to the European Convention which creates a stand-alone right to freedom from discrimination.

⁷⁵ OSJ, “International Standards on Ethnic Profiling: Decisions and Comments from the UN System,” 2016, https://www.justiceinitiative.org/uploads/7db55139-d0d7-4752-a17e-b6bd7fae2a91/Digests-Ethnic%20Profiling-UN%20system%20revised-07.26.16_o.pdf (accessed June 8, 2020).

⁷⁶ CERD Draft General Recommendation No. 36 on preventing and combating racial profiling is available here: <https://www.ohchr.org/EN/HRBodies/CERD/Pages/GC36.aspx> (accessed February 4, 2020). Human Rights Watch’s comments on the draft can be found on the same page.

⁷⁷ UN CERD, General Recommendation 31 on the prevention of racial discrimination in the administration and functioning of the criminal justice system (2005), http://www2.ohchr.org/english/bodies/cerd/docs/GC31Rev_En.pdf, para. 20 (accessed October 17, 2011).

⁷⁸ See for example European Court of Human Rights, *Timishev v. Russia*, judgment of December 13, 2005, available at www.echr.coe.int, para. 58-59; and European Court of Human Rights [Grand Chamber], *D.H. and Others v. the Czech Republic*, judgment of November 13, 2007, available at www.echr.coe.int. The former European Commission on Human Rights also held that discrimination based on race could in certain circumstances amount to degrading treatment and found a violation of article 3 in relation to the application of immigration policy based on race, *East African Asians v United Kingdom*, Commission report of 14/12/1973, Decisions and Reports 78 A/B/5, para. 207.

Intrusive Pat-Downs and Illegal Searches

[They said] ‘simple stop.’ Hands against the car for the pat-down. They focus on the buttocks, legs, genitals. It was embarrassing I think it’s because of how I look. It’s profiling. I’m Black, tall.

—Axel, 18, Strasbourg, July 2019

While stops can involve a relatively quick check of identity papers, they are often much more intrusive. Many of those interviewed for this report had regularly experienced intrusive stops involving security pat-downs and searches of their person and bags; several also said they were forced to take off their shoes. Police regulations allow for “security pat-downs” (*palpation de sécurité*) to ensure the person does not have a weapon but states that these pat-downs should not be performed systematically, and when conducted, should as far as possible be done far from the public eye.⁷⁹ Consent is required.⁸⁰ Only judicial police—*police judiciaire*—are authorized to conduct actual searches of personal belongings. In practice, pat-downs and searches of belongings, including cell phones, are systematic. Police pat-downs give rise to one of the most common and ardent complaints about identity checks.

Abdul, an 18-year-old living in Lille, told us he was stopped by the police one evening in January or February 2019 as he was going to his weekly karate class.

I had a hoodie, it was winter and it was cold. I was training for the karate France championships. When I was about to cross the road, a car blocked my way Four colossal men got out, I knew immediately they were police. It was a stop. When I asked why they wanted to stop me, they told me it was their job to ask the questions. They told me to open my bag so I did but then one of them just took it and emptied it onto the ground. I was really angry, I asked him, ‘why are you doing this?’. I got down on all fours to pick up my things. When I stood up, an officer pushed me against the car, he

⁷⁹ Art. R434-16, Code de la Sécurité Intérieure. <https://www.juritravail.com/codes/code-securite-interieure/article/R434-16.html> (accessed January 13, 2020).

⁸⁰ “Security check: body frisk, bag search, vehicle search...,” Service-Public.fr information portal, <https://www.service-public.fr/particuliers/vosdroits/F32041> (accessed February 15, 2020).

spread my legs and touched me everywhere. He touched my testicles. I can still feel the tears in my eyes.⁸¹

Sekou, a 14-year-old boy living in Paris, told us he was stopped and frisked because a girl falsely identified him.

I was with my friend, outside, we weren't doing anything. A police car came, there was a little girl in the back, and she mixed me up with someone else. Someone had stolen her phone. Three officers got out of the car, they grabbed me by the arms and started to frisk me up against the wall. I was so ashamed, it was in front of everyone. They touched my hands, my arms, my legs, my buttocks ... to be frisked like that, it upset me, it was embarrassing. When I asked them why they didn't answer. They wanted to take me in, they put me in the car. But the girl said it wasn't me and they let me out. They said sorry.⁸²

Ibrahim, 16, had been stopped by the police one week before we spoke in January 2020. "We were playing football, they came and checked everyone, asked us about drugs. They took photos. The pat-down was violating. That's the most embarrassing, when they touch you everywhere."⁸³

A police officer who agreed to speak with us anonymously acknowledged the problematic abuse of frisk powers. While many officers are concerned about their own safety, the officer said the police use stops and pat-downs as a "twisted way to see if there are drugs." He added:

If you just stop someone to see [if they have something on them] you don't have objective reasons. Looking for drugs that way is the easiest way to reach your quota ... drug busts inflate police stats. I've even had superiors who said he'd rather we arrest 10 users than get one dealer because getting

⁸¹ Human Rights Watch interview with Abdul, Roubaix, Lille, July 19, 2019.

⁸² Human Rights Watch interview with Sekou, Paris, April 17, 2019.

⁸³ Human Rights Watch interview with Ibrahim, Saint Denis, January 24, 2020.

a dealer takes more time and resources. It's much faster to just do identity checks, find drugs, and make an arrest.⁸⁴

He added that new police officers learn all the right things at the police academy, including permissible reasons for a pat-down, but that once they get on the streets, “older cops tell them, ‘what you learned in school is fine, but we don’t work that way.’”⁸⁵

Numerous interviewees said the police often demanded they unlock their phones, and then went through their photos or text messages, saying they had to verify the phones were not stolen. The anonymous police officer confirmed, “There is no legal basis to look at a cell phone during a stop. We can get the serial number without going into the phone One reason might be to see if the person is part of a drug dealing network or to get the number of someone who is of interest in an investigation, but it’s an illegal way of doing it.”⁸⁶

In December 2015, a group of 18 boys and girls aged 14 to 18 formally reported a pattern of police brutality in their neighborhood, the 12th arrondissement of Paris, linked to identity checks. They alleged repeated, unjustified police stops, racist insults, beatings, and intrusive pat-downs amounting to sexual assault—a total of 44 incidents against 11 police officers. In April 2018, three police officers in the 12th arrondissement of Paris were convicted of physical violence against one boy and one girl; they received a five months’ suspended sentence for punching the boy in the face and for spraying the girl with tear gas and hitting her on the leg with a baton.⁸⁷ A civil suit filed against the French state by the larger group of victims is still pending at this writing.

In an amicus brief filed in the civil case, the Defender of Rights concluded that the police practices against these children, which were based on instructions from superiors,

⁸⁴ Human Rights Watch telephone interview with anonymous police officer, February 5, 2020.

⁸⁵ Ibid.

⁸⁶ Ibid.

⁸⁷ L’Obs, “Paris: Trois policiers condamnés pour des violences sur des adolescents,” April 4, 2018, <https://www.nouvelobs.com/justice/20180404.OBS4644/paris-trois-policiers-condamnes-pour-des-violences-sur-des-adolescents.html>; Human Rights Watch interview with Slim Ben Achour, lawyer for the adolescents, January 24, 2020.

constituted a pattern of “discriminatory harassment” and “systemic discrimination” which “the state must be able to stop and redress.”⁸⁸

Unjustified Frisks and Searches Violate Privacy

Until recently, no law or regulation governed the use of body pat-downs during identity checks. As of 2014, the Code of ethics of the police and the gendarmerie (*Code de la sécurité intérieure*) circumscribes somewhat the “security pat-down” during identity checks:

The pat-down search is only a security measure. It is not a systematic measure. It may only be done if it is necessary to ensure the security of the police officer or the gendarme who performs it and the security of other people. Its aim is to check that the person under scrutiny is not carrying any object that is dangerous to him/herself or others. Every time that circumstances allow it, the pat-down search must be done out of sight of the public.⁸⁹

The rules governing searches of bags and other belongings, such as phones, are complex. Officers of the judicial police have the right to search themselves any bags during an identity check, while officers not acting as judicial police may only ask an individual to empty their bags for inspection. While legally the individual may refuse, many are unaware of this right, and refusing may lengthen the procedure, invite more intensive scrutiny, and potentially lead to more coercive measures. In the absence of an individualized, reasonable suspicion that a person may be carrying a stolen phone, the police do not have the right to request or demand individuals to unlock their phones and submit them to a search.

⁸⁸ Pascale Pascariello, “Le Défenseur des droits dénonce la discrimination systématique pratiquée par la police,” *Médiapart*, June 2, 2020, <https://www.mediapart.fr/journal/france/020620/le-defenseur-des-droits-denonce-la-discrimination-systemique-pratquee-par-la-police> (accessed June 3, 2020), and Ismaël Halissat, “Le Défenseur des droits dénonce un cas de ‘discrimination systématique’ par la police,” *Libération*, June 3, 2020, https://www.liberation.fr/france/2020/06/02/le-defenseur-des-droits-denonce-un-cas-de-discrimination-systemique-par-la-police_1790094 (accessed June 3, 2020)

⁸⁹ Code of ethics of the police and the gendarmerie of France, official English version, <https://webcache.googleusercontent.com/search?q=cache:3Flz4mHYfuUJ:https://www.interieur.gouv.fr/content/download/92271/718772/file/code-deontologie-police-gendarmerie-version-anglaise.pdf+&cd=1&hl=it&ct=clnk&gl=it> (accessed February 15, 2020), art. R434-16.

International human rights law requires that any interference with the right to privacy be clearly prescribed by law as well as necessary and proportionate. The European Convention on Human Rights, the International Covenant on Civil and Political Rights, and the Convention on the Rights of the Child require that interferences in liberty, individual privacy, and bodily integrity be in accordance with the law—that is that they comply both in substance and procedure with a clear legal basis. The norm setting out the basis must not only exist in the legal system but be accessible and clear and precise enough to be foreseeable to a reasonable degree in its application and consequences.⁹⁰ Any recourse to pat-downs and bag searches of children and adults should be strictly necessary and justified by a reasonable suspicion of possession of unlawful or dangerous objects.

The UN Committee on the Rights of the Child has emphasized also, that the right to privacy of a child in conflict with the law must be fully respected at all stages of proceedings, including “from the initial contact with law enforcement (e.g. a request for information or identification)” to avoid stigmatization.⁹¹ Children require special legal safeguards and care because of their physical and emotional immaturity. As with all other matters affecting children, their best interests should be a primary consideration.

⁹⁰ See the jurisprudence of the European Court of Human Rights in *Sunday Times v. the UK*, April 26, 1979, Series A No. 30, para. 49; *Kruslin V France*, judgment of April 24, 1990, Series A No. 176, para. 27; and *Amuur V France*, judgment of June 25, 1996, Reports 1996-III, para. 50.

⁹¹ Committee on the Rights of the Child, General Comment No. 10 (2007), para. 64.

IV. Insufficient Oversight and Accountability Mechanisms

Individuals with complaints against law enforcement personnel can seek remedy through internal accountability mechanisms, the criminal justice system, and, since 2011, the Defender of Rights—the national independent human rights institution. The General Inspectorate of the National Police (*Inspection Générale de la Police Nationale*, IGPN) is the internal affairs department tasked with investigating allegations of police abuse.

International human rights bodies including the Council of Europe Commissioner for Human Rights, the European Committee for the Prevention of Torture, the UN Committee Against Torture, and the UN Human Rights Committee, have expressed concern over allegations of ill-treatment by law enforcement officers in France and the failure to properly investigate and punish such behavior.⁹²

Victims of abusive identity checks interviewed in the course of this research said they did not report the abuse due to lack of confidence in the system. A 20-year-old man of North African descent told us, “Justice doesn’t exist. Nothing will ever change A cop hits me, nothing happens. I hit him, I go to prison.”⁹³ He said the police had stopped him a month before we spoke in January 2020 when he was out delivering food with his moped:

They took my phone to see if it was stolen, they threw it on the ground
They called me a *sale connard* [dirty asshole], they said ‘your stupid job.’ It was just insults, provocations. I asked for the stop form. They said, ‘you can just go complain to your momma or you can go to the police station.’ They

⁹² Report of Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on the Effective Respect for Human Rights in France following his visit from 5 to 21 September 2005, para. 180; Council of Europe Commissioner for Human Rights, Memorandum on maintaining public order and freedom of assembly in the context of the “yellow vest” movement in France, February 26, 2019, CommDH(2019)8, para. 31; Concluding Observations of the Committee Against Torture: France, April 3, 2006, CAT/C/FRA/CO/3, para. 15; Concluding Observations of the Committee Against Torture on the Seventh Periodic Report of France, June 10, 2017, CAT/C/FRA/CO/7, para. 16; Rapport au Gouvernement de la République française relatif à la visite effectuée en France par le Comité européen pour la prévention de la torture du 27 septembre au 9 octobre 2006; Rapport au Gouvernement de la République française relatif à la visite effectuée en France par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) du 15 au 27 novembre 2015; Concluding Observations of the Human Rights Committee: France, July 22, 2008, CCPR/C/FRA/CO/4, para. 19; Concluding Observations of the Human Rights Committee on the Fifth Periodic Report of France, August 17, 2015, CCPR/C/FRA/CO/5, para. 15.

⁹³ Human Rights Watch interview with Mohamed, Paris, January 22, 2020.

took my arms ... put me up against the wall. Without gloves, they frisked me everywhere.

He said he reported it to the Defender of Rights but then changed his mind because “I knew it wouldn’t go anywhere.”⁹⁴

The lack of systematic documentation of police stops and searches in France is a significant obstacle to accountability. First, individuals subjected to a police stop do not have any evidence of their experience, and they have no written proof of who performed the procedure, why they were subjected to the procedure, what the procedure entailed, and the outcome of the procedure. Second, the French state cannot produce reliable, transparent data on police identity checks for the purposes of assessing the efficacy of these stops (i.e. how many infractions are detected) and for understanding whether certain people are more likely to be stopped than others.

Over the course of six months in 2014, the police systematically collected data in the departments of Hérault and Val d’Oise on the outcome of identity checks based on prosecutor designations. In Hérault, only 4.15 percent of stops led to an arrest, while in Val d’Oise, the arrest rate was even lower, 3.88 percent.⁹⁵ By way of contrast, in 2017 in the United Kingdom, stops based on a reasonable, individualized suspicion had a 17 percent arrest rate.⁹⁶

⁹⁴ Ibid.

⁹⁵ The data was collected between April 1-September 30, 2014, with the arrest rates based on 8,919 police stops in Hérault, and on 10, 683 stops in Val d’Oise. See French Senate, legislative reports, <http://www.senat.fr/rap/l15-598/l15-5984.html#toc62> and Jérémie Gauthier, “L’art français de la déviance policière,” December 2017, <https://laviedesidees.fr/L-art-francais-de-la-deviance-policere.html> (accessed April 5, 2020).

⁹⁶ In the same year, UK police stops based on similarly broad powers as under French prosecutor’s orders had a 12 percent arrest rate. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/658099/police-powers-procedures-mar17-hosb2017.pdf#page=24.

V. Way Forward

Experts and regional human rights authorities, such as the Council of Europe’s Commissioner for Human Rights and the European Union’s Fundamental Rights Agency agree on the key means to prevent and remedy abusive and discriminatory police stops: 1) legislation that clearly prohibits discriminatory profiling and circumscribes stop powers, requiring a reasonable suspicion; 2) collection and publication of data disaggregated by nationality, language, religion, and national or ethnic background; and 3) access to judicial and non-judicial remedies and proper, independent oversight.⁹⁷

Assessments by the Open Society Justice Initiative of reforms in Spain and England and Wales to increase recording and supervision of well-circumscribed stop powers demonstrated that this improves fairness, police effectiveness, and police-community relations.⁹⁸

Awareness of and concern over police abuse of identity check powers in France has grown over the past decade. In 2014 the Defender of Rights said that problematic police-community relations had emerged as a major issue in the first three years of the institution, and that “identity checks appear to be the most vivid expression of a mistrust that, in some territories, has taken hold.”⁹⁹ In 2017, the Defender of Rights concluded that its survey of 5,000 people showed differentiated treatment based on age and assumed membership in particular social groups, and that “the high frequency of checks on one

⁹⁷ See Fundamental Rights Agency, “Preventing unlawful profiling today and in the future: a guide,” 2018, https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-preventing-unlawful-profiling-guide_en.pdf (accessed February 17, 2020); and Council of Europe Commissioner for Human Rights, “Ethnic profiling: a persisting practice in Europe,” May 9, 2019, <https://www.coe.int/en/web/commissioner/-/ethnic-profiling-a-persisting-practice-in-europe> (accessed February 17, 2020).

⁹⁸ OSJI, “Fair and Effective Police Stops: Lessons in Reform from Five Spanish Police Agencies,” <https://www.justiceinitiative.org/publications/fair-and-effective-police-stops>; OSJI, “Addressing Ethnic Profiling by the Police,” <https://www.justiceinitiative.org/publications/addressing-ethnic-profiling-police>; Michael Shiner, Zoe Carre, Rebekah Delsol and Niamh Eastwood, “The Color of Injustice: ‘Race’, drugs and law enforcement in England and Wales,” http://www.stop-watch.org/uploads/documents/The_Colour_of_Injustice.pdf (accessed June 8, 2020).

⁹⁹ Defender of Rights, “Rapport relative aux relations police/citoyens et aux contrôles d’identité,” 2014, https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/ddd_r_20140515_police_citoyen_controle_identite.pdf (accessed October 8, 2019), p. 3.

category of the population feeds a feeling of discrimination and mistrust of police and judicial institutions among those who are subject to them.”¹⁰⁰

France received numerous recommendations concerning the end to ethnic profiling and abusive identity checks during its Universal Periodic Review (UPR) in 2013 and again in 2018.¹⁰¹ France accepted the recommendations on the grounds its legislation and practice already conform.

There have been some advances. As mentioned elsewhere in this report, a new police Code of Ethics entered into effect in 2014. The new code explicitly prohibits identity checks based on appearance, requires law enforcement officers to use the formal *vous* when addressing members of the public rather than the informal *tu*, and provides that body frisks are a security measure, should not be performed systematically, and where possible should be performed in private.¹⁰² The same code requires the police, with some exceptions, to wear prominently a 7-digit identification tag.¹⁰³ Human Rights Watch research, as detailed in this report, demonstrates that the Code is not fully respected.

Yet efforts to reform significantly the law and practice of identity checks in France have been stymied. In 2012, when then interior minister Manuel Valls evaluated the idea of introducing stop forms, police unions across the political spectrum mounted a fierce opposition. The unions argued variously that the measure stigmatized law enforcement, represented an onerous bureaucratic burden, and would negatively impact the ability of the police to prevent and detect crime.

In 2015, 2016, 2017, amendments to other bills or stand-alone bills were tabled in parliament to introduce stop forms. All were rejected. In 2015, a group of senators tabled legislation to amend the Code of Criminal Procedure to circumscribe more narrowly the grounds for police stops. The bill was rejected.

¹⁰⁰ Defender of Rights, *Enquête sur l'accès aux droits – relation police/population : le cas des contrôles d'identité*, 2017, <https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/enquete-relations-police-population-final2-11012017.pdf> (accessed October 8, 2019), p. 31.

¹⁰¹ The outcome reports for both the 2013 and 2018 UPRs are available here: <https://www.ohchr.org/EN/HRBodies/UPR/Pages/FRindex.aspx> (accessed February 4, 2020).

¹⁰² Code of ethics of the police and of the gendarmerie of France, official English version, art. 434-14 and art. 434-16, <file:///C:/Users/User/Downloads/code-deontologie-police-gendarmeie-version-anglaise.pdf> (accessed February 4, 2020).

¹⁰³ *Ibid.*, art. 434-15.

In lieu of stop forms and better laws, the government opted for increased use of body-worn police cameras. Between March 2017 and March 2018, a pilot project was carried out under which police were supposed to systematically film identity checks. An evaluation of the project sent by the Director General of the National Police to the Interior Minister, leaked to the media, found that technical problems meant that over 15,000 stops were not filmed.¹⁰⁴ The report also asserted that filming identity checks

does not constitute a means of verifying whether the stop is abusive: in particular, it does not make it possible to check whether the person has been subjected to repeated stops and, as its recording is in practice triggered once the decision to make a stop has been taken, it makes it difficult to check the basis [for the stop.]¹⁰⁵

When stop powers have been more narrowly circumscribed in other countries, the number of police stops decreases while the portion of stops leading to the detection of an actual crime increases. In New York City, for example, the number of police stops plummeted after the city changed its controversial stop-and-frisk policy in 2013-2014. Whereas the number of stops had peaked in 2011, when around 685,000 people were stopped by the police, in 2018 that number was down to 11,008. According to the New York Civil Liberties Union, while in 2011 the stops led in 12 percent to the detection of some kind of a crime, that so-called hit rate rose to 30 percent in 2018.¹⁰⁶ At the same time, the reduction in police stops did not lead to any discernible increase in the commission of crimes.¹⁰⁷

A different approach in France, based less on identity checks and more on dialogue, could go a long way to improving relations between young people and the police. Greater trust in law enforcement, so undermined by abusive stops and incidents of excessive use of force and brutality, would benefit policing and communities alike.

¹⁰⁴ Alexandre Léchenet, “Dans la lutte contre les contrôles au faciès le fiasco des caméras-piétons,” May 12, 2019, *Mediapart*, <https://www.mediapart.fr/journal/france/120519/dans-la-lutte-contre-les-contrôles-au-faciès-le-fiasco-des-caméras-piétons> (accessed February 2, 2020).

¹⁰⁵ Ibid.

¹⁰⁶ NYCLU (ACLU of New York), Stop-and-frisk data, <https://www.nyclu.org/en/stop-and-frisk-data> (accessed February 2, 2020).

¹⁰⁷ Jonathan Mummolo, “Modern Police Tactics, Police-Citizen Interactions, and the Prospects for Reform,” *The Journal of Politics*, volume 80, number 1, December 6, 2017. <http://dx.doi.org/10.1086/694393> (accessed February 2, 2020).

Recommendations

To the President, the Prime Minister, and the Interior Minister:

- Publicly condemn ethnic profiling and pledge to take concrete measures to document, analyze, and address the phenomenon.
- Endorse the introduction of stop forms or another effective means to ensure that data on stops are systematically collected and that individuals receive a record of stops.
- Propose legislative reform of article 78-2 of the Code of Criminal Procedure to:
 - Require reasonable, individualized suspicion for *all* identity checks, pat-downs, and searches;
 - Explicitly prohibit discrimination by police officers in the conduct of identity checks.
- Propose legislative reform to regulate law enforcement exercise of stop and search powers when children are involved.
- Commission an independent public review of law enforcement, in close consultation with affected communities, to identify the structural conditions (policies, practices) that foster discriminatory and abusive practices. The commission should also review practices around issuance of fines, including during the Covid-19 pandemic.

To the Parliament:

- Legislate the introduction of stop forms or another effective means to ensure that data on stops are systematically collected and that individuals receive a record of stops.
- Institute a parliamentary inquiry into discriminatory and abusive identity checks, including the extent to which identity checks on children serve any legitimate public order goal, with hearings with researchers, police unions, and anti-discrimination organizations, among other actors.
- Reform article 78-2 of the Code of Criminal Procedure to:
 - Require a reasonable, individualized suspicion for all identity checks, pat-downs and searches;

- Explicitly prohibit discrimination by law enforcement officers in the conduct of identity checks.

To the Ministry of Interior:

- Adopt clear, written guidance for law enforcement officers with respect to identity checks, including:
 - Permissible grounds for conducting a stop, for conducting a pat-down and instructions on the manner in which to conduct pat-downs, and for conducting a search of personal belongings;
 - The circumstances and manner in which law enforcement officers may stop and search children;
 - A requirement to provide all individuals subject to a stop with information about their rights;
 - A requirement to inform all individuals subject to a stop of the legal basis for the operation;
 - A requirement that law enforcement officers should, as a general rule, behave in a courteous and respectful manner.
- In concert with the Ministry of National Education and Youth, issue a circular prohibiting identity checks of students directly in front of schools and during school field trips.
- Provide for an effective means of recording all stops, including at a minimum the following information:
 - The name and age of the individual stopped;
 - The name and unit of the law enforcement officer(s) conducting the stop;
 - The motivation for the stop;
 - The time and place of the stop;
 - Whether a pat-down and/or search of personal belongings was conducted;
 - The outcome of the stop;
 - Personal information about the individual, on a voluntary basis, including ethnic origin.
- Collect, analyze, and publish anonymized data on identity checks in keeping with respect for privacy.

- Ensure appropriate and continuing training for all law enforcement agents on proper conduct of identity checks, in keeping with the Code of Ethics and consideration of the best interest of the child.
- Ensure accountability for violations of the law enforcement Code of Ethics.
- Ensure diligent investigation by an independent authority and accountability for all complaints of abuse.
- Conduct a review of best practices in other countries with respect to identity checks, pat-downs and searches of personal belongings.

To the Ministry of National Education and Youth:

- Conduct an internal study of the impact of identity checks on children's well-being and access to education.
- In concert with the Ministry of Interior, issue a circular prohibiting identity checks of students directly in front of schools and during school field trips.

To the Ministry of Foreign Affairs:

- Swiftly accept the visit requests addressed by the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the UN Working Group on people of African descent.

To the Defender of Rights:

- Continue to advocate for necessary reforms to ensure traceability and accountability for police identity checks.
- Consider conducting further research on identity checks with a specific focus on stops targeting children in view of developing specific recommendations on identity checks of children.

To the National Consultative Commission on Human Rights:

- Include attention to police identity checks, including the use of ethnic profiling, intrusive pat-downs and police stops targeting children, in its series of hearings on police-community relations, with a view to developing specific recommendations.

To the European Commission against Racism and Intolerance:

- Include specific attention to police identity checks, including the use of ethnic profiling, intrusive pat-downs and police stops targeting children, in its upcoming country monitoring visit to France with a view to developing detailed recommendations addressing necessary reforms to French law and practice.

To the UN Committees on the Elimination of Racial Discrimination, the Rights of the Child, Economic, Social and Cultural Rights and the UN Human Rights Committee:

- Ensure that the next periodic review of France's compliance with UN human rights treaties addresses the problems in law and practice relating to identity checks in France, including concerns about ethnic profiling and the impact on children, and reflects the above-mentioned recommendations.

To the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the UN Working Group on people of African descent:

- Pending the responses of the French government to their visit request, monitor and publicly comment on the impact of identity check powers on minorities in France, and communicate concerns about specific cases or general patterns in a timely fashion.

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“They Talk to Us Like We’re Dogs”

Abusive Police Stops in France

Police in France have broad discretion to stop and frisk even when no wrongdoing is suspected. The stops—known as identity checks (*contrôle d’identité*)—can involve questioning, orders to empty pockets, bag and phone searches, and invasive pat-downs.

“*They Talk to Us Like We’re Dogs*,” based on research in Paris, Grenoble, Strasbourg, and Lille, adds to the growing evidence that police particularly target Black and Arab young men and boys, suggesting police in France engage in unlawful ethnic profiling—making assumptions about who to stop based on appearance, including skin color, rather than on objective behavior that could give rise to reasonable suspicion of offending activity. Individuals stopped by the police are rarely told the legal basis for the stop and do not receive any written record of the stop.

France lacks any specific regulations or guidance for stops involving children, and the report shows that police also routinely stop and frisk children, even as young as 10. Abusive police stops have a deeply negative impact on police-community relations in France.

Human Rights Watch previously reported on abusive identity checks in France in its 2012 publication *The Root of Humiliation*. Little has changed in the intervening years. Abusive and discriminatory police stops remain at the heart of concerns around institutional racism and discrimination in France. Ending and remedying these harmful practices should be central to efforts to repair relations between the police and communities.

Human Rights Watch calls on French authorities to reform law and practice to prevent ethnic profiling and abusive stops and frisks. Identity check powers, including pat-downs, should be used only when there is a real, individualized suspicion of wrongdoing, and those stopped should be given a written record of the procedure. There should be rules strictly limiting powers to conduct stops involving children which take their best interest into account.

(above) A protestor holds a sign “Black Lives Matter,” at a demonstration in relation to a case of alleged violence after an identity check. The protestors gathered outside the courthouse of Bobigny, near Paris, on October 28, 2017.

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(front cover) Police perform a stop during the Covid-19 lockdown in Nice, France, April 8, 2020.

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