

# **ETHNIC AND RACIAL PROFILING BY SWEDISH LAW ENFORCEMENT**

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## INTRODUCTION

Civil Rights Defenders is a politically and religiously independent, global human rights organization with its head office in Sweden. We support and partner with human rights defenders to advance people's rights globally.

Combatting racial discrimination has been one of the core pillars of our work in Sweden, with a particular focus on ethnic and racial profiling by Swedish law enforcement.

In the following, we will provide an overview of the situation in Sweden in regard to the occurrence of discriminatory profiling by law enforcement officials. It should be noted that the overview is not limited to discriminatory profiling against people of African descent, but against all ethnic and racial minorities in Sweden. This is due not only to the broad scope of our work, but also to the lack of disaggregated data to enable such an analysis.

## SYSTEMIC RACISM BY SWEDISH LAW ENFORCEMENT

Tough largely an ignored area of study, there still exists an ample body of research to support the claim that Swedish law enforcement officials regularly engage in acts of ethnic or racial profiling.<sup>1</sup> For example, in a survey conducted by the European Union Agency for Fundamental Rights (FRA), 51 % of the surveyed Swedish respondents of African descent who had been stopped during the past 5 years indicated that they had been stopped by the police because of their ethnic or immigrant background.<sup>2</sup> In a recent case, which garnished significant media attention, a black man commuting between Malmö and Copenhagen claimed to have been stopped and had his vehicle searched by police and customs officials at least 150 times in a matter of 1,5 years, which he supported with video evidence.<sup>3</sup>

The findings and examples are consistent with our own research in the area. In 2017, Civil Rights Defenders, together with the Department of Criminology at Stockholm University, published the report *Randomly Selected*, detailing experiences of ethnic and racial profiling by

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<sup>1</sup> Hydén, S., Lundberg, A., *Inre utlänningskontroll i polisarbetet – mellan rättsstatsideal och effektivitet i Schengens Sverige*, Linköping University, 2004; Granér, R., *Patrullerande polisens yrkeskultur*, Lund University, 2005; Pettersson, T., *Polisingripanden vid eget bruk av narkotika*, Stockholm University, 2005; SOU 2005:60, *Röster om etnisk diskriminering*; SOU 2006:30, *Är rättvisan rättvis? – Tio perspektiv på diskriminering av etniska och religiösa minoriteter inom rättssystemet*, Kalonaityté, V., Kawesa, V., Tedros, A., *Att färgas av Sverige: upplevelser av diskriminering och rasism bland ungdomar med afrikansk bakgrund i Sverige*, Equality Ombudsman, 2007; *Swedish National Council for Crime Prevention, Discrimination in the Criminal Justice Process in Sweden*, 2008; Hallin, P-O., Jashari, A., Listerbom, C., Popoola, M., *Det är inte stenarna som gör ont: röster från Herrgården, Rosengård – om konflikter och erkännande*, Malmö University, 2010; de los Reyes, P., Hörnqvist, M., Boréus, K., Estrada, F., Flyghed, J., Gonzáles Arriagada, A., Lundgren, M., Lundström, M., *Bilen brinner... men problemen är kvar: berättelser om Husbyhändelserna i maj 2013*, Stockholmia Förlag, 2014; Wieslander, M., *Ordningsmakter inom ordningsmakten: diskurskamp, dilemman och motstånd i blivande polisens samtal om mångfald*, Karlstad University, 2014; Civil Rights Defenders, *Randomly Selected – Race/ethnic Profiling in Sweden*, 2017; Schchlarek Mulinari, L., *Race and Order*, Stockholm University, 2020.

<sup>2</sup> European Union Agency for Fundamental Rights, *Second European Union Minorities and Discrimination Survey - Main results*, 2016, p. 70.

<sup>3</sup> SVT Nyheter, "Öresundspendelaren Thomas: "Jag har blivit slumpmässigt visiterad 150 gånger", 2022.

Swedish law enforcement.<sup>4</sup> The study, which took a qualitative approach, was conducted through interviews with both people who belong to ethnic, racial, or religious minorities, and with law enforcement officials themselves. The report found that ethnic and racial profiling was an everyday occurrence in the experiences of people from a minority background, and perceived as routine.<sup>5</sup> Further, the interviewed law enforcement officials were largely dismissive of the issue, either refusing the premise itself, explaining it by alluding to the single incident being an anomaly, or maintaining that measures are taken on the basis of neutral considerations such as time, place, and behavior, and that it is a sorry but nonetheless irrelevant circumstance that the individual intervened against happens to belong to an ethnic or racial minority.<sup>6</sup>

Our study did not set out to produce a statistically scrutable evidentiary basis for the prevalence and incidence of ethnic and racial profiling, but rather explain how the issue is understood by those perceived to practice it, and those at the end of the stick. Nor was the sample of individuals studied constrained to people of African descent. Still, the findings serve as a harrowing example to the commonality of experiences of police abuse directed against marginalized groups, as well as the unwillingness within the institution to acknowledge the issue at all, and to an even lesser degree, as systemic.

Swedish research on discriminatory police practices also illustrates a vicious cycle by pointing toward how perceived ethnic and racial discrimination by police in itself produces or plays part in producing a wide spectrum of criminal activity, ranging from disorderly conduct to large-scale riots or even acts of terrorism, as a reaction to the discriminatory practices. The crimes committed in turn result in a heightened police presence in areas where ethnic and racial profiling has taken place, i.e., in areas with larger relative densities of people from ethnic, racial, and religious minorities, further increasing the risk for ethnic and racial profiling, and so on. For example, perceived ethnic and racial discrimination by police officers has been cited as one of the reasons for the riots in the Stockholm suburb Husby in May of 2013.<sup>7</sup> Along these lines, a study on extremism among Swedish born Muslims produced by the Department of Psychology at Uppsala University in 2020, concluded that the relevant determinant for the onset of radicalization were feelings of group-based relative deprivation in comparison to the majority population.<sup>8</sup>

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<sup>4</sup> Civil Rights Defenders, *supra* n. 1.

<sup>5</sup> Civil Rights Defenders, *supra* n. 1, p. 16.

<sup>6</sup> Civil Rights Defenders, *supra* n. 1, p. 26.

<sup>7</sup> de Los Reyes et al., *supra* n. 1, p. 20.

<sup>8</sup> Obaidi, M., Bergh, R., Akrami, N., Anjum, G., "Group-Based Relative Deprivation Explains Endorsement of Extremism Among Western-Born Muslims", *Psychological Science*, ISSN 0956-7976, E-ISSN 1467-9280, Vol. 30, nr 4, s. 596-605.

## LEGISLATIVE GAPS AND AREAS OF DEVELOPMENT

The vast majority of the research on ethnic and racial profiling in Sweden suggests that the practice is structural in nature, in the sense that the incidences are not simply produced in the moment by the single official's racist or otherwise discriminatory sentiments, but rather occur logically, as a function of the way in which Swedish policing and crime prevention is organized.

The extensive discretionary space awarded to law enforcement officials in their legal mandate to question, interrogate, stop, search, or in other ways act or intervene against individuals, paired with the lack of equality data, enables discriminatory profiling and makes it particularly difficult for victims to hold law enforcement officials accountable for their actions. In this context, the main object of critique has been the Police Act, in particular section 19 which makes it possible for police officials to “search [an individual] to the extent necessary” (19 §) if said individual is caught with “disturbing public order” (13 §). The Parliamentary Ombudsman (Justitieombudsmannen) has repeatedly criticized the Police Authority for incorrectly applying paragraph 19, amongst other things stating that “the provisions have come to be applied in situations other than was intended when they were created”.<sup>9</sup> Amnesty International has also criticized the paragraphs for not meeting the requirements for foreseeability and precision required by the principle of legality.<sup>10</sup>

Other hindrances to the efficient addressing of ethnic and racial profiling in Sweden include the fact that the provisions against discrimination in the Swedish Discrimination Act does not cover measures taken by law enforcement officials. As a result, the possibilities for individuals to obtain redress for being illegally and discriminatorily targeted by police, are severely limited. After an abundance of criticism and pressure from, among others, non-governmental organizations, the Swedish government finally commissioned a government inquiry to decide whether the scope of the prohibition against discrimination in the Swedish Discrimination Act should be extended to include measures taken by all public servants, including law enforcement officials. The inquiry, which was finalized last year, proposed such an order, and is as of this moment being circulated for consultation in preparation for being turned into a bill.<sup>11</sup> If a bill of such a content is passed, it would be a positive development in the fight against ethnic and racial profiling.

Finally, though there exists, as demonstrated, a modicum body of research on the issue to reasonably bring it to the forefront of the Swedish government's attention, there still exists a dire need for further research. Practically all of the literature in the area has been qualitative, which is essentially explained by the fact that no data is collected on the state-level on the race, ethnicity or religion of individuals being subjected to police measures, making efforts to quantify the problem moot, and in turn, making more difficult to conceptualize measures against systemic ethnic and racial profiling.<sup>12</sup> Additionally, there is a severe lack of state sanctioned

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<sup>9</sup> Justitieombudsmannen dnr 6855–2018, 2020-06-30.

<sup>10</sup> Amnesty International Sweden, “Rättsäkerheten i Sverige hotas om ordningsvakter får utökade befogenheter”, 2021.

<sup>11</sup> SOU 2021:94, Ett utökat skydd mot diskriminering, p. 164.

<sup>12</sup> Civil Rights Defenders, supra n. 1, p. 9.

research done on the subject.<sup>13</sup> In January of 2022, the Swedish Police Authority commissioned the Swedish National Council for Crime Prevention to evaluate how Swedish police manages the issue of ethnic profiling in its operations.<sup>14</sup> This is a welcome development, though the mode of approach as well as the results remain to be seen.

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<sup>13</sup> Ibid.

<sup>14</sup> Brottsförebyggande rådet, Etnisk profilering inom Polismyndigheten, 2022.