Detection, detention, deportation : criminal justice and migration control through the lens of crimmigration

Brouwer, J.

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Author: Brouwer, J.
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4 | (Cr)immigrant framing in border areas
Decision-making processes of Dutch border police officers[1]

4.1 Introduction

In recent years a growing body of scholarly literature has documented how crime control and migration control have become increasingly intertwined, creating an ever expanding group of out- siders (Stumpf 2006). This process of 'crimmigration' has been visible on the discursive, legislative and enforcement level (Brouwer et al. 2017, Van der Woude et al. 2014). On the enforcement level an important role is played by street-level bureaucrats (Lipsky 1980) with often high levels of discretion. Motomura (2011), for example, argues that immigration officers' ability to stop and arrest persons is a major driver behind the crimmigration process, as it enables ethno-racial profiling and can mark the entry point for immigrants into the criminal justice system. In this context particular attention has been drawn to the border as a site where 'bona fide global citizens' need to be distinguished from 'crimmigrant others' (Aas 2011), with various authors arguing that high levels of discretion for border policing officers result in processes of what Lyon (2007) calls social sorting (Fan 2013, Pickett 2016).

Despite the fact that immigration officers in border areas seem to play a crucial role in deciding who belongs, there have been very few empirical examinations of the decision-making processes of border policing officers (see for notable exceptions: Gilboy 1991, Pratt and Thompson 2008, Weber 2011, Pickering and Ham 2013, Casella Colombeau 2017). Meanwhile a wealth of studies has addressed decision-making processes of regular police officers, and the issue of ethno-racial profiling in stop-and-search contexts in particular (Holmberg 2000, Waddington et al. 2004, Wilson et al. 2004, Alpert et al. 2005, Dunham 2005, Schafer et al. 2006, Stroshine et al. 2008, Parmar 2011, Quinton 2011, Fallik and Novak 2012, Tillyer 2012, Mutsaers 2014). Whereas this body of research has provided valuable insights in the way regular police officers exercise their discretion in crime control, border policing officers have a fundamentally different task – as their main focus is migration control – and they are often equipped with powers in both crime control and migration control (Sklansky 2012). This raises questions about what kind of people and

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situations arouse their suspicion and how they employ their discretion. Various authors have therefore recently stressed the need for empirical studies of street-level bureaucrats involved in border policing (Cote-Boucher et al. 2014; Loftus 2015).

In this article we examine the decision-making processes of border policing officers in internal border areas of the Netherlands. Europe's internal borders are no longer supposed to be enforced after the implementation of the Schengen agreement in the 1990s, meaning that EU Member States have experienced a loss of sovereignty and their ability to monitor who enters their country through the internal borders. Since the summer of 2015 the arrival of large numbers of primarily Syrian and African refugees has made states wanting to take more firmly control of their national borders again, a process further accelerated by the terrorist attacks in Belgium and France and the discursive and political connection between these two crises. Whereas some states have temporarily reinstalled permanent internal border checks, others have increased immigration and security checks in their border areas (Van der Woude and Van Berlo 2015). Such checks are allowed under article 23 of the Schengen Border Code (SBC), as long as these do not have an effect equivalent to border control. In the Netherlands – and a few other European countries – these security checks already came in place soon after the implementation of the Schengen agreement, due to concerns about an influx of irregular migrants and an increase in cross-border crime (Groenendijk 2003, Atget 2008, Casella Colombeau 2010, Schwell 2010). The Dutch interpretation of article 23 SBC resulted in the instalment of the Mobile Security Monitor (MSM), a form of border policing[2] in the country's border areas with Belgium and Germany with the aim to combat illegal entry and stay, identity fraud and human smuggling. These controls are carried out by the Royal Netherlands Marechaussee (RNM), a military police force that performs both civic and military duties. RNM officers have a high level of discretion in their selection of vehicles and persons, as a reasonable suspicion of any criminal activity or illegal entry or stay is not required. This raises the question how these officers decide whom to stop.

Drawing on extensive observational study and focus group interviews with street-level officers, this article aims to provide insight into the reasoning behind, and outcomes of, discretionary decisions of officers carrying out the MSM. We focus specifically on the question how ethnic, racial and nationality categories shape the decision whom to stop and the underlying ideas that seem to drive these decisions, while also placing these individual decisions within

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2   Although there is officially no longer a border, we nonetheless employ the term border policing to refer to these controls. This is done because the term border control would imply that there is still a visible border that is permanently enforced, while the term migration policing encompasses a wide range of immigration enforcement activities that go beyond these controls (Weber and Bowling 2004).

the wider organisational and political context. After discussing relevant literature on discretion and street-level decision- making processes, we show how officers' individual street-level decisions are fundamentally shaped by a combination of legal and organisational ambiguities regarding the official aim of the MSM, combined with the emergence of a political and public discourse in which certain ethnic and immigrant groups are increasingly framed as 'dangerous others'. Our analysis offers insights into selection decisions that go beyond the more common discrimination-oriented analyses. In the final section of this paper we look at the way in which such perceptions are formed and transmitted among officers, before concluding with a discussion of our results in light of on-going societal and academic debates about selectivity more in general.

4.2   DECISION-MAKING PROCESSES IN CONTEXT

One of the defining features of street-level bureaucrats is that they need to translate often vague or conflicting laws and policy goals into concrete action. To that end they enjoy considerable discretionary freedom, which led Lipsky (1980) to argue that street-level bureaucrats should in fact be seen as the real policy makers. According to Hawkins (2014, p. 187), criminal justice decision-making involves 'interpretative and classificatory processes from individual decision-makers'. Especially during proactive controls that do not require a reasonable suspicion or concrete evidence of any criminal behaviour, officers have little choice but to rely upon categorisations and typologies (Holmberg 2000, Wilson et al. 2004, Bowling and Phillips 2007). Faced with limited time and information, street- level decision makers may then highlight certain features while ignoring others, thus developing a 'perceptual shorthand to identify certain kinds of people as symbolic assailants' (Skolnick 1966, p. 45; See also Tillyer and Hartley 2010). When this shorthand is influenced by stereotypes there is the possibility that extra-legal factors such as age, ethnicity, gender, race and social class come to inform the decisions, potentially resulting in over-policing of specific groups.

Despite this focus on the individual decision-maker, Hawkins (2014) emphasises that discretion is critically shaped by both the wider 'social surround'- the broader societal setting that is shaped by economic and political forces – and a 'decision field' of organisational rules and objectives. Literature on the discretion of regular police officers established early on that collective occupational norms, as well as law and formal policy, shape the way in which individual officers use their discretion (Skolnick 1966). In more recent years a wealth of research has demonstrated how police decisions are complex processes involving a host of factors (Johnson and Morgan 2013). These includes organisational and legal rules (Engel and Johnson 2006, Miller 2009) but also internal norms and values, including both conscious and unconscious

stereotypes (Graham and Lowery 2004, Wilson et al. 2004). Police culture and occupational ideologies have been found to play an abiding role in informing officers how they do their work, both through formal training and informal socialisation processes (Loftus 2010). As to the latter, various scholars have pointed out the role of storytelling and the canteen culture, as playing an important role in making sense and giving meaning to events (Van Hulst 2013).

Loftus (2015, p. 188) has accordingly noted that in order to fully understand border policing it is crucial to pay attention to both 'the broader social, political and legal context' and 'the culture and practices of those involved in the daily upkeep of border priorities'. Before turning to the actual decision-making of officers carrying out the MSM, we therefore first outline the decision field and social surround in which these officers make their decisions.

4.3   MONITORING SECURITY IN AN EXPANDING EUROPEAN UNION

The MSM has since its instalment in 1994 developed from an instrument aimed at migration control to an instrument aimed at both migration control and crime control (Dekkers et al. 2016, Groenendijk 2003). The original aim of the MSM was to combat and prevent illegal stay, as was reflected by the name Mobile Aliens Monitor. In 2006 the aim was formally expanded to also include the migration- related crime forms of human smuggling and identity fraud. Although still primarily a form of migration control, starting in 2010 official policy documents began to refer to the MSM as Mobile Security Monitor – the abbreviation remaining the same as the Dutch words for alien and security have the same first letter (Dekkers et al. 2016). This name change was purely cosmetic, as no extra investigative legal powers were given to officers in the field. It nonetheless signals a broader understanding of the aim of the MSM and, consequently, the reasons officers might base their selection decisions on. RNM officers furthermore hold regular police powers and therefore can shift towards criminal law-based powers when suspicion of a criminal fact arises during a control, while there is no accountability mechanism in place to ensure that officers base their stops on immigration-related rationales only (Van der Woude and Van der Leun 2017, Van der Woude and Brouwer 2017).

Tillyer and Hartley (2010) claim that general negative sentiments in society towards migrant groups can affect the views held by street-level bureaucrats and therefore lead to prejudices informing the decisions they make. In the Netherlands a discourse has developed in which various ethnic minority groups are linked to crime and other social issues (Eijkman 2010, Svensson and Saharso 2014). Especially youngsters with a Moroccan background are seen as disproportionally involved in various forms of street crime and often negatively portrayed in the media (Boomgaarden and Vliegenthart 2007). Both Svensson and Saharso (2014) and (Van der Leun and Van der Woude 2011) argue that this discourse, combined with the emergence of a Dutch version

of the culture of control (Garland 2001, van Swaaningen 2005, Pakes 2006), has increased the risk of ethno- racial profiling by the police and other controlling organisations. Recent debates around ethno- racial profiling by the police are also to a large extent centred around the question whether young men with a Moroccan background are disproportionally targeted (Amnesty International 2013). At the same time, the expansion of the European Union has in recent years led to concerns about mass immigration from Central and Eastern European countries (CEE countries) and heavy media attention for crimes by Eastern Europeans in the Netherlands (Pijpers 2006, Rosmalen and van Es 2014). This has led some to argue that the traditional hype about problematic Moroccans has been supplemented with a moral panic regarding CEE migrants (Pijpers 2006, Rosmalen and Van Es 2014). A recent study found that although Dutch police officers do stereotype Polish persons, they are still heavily concerned with youngsters with a Moroccan background (Bonnet and Caillault 2014).

4.4   METHODOLOGY

This paper draws on qualitative data collected in the context of a larger research project on discretionary decision-making in border contexts (Van der Woude et al. 2016). Data for this project consist of observational data, transcripts of focus group interviews with officers and in-depth interviews with senior policy officials. For this paper we used the observational and focus group data, collected between November 2013 and March 2015, before the Syrian refugee crisis really started to dominate newspaper headlines. Researchers – always in duos – joined a total of 57 MSM shifts, leading to over 800 man hours of structured observation. Observations were combined with brief conversations and on-site informal 'interviews' and discussions with officers: non-structured talks that naturally occurred during observations. Such participant observation in a 'natural' setting combined with interviews and discussions has proven to be a valuable research method to capture both the actions of people and the underlying reasons for the decisions that are made (Quinton 2011, Loftus 2015, De Maillard et al. 2016, Buvik 2016).

In order to build up trust and acceptance and get a comprehensive understanding, all six brigades that carry out the MSM were visited at least six times. A regular shift lasted around eight hours, started with a briefing and included plenty of time drinking coffee in the canteen; both function as important sites for storytelling, briefings in a more factual manner and the canteen as a place of informal conversation (Van Hulst 2013). Researchers usually spent most of the day on the control location, where they could observe the selected vehicles and the actual control, ask about the reasons behind a specific stop and chat with officers during the sometimes long periods waiting for a new

vehicle. Individual field notes were drawn up at the end of each shift by both researchers, thus giving the opportunity to cross-check certain observations.

Besides participant observation, thirteen focus group discussions were organised with street-level officers to cross-check findings from the observations and further discuss a number of issues. Questions were structured around several topics that had either been part of the research from the start or had emerged as particularly interesting during the observations. Two sessions were organised at each brigade, except for one larger brigade where we held four sessions, and one smaller brigade where we only had one session. Each focus group was conducted by three researchers, with one taking the lead in asking the questions. The number of respondents varied between eight and ten, with differences in experience, rank and age. Participants were encouraged to react and disagree with each other, in order to create dynamic discussions and obtain rich data. The discussions lasted any- where between 1,5 and 3,5 hours and were recorded and subsequently transcribed. Both field notes and transcripts were afterwards systematically analysed with AtlasTi, a software package for qualitative data analysis, coding them according to the various themes associated with the sub-questions of the larger research project.

Our data consists of what van Maanen (1979) calls 'operational data' and 'presentational data'. Whereas operational data refers to observed activities and spontaneous conversations, presentational data consists of appearances as put forth by the research participants. Presentational data is often ideological, normative or abstract. Rather than the actual actions of participants, presentational data is often an idealised view constructed by the people that are studied. Below we will draw on both forms of data: we use operational data to draw up observed activities and decisions, but as we are primarily interested in the rationales and ideas that lie behind such decisions, we strongly rely on presentational data. All quotes below have been necessarily translated into English by the authors.

4.5   Targeting immigration

The decision to select persons and vehicles for a check was usually made by a motor driver who selected 'interesting' vehicles just after the border. He or she then directed the vehicle to a control location further inland, where other officers carried out the actual control by checking the identity papers of the persons stopped. Other times officers would drive around in vehicles and carry out both the stop and the control themselves. Because traffic normally passed at high speed, officers frequently indicated there was very little opportunity for a thorough examination of the passing vehicles and its passengers. They had to decide within a split second whether to select a vehicle or not, sometimes without clear view of the passengers due to darkness or bad weather. Officers were therefore usually only able to see very basic features of the

passengers, such as a beard, skin colour or certain clothing. They furthermore had little to no prior information on the vehicles that were passing. Although most shifts started with a briefing in which attention was paid to wanted persons, this information was often provided by the police and usually not so much related to illegal migration or migration-related offences.

As the MSM is first and foremost a form of migration control, officers regularly indicated that the primary aim of the instrument was to prevent illegal entry and stay. However, they received very little information on how to recognise unauthorised immigrants. For example, neither the general education all RNM officers receive nor the specific training to become a motor driver contains elements on the selection of vehicles or persons. Officers repeatedly stated that they believed this would not be very useful anyway, as the realities on the street cannot be captured in formal training or written instructions. As one officer said, 'you really only learn it when you are at the workplace'. In general, officers relied on their own judgements about how to filter out potential unauthorised immigrants. Besides the nationality of the license plate, the number of passengers and the state of the vehicle, they strongly relied on skin colour as a visible marker of 'foreignness' to detect potential unauthorised immigrants. Almost all RNM officers we met were white males and perceived non- whiteness as an important indicator of foreignness. In practice this meant that during our observations primarily black or Arab-looking people were stopped. This became particularly apparent during one of the controls that took place partly in daylight and partly after dark. During the day we observed mainly black and Arabic-looking persons being stopped. However, this became increasingly varied after dark as it was much harder to see the persons inside a vehicle. Officers indicated several times that a vehicle with only white passengers would not have been stopped during daylight.

Over the course of our fieldwork numerous stops were justified by officers on the basis that the vehicle looked rather old, was a particular type or had a foreign license plate, in combination with the 'foreign appearance' of the driver and passengers. An interaction between one of the researchers and an officer that occurred during the observations can illustrate this. When the researcher asked the motor driver why he had selected a particular vehicle, he responded by asking whether the researcher had seen the license plate. After the researcher saw that it was a Belgian license plate, the officer asked him in a rhetoric tone whether he thought the two passengers – who had Arabic features – looked Belgian to him. The officer then continued by saying that of course it was possible they were, but that he was nonetheless curious to check, also because they came into the Nether- lands from Germany in a vehicle with a Belgium license plate.

At the same time, this focus on 'non-Western looking' persons did not result in many stops of people with an Asian appearance. One officer told us that Chinese persons were not often stopped during these controls because, unlike African and Middle Eastern people, they tend to stay in one place and

not drive around so much. Yet when a vehicle with one Asian man and two Asian women was stopped during one of the controls we observed, an officer stated this was not very interesting and they were not their core targets. Whereas black or Arabic persons were frequently referred to as the main target of stops – something that translated into actual targeting practices – there was much less reference to Asians.

Whereas skin colour was thus an important factor behind immigration-related stops, sometimes other factors were employed to infer 'foreignness'. During one control, researchers were in a car with two officers after dark, when the officers decided to follow a vehicle with Dutch license plates. As they had not been able to see inside the vehicle they checked the license plate in the systems. When they heard that the vehicle was registered by someone with an African sounding name, the driver said 'that is a name we can work with' and decided to stop the vehicle for a check.

4.6   BORDER POLICING AND ETHNIC PROFILING

Although most RNM officers were aware of the sensitivity of using racial or ethnic categories as a factor in their decisions and societal concerns about discrimination, they nonetheless often freely admitted that these categorisations played a role in their selection. As one of them said:

> "When people ask if we select on the basis of skin colour, then we have to readily admit that. Somebody's skin colour is for us the first sign of possible illegality. But, because we select on the basis of skin colour does not automatically mean that we discriminate."

Such openness was always coupled with a resolute denial that this selection criterion was driven by any racist intentions or motives. Instead, officers argued that their specific task of preventing illegal immigration leaves them little choice but to base their stops at least partially on skin colour as proxy of being a migrant. Indeed, they saw it as inherent to their work in the context of immigration law. Respondents emphasised their intentions rather than the outcomes. And as one officer explained:

> "It is also the fact that many of those countries have a visa requirement. Look, we did not invent the visa requirement for Africa. That by chance it is black people that come from there is not our fault, that is what we have to control, if there had been living only white people that had visa requirements we would have been checking white people."

Such statements are in line with Satzewich and Shaffir's (2009, p. 231) argument that 'the occupational culture enables the police to draw upon a vocabulary of explanations [that] permits them to deny responsibility when faced

with the allegations that their profiling is racially motivated'. According to them these kind of rationalisations help officers deal with possible feelings of guilt or shame, and generally offer a better explanation for police behaviour than intentional racism.

At the political level, concerns with respect to potential discrimination during the MSM have continuously been countered with reference to professionalism. Officers are supposed to act on the basis of more objective criteria rather than solely rely on appearance (Dekkers et al. 2016). RNM officers indeed regularly pointed out that stops were based on a combination of factors and not appearance alone. The origin of the license plate, the number of passengers, their clothing, other appearance- related factors and sometimes their behaviour were all factors that could play a role in the decision to stop a vehicle. In the debate on ethno-racial profiling there is disagreement about whether markers for ethnic categories are never allowed to play a role in decisions to stop, or whether it is acceptable when these markers are combined with other factors informing a decision (Smith 2004). Such considerations were also found among RNM officers:

> "Naturally we are here to find illegal immigrants, so somebody's appearance and skin colour are important factors. Of course these are not allowed to be the only factors, I also know that and I agree with that."

More elaborate combinations of factors were also presented. For example, one officer gave a more detailed description of how a combination of factors could be invoked to stop a vehicle with North-African looking persons, drawing on knowledge and ideas about illegal immigration patterns.

> "You notice that we get a lot of cars from France, Spain, Italy, those are interesting for us. There are of course a lot of people from North-Africa, Algerians and Moroccans who don't have their documents straight. It is simply known that they often come here with family members illegally so if you see something like that coming it is just interesting. When it is somebody driving alone it is less interesting, but if it is several people with North-African appearance you make sure to stop it."

At the same time, it was somewhat contradictory that although license plates were the main other indicator of 'foreignness', a relatively large number of vehicles that we observed being stopped had Dutch license plates. During our observations it regularly seemed that a 'foreign appearance' was the primary or only reason for a stop, especially when vehicles had a Dutch license plate. For example, one time an officer indicated he had stopped a vehicle because he had the feeling 'it was not right'. When asked if he could explain that feeling, he responded that 'those three guys [the passengers, JB]' had aroused his interest. After talking a bit more, it became clear that he found it striking that three men with, according to the officer, 'clearly non-Dutch facial features' were driving a vehicle with a Dutch license plate.

This touches upon a complicated discussion about whether ethno-racial profiling is about intentions or outcomes. Obviously these practices result in ethnic disparities among those who are stopped during the MSM and may send a message of non-belonging to the relatively large number of legal residents or citizens that are stopped on account of their 'foreign appearance'. At the same time this does not directly mean that RNM officers are driven by beliefs about the inferiority of certain groups of people. Alpert et al. (2005, p. 410) note that certain organisational or legal factors 'can lead to discriminatory policing without individual-level discrimination'. This seems particularly true for proactive forms of border policing aimed at preventing illegal immigration; it is the instrument that leaves individual officers little choice but to use their powers in a discriminatory way, with skin colour playing an important role.

4.7   Targeting crime

Although the MSM is primarily aimed at preventing illegal entry and stay, there is a lack of clarity about what exactly falls within the official aims. This ambiguity was rarely considered an issue by officers, who generally seemed more interested in fighting crime than controlling illegal immigration. However, it had a large impact on the factors influencing officers' decisions. The controls under study are carried out by a military police organisation and officers often talked about 'catching bad guys'. They frequently invoked crime-related justifications for a stop that were derived from perceptions about certain groups or nationalities being disproportionally involved in specific types of crime.

> "I also just think that there is evidence and there are facts that certain target groups or nationalities all have their own business [meaning specific crimes, JB]."

> "Yes, yes, it is just from experience. I mean we take, get certain groups that just indeed have a certain business they are in. We see that every time again."

The focus on crime resulted in different groups being targeted. Various RNM officers expressed the idea that 'Moroccan', or more generally 'North-African', young men were disproportionally involved in – especially drugs-related – crime. This resonates with the study of Bonnet and Caillault (2014), who found that Dutch regular police officers were heavily concerned with 'Moroccans' being involved in criminal behaviour. RNM officers pointed to arrest and prison statistics as concrete evidence of this overrepresentation. Thus while North-African looking people were regularly stopped because of potential illegal entry or stay, especially when their car had a foreign license plate, officers also indicated a few times that a stop involving young Moroccan-looking men was primarily based on crime- related reasons. A North-African background could thus be a factor in stops both related to migration control and crime

control. However, in the Netherlands there is a large population with a Moroccan background that can no longer be seen as foreigners or immigrants. Instead, they are typically born in the country and hold Dutch citizenship; Moroccan is usually seen as an ethnic, rather than national, category. As such, the ambiguity about the exact aim of the MSM on a political and policy level translates into the targeting of groups that are not necessarily interesting in the context of what is sup- posed to be primarily an instrument of migration control.

Although North-African young men were regularly linked to various forms of crime, most commonly and openly associated with criminal behaviour were people from CEE countries – primarily Bulgarians and Romanians, to a lesser extent also Hungarians and Polish. Such perceptions were usually said to constitute 'known facts' and being based on 'evidence'.

> "I think that there is just evidence that if you say "human trafficking", those are Bulgarians, it is just like that."

> "No but if a Romanian is driving a vehicle with an Italian license plate then you already know something is not alright. They drive through all of Europe to commit criminal offenses and that is also proven."

During our observations, a relatively large number of vehicles with Eastern European license plates were stopped, and officers regularly indicated that a Bulgarian or Romanian license plate was already sufficient reason for them to make a check. Although other Eastern European countries were sometimes also mentioned – in particular Albania – the relatively high number of vehicles from Poland, Bulgaria and Romania that drive to the Netherlands meant that they were most often stopped.

The targeting of these groups was primarily based on the origin of the license plate, as this was an easy visible marker and the nationality of indi-viduals form Eastern European member states are generally harder to recognise on the basis of physical characteristics. Nonetheless, officers said it was a particular challenge to also be able to select Eastern European people when they were driving a vehicle with another license plate, something that regularly happened. For example, during one of the controls researchers were sitting in the back of the vehicle when a car with a German license plate was stopped. According to the officer he had stopped the car because he believed the driver and passengers to be Albanian, and Albanians were often involved in crime in the Netherlands. Justifications for such stops were based on the merging of a variety of crime risks that range from mobility-related offences such as human trafficking and false identification papers to more mundane crimes as pickpocketing and theft.

> "That has to do with crime there. We have come across a lot of false documents from Romanians and Bulgarians, many false ID-cards and that is one of our priorities."

> "And the Bulgarians and the Romanians and especially the Bulgarians are known for false papers and Romanians too, but Romanians are also well known for pickpocketing etcetera, human trafficking."

Overall, there was a common understanding among RNM officers that 'there is almost always some- thing wrong' with members of these groups in the border areas concerned. This led to extreme statements proclaiming that nine out of ten times Eastern European drivers have burglary tools in their trunk, or that Romanian looking people in a vehicle with a British or Spanish license plate were nine out of ten times thieves.

These 'profiles' were based on shared ideas rather than on information provided by the organisation. At the same time, it was interesting to note that such common-sense profiles were far from static. Nationalities that used to be targeted quite frequently could become less interesting over time, as during our research was the case with people from Poland. While Polish vehicles were considered interesting for various crime-related reasons in earlier years, respondents regularly stated that this was now much less the case. Although they were sometimes mentioned in the same breath with Bulgarians and Romanians, other times clear distinctions were made and it was argued that Polish people nowadays mostly came here to work and had their papers in order. As one officer noted:

> "In the beginning we checked them quite a lot. Those vans and stuff. But it turns out that most of it is work-related."

That did not necessarily translate into practice though, as we still quite regularly observed Polish vehicles being checked during the controls. However, officers were now much less positive about the likelihood of actually encountering something wrong than they were in the past.

This normalcy of nationality as a proxy for a high risk background reflects the findings of Pratt and Thompson (2008, p. 682), who argued in their study on Canadian border officials that 'while race is an unacceptable basis of discretionary risk assessment at the border, nationality is continually reproduced as a legitimate consideration'. Dutch border police officers equally seemed to find that assumed nationality (often based on license plates) was far less controversial as a (partial) selection criteria than ethnic or racial features, especially for crime-related stops. One officer even saw it as a clear advantage that they stopped a lot of Bulgarians and Romanians, because this meant there was less opportunity for complaints about racism than when they primarily would stop black or Arabic- looking persons. Only once an officer

raised questions after he said that Romanian license plates were almost automatically stopped:

> "I am actually not allowed to say that, am I? That Romanians are always stopped? Is that discrimination?"

This heavy reliance on nationality as a risk category is not without problems in light of the envisaged ideals of a 'cosmopolitan European Union of transnational citizens' (Van der Woude and Van Berlo 2015). The abolition of internal border controls in the Schengen area and the subsequent freedom of movement is one of the core components of the European Union as an area of freedom, security and justice (Carrera 2005). As Maas (2014, p. 802) has rightfully argued, 'free movement is arguably the foundation for all further European rights', and for a large number of Europeans it is the very essence of what the EU means (Gehring 2013, Parker and Catalan 2014). The introduction of European Union citizenship furthermore means that all citizens of EU Member States have the right to move and reside freely within the EU and that discrimination by Member States on the basis of nationality is prohibited – all EU citizens must be treated equally (Carrera 2005, Nanz 2009). Whereas Bulgaria and Romania are not yet part of the Schengen area, these countries are part of the European Union and their citizens therefore should enjoy the fundamental right to freedom of movement without being subjected to discrimination (Jorgensen and Sorensen 2012). Although it has previously been noted that the freedom of movement rights do not equally apply to third-country nationals that have legally entered the Schengen area (Atget 2008, Loftus 2015), realities on the ground demonstrate that citizens of some EU Member States face restrictions on their mobility as well – most notably the Eastern European countries that recently joined. Based on their alleged involvement in various forms of (cross-border) crime, these citizens are one of the primary targets of the MSM, which as such functions as a form of selective border control for those EU citizens that are deemed less worthy of free travel, and to a certain extent creates a hierarchy within EU citizenship (see Gehring (2013) and Parker and Catalan (2014) for a similar account with regard to Roma EU citizens). Being designated bona fide travellers by the European Union but identified as dangerous others by border policing officers, these people therefore do not profit to the fullest from the purported area of justice, freedom and security. As we will elaborate on below, this also seems to be related to considerations of class.

4.8   EU expansion and the role of class

The MSM is a direct result of the lifting of borders following the implementation of the Schengen agreement, and policies at the European level – combined

with ideas about high levels of crime among Eastern European immigrants – shaped the decisions made at the border. Officers would regularly draw upon such policy developments as one of the main reasons they now 'had so much to do with Eastern Europeans'. They expressed frustration about the fact that citizens of these new EU Member States now had free access and similar rights as other EU-citizens, as this limited the possibility to tackle various issues.

> "You do see a trend now that you see a lot of organised crime, especially groups, often Eastern European groups that now cause a burglary wave. Pickpockets that cause trouble in Amsterdam, are often Romanians, Bulgarians. They cross the border somewhere and it is not the external border. Of course we see the urgency, but your hands are tied to European policy."

Here, mobility sits at the core of the perceived problem. Where the easing of visa restrictions has rendered CEE nationals more mobile, RNM officers see this primarily as an increased risk of importing crime. Political concerns about a post-Schengen increase in cross-border crime that led to the instalment of the MSM are thus translated into the targeting of citizens of new EU Member States. This link between EU expansion and a subsequent perceived rise in crime numbers also became apparent through the following story one of the researchers overheard an officer telling a younger colleague who was new to the team.

> "Bulgarians often have something to do with human trafficking, while Romanians are very often involved in theft, robbery and scams. Now they are even talking about making Moldova visa-free. Somebody there earns an average of 2.500 euros per year, while in Bulgaria at least they still earn 11.000 per year. You can thus more or less guess what will happen."

Besides disseminating common-sense knowledge to a relatively new member of the team, this officer also immediately presents a cause for this 'fact', by pointing out the easing of visa requirements in combination with low average incomes in Eastern European countries. This was common among officers, who regularly cited the vast differences in average income between Eastern and Western European countries as an explanation for crime among CEE migrants.

> "You have to imagine, these people come from a part of Europe where the average income is quite low. Between 200 and 400 euros for a weekend in the Netherlands is for these people very expensive. Are they hiring a hotel room for the weekend, what are these people doing here? It's not bad, they can just go on holiday but of course that raises suspicion so you need to come up with a story."

One officer who linked Bulgarians and Hungarians to the theft of copper from the railroads noted that it involved not only lower educated people, but also

people holding university degrees. They were unable to find jobs in their country and could earn up to 4.000 euros per month this way. Similarly, Eastern Europeans truck drivers were considered to form a higher risk for people smuggling, as their generally very low income means they are easily recruited for the smuggling of persons. In line with what Loftus (2007) observes, this seems to point to the important role of class in shaping categorisations and influencing practices. Yet whereas class issues were an important explanation for officers' perception that crime risk was high among Eastern Europeans, this was different for the specific sub- category of Roma (Gypsies). Various officers expressed the belief that crime was an integral part of their culture, thus reflecting a tradition of long-standing discrimination and stereotyping of Roma people throughout the European continent (Guild and Zwaan 2014).

Class-related factors were not only invoked to arouse suspicion, but could also indicate that some- body should not be stopped. A common example of the latter was the 'business man': described as somebody wearing a suit and driving an expensive car, officers indicated that this was not very interesting for them, no matter what the person further looked like. Our observations further seem to suggest that considerations of class also played a role after the selection of a vehicle. When a minivan with a Romanian license plate and six men inside was stopped, one officer immediately said that this would not be very interesting. He argued that these people looked too well-groomed and were very polite; therefore, he considered them to be part of the Romanian middle class. Their vehicle was also too clean, while the 'bad ones' usually look very sloppy and drive a smelly vehicle. Another time an officer deemed a stopped vehicle less interesting because it had new tires. According to him 'it might sound a bit silly, but worn-out tires say something about how you live your life'.

4.9 GENERATING AND DISSEMINATING KNOWLEDGE ON WHOM TO SELECT

By presenting certain links between ethnicity or nationality and criminal behaviour as hard facts ('evidence', 'facts', 'it is just like that', 'that is shown'), and through their continuous repeating, officers created a common-sense knowledge about these perceptions. This common-sense knowledge about these associations was not only generated through officers' own (and their colleagues') experience, but also seen confirmed through external sources. For example, during one shift various officers discussed a 'documentary' they had seen about Bulgarians and Romanians who came to the Netherlands to receive various benefits only to go back home to live a luxurious life. Another officer said that one just needed to follow the media a bit to come to the same conclusion:

> "It is generally known, doesn't matter where you are from, if you follow the media a bit, that skimming is done by Romanians and that burglaries during the dark days are by Bulgarians, Romanians and Polish. That is just known."

At one brigade officers were particularly outraged by a newspaper item that claimed that the government had pressured a television show on criminal investigations to show less suspects with a Moroccan background and instead paint a more representative picture of society.[3] Officers stated that if this was the reality you should just show it, and you should not 'bury your head in the sand' for political reasons. It was telling that this news was brought up by different officers at one specific brigade, whereas at other brigades it was never mentioned. This suggests that officers share such information with each other and, accordingly, influence each other through their stories. It simultaneously shows that it is hard to speak of 'one' border police culture: every brigade seems to differ, also in its canteen culture.

The resulting targeting practices further reproduced and sustained such perceptions, because new officers learn profiling 'on the job' from more experienced colleagues (see also Pratt and Thompson (2008) with regard to Canadian border control officers). Dutch RNM officers generally indicated that the organisation provided very few instructions or information on whom to stop during the MSM, and profiling does not form part of the official training prior to becoming a border policing officer. Instead, new recruits were often coupled to a more experienced officer and learned about risk profiles from these more experienced colleagues and through their own experiences. In this way prevailing beliefs are transmitted to new officers and existing targeting practices are kept in place. As one officer explained:

> "You learn it automatically yes, you start working and see every time that motor drivers [who makes the selection, JB] bring in the same cars, then you think at some point, you get a bit of a feeling for it of course."

Most officers we spoke to agreed that experience is crucial for good profiling, because it involves combining so many factors. The main way to get such experiences is by simply practicing a lot and looking carefully at and learning from more experienced colleagues. As several officers explained, such experience was mainly the result of stops that led to an actual arrest.

> "I think that you just figure out for yourself where you find the most cases. If you very often find [false identity papers, JB] in an old vehicle with, for example, a Romanian license plate, then eventually that automatically becomes something of which you say like "hey, there I have the biggest chance of catching something".

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3   A Dutch police officer in the study of Bonnet and Caillault (2014) mentioned the same television show as a source of evidence fort he criminal overrepresentation of persons with a Moroccan background.

For yourself, that is your experience and you will expand that more and more when you work here longer."

Such experience was not necessarily always based on actual outcomes of a stop though, as some- times even a mere gut feeling that something was wrong with a selected vehicle was seen as a reason to select similar types of vehicles or persons in the future. This also had to do with some officers' strong confidence in the accuracy of their own judgements, which left little room for alternative explanations that could help to make sense of a situation. For example, during one briefing officers were asked to pay attention to a vehicle that had been stopped the week before with a Romanian woman and several Albanian and Romanian men. The woman had said that she worked voluntarily as a prostitute, but officers had not trusted the situation and therefore made a note in the systems. The team leader later told the researchers that in one hundred percent of the cases where officers had the gut feeling that a woman was working involuntarily as a prostitute, they were right. In this way officers thus have their views confirmed without objective facts backing them up and without reflecting upon the potential side effects of these selection practices, leading to a vicious circle in which stereotypes can be reproduced time and again. More generally, there was regular talk about the high 'success rate' of especially more experienced officers. Whenever we observed a control with little concrete results, this led to visible frustration and disappointment among officers, who would offer various reasons – ranging from the date and time of the control to the lack of suit- able vehicles on the road – why this was the case.

Although some individual officers did reflect upon the inherent risk of developing generalisations about crime among certain categories of foreigners, they never referred to this type of reflection as being part of the training and professionalisation on the job. Moreover, a more objective attempt to measure the success of existing practice-based profiling strategies – for instance by every now and then making a comparison with the outcomes of a random sample – is lacking. This high trust in and dependency on experience and sharing of experiences carries a risk of institutionalised tunnel vision. The latter is not only a matter of potential discrimination; it may also lead to overlooking new developments.

4.10 Conclusion and discussion

In this paper we have explored how ethno-racial and national categories play a role in Dutch border policing officers' decisions whom to stop while policing the country's internal border areas. As the underlying research has shown, these decisions seem to be shaped by a lack of clarity about the exact aim and scope of the MSM, the emergence of a specific Dutch culture of control and

policy developments at the European level. Such selection processes appeared to be largely based on informal and experience-based stories and officers' own experiences. Receiving very little concrete information on what to look for during a control, but often having to decide within a split second whether to stop a vehicle or not, officers use a combination of factors to select vehicles and persons that they think have the highest chance of resulting in the detection of something wrong. Ethnic, national and racial categories are important factors in these decisions to stop a vehicle. However, the role of these categories differs depending on whether someone is stopped for potential illegal stay or for possible criminal conduct. Our study indicates that 'foreign appearance' was used as a central indicator for the possibility of illegal entry or stay and skin colour was therefore an important factor in migration- related controls. The legal framework and official aim of the MSM played an important role here, as officers were very aware of possible accusations of racism and thus explicitly referred to their task of preventing illegal stay to justify their use of skin colour as a selection criterion.

However, the ambiguity regarding the exact aim of the instrument – in combination with high levels of discretion and officers' ambitions to fight crime – meant that people were frequently stopped for crime-related reasons as well. In such cases other factors played a role, including assumptions about the high criminal propensity of certain ethnic or national groups, in particular Northern African ethnic minorities and Eastern European nationals. Officers frequently expressed frustration about EU expansion and open border policies, as this meant that Eastern European immigrants increasingly came to the Netherlands.

A number of factors on various levels thus ultimately shaped officers' decisions to select a vehicle. On the organisational level, the dual aim of the MSM means that officers face limited restrictions on whether they decide to target illegal immigration or crime, and most officers seemed more interested in fighting crime. The personal factors that influenced the decision to stop someone – especially ethno-racial and national categories – were strongly connected to the aim of the stop. In particular, whereas skin colour was used as an acceptable factor in immigration-related stops, for stops based on crime control rationales officers usually invoked ethnic and national categories. These categories were based on ideas about the overrepresentation of certain groups in crime that strongly reflect the prevailing political and public discourse in the Netherlands. In practice, however, the dual powers of RNM officers render it often difficult to make a clear-cut distinction between these two aims.

Selection processes are inherent to the MSM and, in a broader sense, to proactive policing in general. Dutch border policing officers have little choice but to rely upon selection criteria, but the ambiguity about the exact aim and scope of the instrument means that migration-related factors freely interact with broader security considerations as rationales for stops. Moreover, there are no concrete organisational guidelines for officers which make clear how

they should conduct immigration checks without taking into account that people 'look' like immigrants, among other reasons. As a result, ethnic, racial, and national categories intersect in various and shifting ways with age, class, gender and other factors to create a variety of risk profiles that sit at the juncture of crime, security, and migration.

Although Dutch RNM officers share many similarities with regular police officers, their specific task and powers mean there are important differences too. Our results demonstrate the need to move beyond individualised analyses of discretion and point to the importance of taking into account local and organisational contexts. Existing research on ethnic profiling has tended to focus on North America and the United Kingdom (Miller et al. 2008) and concentrated on the question whether black persons are disproportionally stopped during proactive police controls compared to white people. In the context of internal border policing in the Netherlands this is only one part of the story, and moreover a direct result of the specific task of the officers carrying this out. Other ethnic and national groups are also frequently stopped during the MSM for reasons that range from potential illegal entry and stay to the risk of theft, thus indicating the plurality of targeting practices and the need to move beyond the mere use of skin colour as primary or only form of categorisation (Bonnet and Caillault 2014). Our findings show that the development of stereotypes are closely related to a country's migration history and ethnic composition, and that the 'symbolic assailant' strongly depends on specific national, local and organisational contexts.