



# Submission to the Commission on the Future of Policing in Ireland

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[ENAR Ireland](#) (The European Network Against Racism Ireland) is a networking NGO with 80 Civil Society organisations, drawn from across the spectrum of minority identities and experiences, all working to common positions for combating racism in Ireland at a local, national and European level. It is the Irish Coordination of [ENAR](#), the European Network Against Racism, with its secretariat in Brussels. It manages [iReport.ie](#), the online racist incident monitoring instrument from which ENAR Ireland publishes [reports on racist incidents](#), including hate crimes, producing reports and offering analyses on racism and on the capacity of Irish institutions, including Criminal Justice Institutions, to respond to racism in Ireland. iReport.ie uses ethnic minorities' own experiences from which ENAR Ireland develops the tools of minority and majority communities to combat racism. ENAR Ireland's analysis situates hate crime, hate incidents and incidents of racist discrimination within the context of the structural, institutional and cultural arrangements in Ireland which enable racism.

Analysis of iReport.ie data is provided by Dr Lucy Michael of Ulster University.

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## 1. Introduction

Much of the commentary on the current legitimacy crisis faced by An Garda Síochána correctly focuses on the urgent need for transformative change to bring full transparency, proper oversight, adequate mechanisms of accountability, measures to ensure adherence to human rights principles and the rule of law, and other means to transform an out-dated and dysfunctional force into an accountable service that is fit to meet the needs of 21<sup>st</sup> Century Ireland. This submission focuses on 3 key inter-related dimensions of the crisis of legitimacy facing An Garda Síochána which relate to policing in an increasingly diverse and multi-ethnic society; firstly, the policing of ethnic minority communities, secondly, effective community relations with minority communities including the ability to respond appropriately to racist hate crimes, and finally, the internal composition, ethos and culture regarding Human Rights and diversity. With respect to the first two dimensions, our analysis of the iReport.ie racist incident data provides strong evidence of what is referred to as “Over-policing and under-protecting”<sup>1</sup>, as well as strong indicators in support of independent findings relating to serious problems with Garda internal culture.<sup>2</sup>

Re-establishing police legitimacy in the policing of hate crimes and the policing of ethnic minority communities must be addressed by a thorough examination of existing failings alongside appropriate remedies, drawing, where appropriate on international best practice, international law and recommendations of intergovernmental and international monitoring bodies, to include structural reform of An Garda Síochána to embed specialist expertise across the force with appropriate resourcing, and to establish anti-racism and human rights practice and culture as a pillar of Irish policing.

This submission calls for a root-and-branch overhaul of all police practice in Ireland, giving meaning to the establishment of a Policing Service as set out in the 2005 An Garda Síochána Act; a Service suited to the needs of guaranteeing equal access to justice and equal protection for all minorities, and whose functions can help restore confidence in policing from across society. To do this, we echo the assertion made by other parties that a police service must embed human rights, diversity and anti-racist practice into every aspect of policing, from training, to practice, to appraisal. A human-rights based police service needs a strong mandate and leadership structures to integrate transparency, oversight and community accountability into every aspect of its functions.

## 2. Recommended legislative and agency infrastructure for combating racism and violence

ENAR Ireland’s call is for Ireland to adhere in the strictest terms to the recommendations of UNCERD’s 3<sup>rd</sup> & 4<sup>th</sup> monitoring report for Ireland, to make itself fully compliant with the International Bill of Rights, the European Convention on Human Rights, the EU Framework Decision on Racism and Xenophobia, the Victim’s Directive, the 2001 UN Durban Declaration on Racism, and the recommendations of the ECRI, the OSCE and the FRA.

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<sup>1</sup> Jefferson, T. (2012). Policing the riots: from Bristol and Brixton to Tottenham, via Toxteth, Handsworth, etc: Tony Jefferson tells the angry, ongoing story of rioting over the past 30 years. *Criminal Justice Matters*, 87(1), 8-9.; Kushnick, L. (1999). ‘Over Policed and under Protected’: Stephen Lawrence, Institutional and Police Practices. *Sociological research online*, 4(1), 1-11.

<sup>2</sup> O’Brien Olinger, S. “Police, Race and Culture in the ‘new Ireland’, An Ethnography”. Palgrave, 2016.

3 Ionann Management Consultants, An Garda Síochána Human Rights Audit (2004) available at: [http://www.minelres.lv/reports/ireland/PDF\\_Ireland%29Comhlamh\\_GardaHRreport.pdf](http://www.minelres.lv/reports/ireland/PDF_Ireland%29Comhlamh_GardaHRreport.pdf)

In practical terms this means it calls for a National Action Plan Against Racism, across all state functions, institutions and policy areas, to be driven and monitored by a statutorily guaranteed and independent National Consultative Committee on Racism and Interculturalism (NCCRI). It calls for the introduction of hate crime legislation, accompanied by *comprehensive root-and-branch human rights and equality and diversity reform of all policing and criminal justice functions in Ireland*, with particular respect to being able to adequately respond to hate crime and the other needs of policing a multi-ethnic society.

It calls for comprehensive strategies for the inclusion of the most marginalised, including Travellers and Roma. ENAR Ireland, as the coordinating organisation on the national Steering Group on Hate Crime, which has been working with Oireachtas members from all political parties to garner support for a workable hate crime bill whose introduction we believe can help trigger a reform process within An Garda Síochána.

International recommendations support our view that the particular targeting of ethnic minorities for harassment and violence warrants targeted resources and training strategically aimed at reducing this form of crime. iReport.ie data shows that there are widespread failures in respect of standard policing practice in receiving and recording reports of crimes, providing information to victims and collecting evidence which undermine the effective policing of racist crimes, even without reference to the specific bias motive.

*Legislation such as there is:*

Efforts to invoke the Prohibition of Incitement to Hatred Act (1989) Act in cases of crime where racism was claimed as a motivating factor have been largely unsuccessful<sup>3</sup>. The Act was not designed to apply in such cases. Furthermore, the judiciary in the Republic of Ireland are not subject to sentencing guidelines imposing higher tariffs on racially-motivated assaults. Because courts do not take into account racism as a motivating factor there has been little impetus for Gardaí to do so either<sup>4</sup>. The Act remains significantly underused as a result. Nonetheless, the intention of the legislation was to prevent incitement in public places of the type we see increasingly present in Irish towns and cities and through the mainstream media, and which legitimises and protects perpetrators of harassment and violence in their communities. Its underused by An Garda Síochána speaks to a hesitation to address this type of crime, and warrants a query as to the expertise and confidence of Gardaí in policing in this area.

The absence of dedicated and effective hate crime legislation in Ireland for addressing crimes such as assault, arson, harassment, etc with respect to the bias motive has, to date, made it harder to hold police to account in this area. However, while dedicated hate crime legislation will be instrumental in driving change within the service, its absence and the absence of wider anti-racism policy does not remove the need or responsibility to make efforts to provide equality of policing to all communities. Indeed the State has argued in its various submissions to treaty monitoring and EU bodies that it is able to do precisely this.

Even in the absence of specific hate crime legislation, all crimes can and should nonetheless be reported to Gardaí, and investigated and prosecuted under existing criminal legislation. Under current law and practice, the bias motivation can be recorded and investigated by Gardaí, and forwarded to prosecutors. A judge may take evidence of racism into account in sentencing, but is not

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<sup>3</sup> Schweppe, J; Haynes, A; Carr, J: " A life free from fear: legislating for hate crime in Ireland: An NGO perspective", University of Limerick, 2014. Found at: <https://ulir.ul.ie/handle/10344/4485>

<sup>4</sup> FFanning, Bryan, Brian Kiloran and Saorlaith Ni Bhroin. 2011. *Taking Racism Seriously: Migrants' Experiences of Violence, Harassment and Anti-Social Behaviour*. Dublin: Immigrant Council of Ireland.

obliged to do so and there is no mandatory sentencing for the bias element. In 2002, An Garda Síochána adopted the MacPherson definition of a racist incident, which allows any person to define an incident as racist in reporting to police. However Gardaí did not start recording racist motivations on Pulse until December 2015, and still require independent evidence of the racist motivation, falling short of the MacPherson definition. Making best use of existing instruments, and addressing their shortcomings can help make An Garda Síochána hate crime ready pending the introduction of legislation.

### *Improvements in response to hate crime without an infrastructure:*

ENAR Ireland believes that significant transformative steps can be taken by An Garda Síochána to provide itself with the operational means and clarity to prosecute racist crimes and other hate crimes using existing legislation and resources. For example:

*Victoria, Australia, provides a case study of a jurisdiction where police have introduced a Prejudice Motivated Crime Strategy without an animating hate crime offence. Synthesising legal standards with community interests, a set of five markers are advanced for frontline officers to negotiate, rather than assume, a common understanding of hate crime and to build police/community trust. Mason<sup>5</sup> makes an important contribution to the field by demonstrating that it is possible to advance the implementation of hate crime policy through strategies that are responsive to both legal standards and community expectations.*

There are challenges in policing hate crime without specific legislation with deterrent effect, but the existing legislation can be used much more effectively to ensure that the criminal offences are investigated and prosecuted, and evidence of motivation recorded for the prosecution file.

### 3. Systematic Failures

In iReport.ie submissions over 3 years, we have identified patterns of systematic failure in An Garda Síochána in this area, which require strategic attention at senior level as well as training of front-line Gardaí. These include:

- Refusal to advise or act in cases of racist crime
- Failure to attend ongoing violent crimes
- Refusal to speak to perpetrators or relevant witnesses
- Hostile treatment of witnesses
- Failure to collect relevant evidence of crime and of bias element
- Failure to provide crime numbers to victims
- Diversion of victims and duplication of reporting
- Failure to provide information on status of case to victims, including to respond to direct and repeated queries from victims
- Failure to give crime prevention advice to victims
- Hostile interactions with ethnic minority public, including racial profiling, harassment and unwarranted searches
- Investigation of immigration status before investigation of racist crimes
- Lack of expertise in recording and investigating racist elements of crime
- Limited training and resourcing of Ethnic Liaison Officers
- Advice to victims which contradicts research on repeat harassment and endangers victims

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<sup>5</sup> Mason, Gail, Jude McCulloch & Jane Maree Maher (2016) 'Policing hate crime: markers for negotiating common ground in policy implementation', *Policing and Society*, Vol. 26, Issue 6, pp. 680-697

- Unclear policies for dealing with repeat harassment and escalation<sup>6</sup>

Our finding of consistent failure in this area, and its replication across the country, corroborates other findings that there is a cultural resistance to, as well as strategic problems in the policing of, racist crimes and provision of policing services to ethnic minority communities.<sup>7</sup>

#### 4. Culture of policing in respect of ethnic minorities

Police officers are susceptible to the same prejudices, assumptions and blind-spots as the wider society from which they are drawn. In the context of a culture, structure and ethos where human rights, equality and diversity do not enjoy widespread clarity and are not embedded across all areas of practice, minority ethnic communities, women and other 'minoritised' groups are especially susceptible to being 'othered', problematised and dehumanised through police practices, discourses and attitudes.<sup>8</sup>

Moreover, iReport data corroborates the findings of a number of reports which have indicated the existence of an endemic and highly problematical "canteen culture" within An Garda Síochána which is not just racist but also misogynistic. This reflects findings of other investigations into policing culture in Ireland.

Misogyny and abuse of immigration controls are highlighted, for example, in the transcript of a recording (published in the Irish Times) which emerged of a 2011 conversation between a Sergeant and 4 Guards during which they "joked" about two female environmental protesters they were detaining;

...

**Unidentified garda:** "Is she a Yank?"

**Garda B:** "It sounds like it, it sounds like it, the accent anyway"

**Unidentified garda:** "Sounds like a Yank or Canadian."

**Garda B:** "Well whoever, we'll get Immigration f\*\*king on her."

**Garda A:** "She refused to give her name and address and told she would be arrested."

**Garda B:** ".....and deported"

**Garda A:** "And raped."

**Garda B:** "I wouldn't go that far yet..... She was living down at that crusty camp, f\*\*k sake, you never know what you might get."

(Laughter)

**Garda A:** "Give me your name and address or I'll rape you."

(Laughter)

**Unidentified garda:** "Hold it there, give me your name and address there, I'll rape you."

(Laughter)

**Garda A:** "Or I'll definitely rape you."<sup>9</sup>

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<sup>6</sup> Michael, L. and O'Curry, S. iReport Reports of racism in Ireland, ENAR Ireland 2013-18. Found at <http://enarireland.org/ireport-quarterly/> see also appendix.

<sup>7</sup> Ionann Management Consultants, An Garda Síochána Human Rights Audit (2004) available at: [http://www.minelres.lv/reports/ireland/PDF\\_Ireland%29Comhlamh\\_GardaHRreport.pdf](http://www.minelres.lv/reports/ireland/PDF_Ireland%29Comhlamh_GardaHRreport.pdf)

<sup>8</sup> O'Brien Olinger, S. "Police, Race and Culture in the 'new Ireland', An Ethnography". Palgrave, 2016.

<sup>9</sup> <https://www.irishtimes.com/news/transcripts-of-recording-1.563295>

### *Victims of hate crime*

Under the Victims Directive, victims of racist and other hate crimes are entitled to the same rights as other victims during the process. This includes a crime number, communication with a Victim Support Officer and information about the outcome. All of these follow the initial case recording by Gardaí.

Our data points to significant inequalities in access to these rights for victims of racist crimes, and ethnic minority victims more widely.

### *Racist myths:*

There is also evidence that Gardaí are susceptible to pervasive racist myths, with very serious consequences. On October 21st, 2013 the HSE and Gardaí removed a seven-year-old blonde-haired Roma girl from her family in Tallaght, the suspicion being that she had been abducted by the family, who protested their innocence and pleaded not to have their child taken away. Gardaí were acting on a “tip-off” from a television presenter contacted by a neighbour of the family. The next day, Gardaí in Athlone removed a second blond-haired Roma child from his family, again against protestations. Both children were returned to their families, and subsequently a probe launched into HSE and Garda actions. Although the report of the probe found that the families had been targeted as a result of ethnic profiling, it said it could find “no evidence of institutional racism” influencing the Garda decision making process. This is contradicted by the MacPherson definition, and the fact that the abductions had taken place in the context of a Europe-wide media-fuelled moral panic about blonde children being taken by Roma, a moral panic strongly reminiscent of ancient racist myths about gypsies stealing white children.<sup>10</sup>

The embeddedness of racism in policing activities is borne out also by the experiences of Irish Travellers who have had their childrens’ (as young as 16 days old) details recorded on the PULSE system, and which have been the subject of legal action against An Garda Síochána in recent years.<sup>11</sup> The recording of childrens’ details speaks directly to a racist belief that Travellers are born and nurtured as criminals from an early age. In response to questions about these recording practices, the Minister for Justice told the Dail that An Garda Síochána does not engage in racial profiling, and yet there is repeated evidence that the effects of recording and investigation are racist in their outcome at least, and there are legitimate questions about whether they are also racist in their motivation, institutional and individual.

## **5. Promoting a culture of Human Rights, Diversity, Equality and Interculturalism:**

The above demonstrates briefly why the policing culture of An Garda Síochána is in urgent need of attention in respect of the promotion of human rights and equality. Further detail is provided throughout the later parts of the submission.

Human rights training is an essential part of a modern public service, but particularly urgently needed in the functions of policing.

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<sup>10</sup> <http://www.thejournal.ie/emily-logan-roma-report-1548641-Jul2014/>

<sup>11</sup> <http://www.paveepoint.ie/travellers-recorded-on-the-pulse-database/>



ENAR Ireland believes that a human rights and anti racist culture should be embedded as part of a National Action Plan against Racism. ENAR Ireland advocates the mainstreaming of human rights and anti racist practice in training, practice and appraisal throughout Irish state institutions, including the civil service and An Garda Síochána.

In its 3rd and 4th monitoring report, CERD, paragraph 24, recommends:

“That the State party strengthen its efforts to sensitize relevant civil servants on human rights issues particularly against racism and intolerance by ensuring that human rights training is mainstreamed in the civil service. In this regard, the Committee invites the State party to develop a coordinated work plan with the Irish Human Rights Commission (IHRC) that allows the IHRC to raise awareness and provide human rights training to all civil servants including the Garda Síochána (Police) and the judiciary.”<sup>12</sup>

In response to this, the State draws attention to the 2014 Irish Human Rights and Equality Commission Act (IHREC Act), and to S42 of the Act establishing a positive public duty on institutions with regards to Human Rights and Equality.<sup>13</sup>

ENAR Ireland stresses that while audits of An Garda Síochána and the civil service under S42 of the Act may provide opportunities to frame recommendations to introduce Human Rights measures including Human Rights training, S42 itself does not mandate mainstreaming of Human Rights practice in training, practice and appraisal.

ENAR Ireland urge the implementation of the recommendations of the Committee for the Elimination of Racial Discrimination (CERD), and the European Commission on Racism and Intolerance (ECRI), calling for the immediate prohibition of racial profiling in An Garda Síochána.<sup>14</sup> We also call for the systematic publication of data on stop and search, by ethnic background, grounds for search and outcome.

We call for the strengthening of the oversight functions, reach and investigative powers of the Policing Authority and of the investigative powers of GSOC.

We also call for the reestablishment of statutorily guaranteed Human Rights, Equality and Diversity infrastructure bodies such as National Consultative Committee on Racism and Interculturalism (NCCRI) to oversee and monitor the implementation and evaluation of change across state functions, including the criminal justice system. With regards policing we envisage that the NCCRI would do this by convening a High level Civil Society Group on Hate Crime and Policing minorities which can work in partnership with the Garda Commissioner to develop an Anti-Racism Policing Plan.

### 6. Understanding and addressing institutional racism.

Institutional Racism was defined in the UK context for policing by the MacPherson Inquiry, which importantly set out that open intention was not the sole criterion of institutional racism, which he defined as:

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<sup>12</sup> <http://enarireland.org/un-committee-issues-concluding-observations/>

<sup>13</sup> [http://www.justice.ie/en/JELR/UNCERDRL5\\_6\\_7PR\\_DRAFT\\_for\\_CONSULTATION\\_\(003\).pdf/Files/UNCERDRL5\\_6\\_7PR\\_DRAFT\\_for\\_CONSULTATION\\_\(003\).pdf](http://www.justice.ie/en/JELR/UNCERDRL5_6_7PR_DRAFT_for_CONSULTATION_(003).pdf/Files/UNCERDRL5_6_7PR_DRAFT_for_CONSULTATION_(003).pdf)

<sup>14</sup> <http://www.thejournal.ie/racism-intolerance-report-ireland-racial-profiling-800540-Feb2013/>



The collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people. (Macpherson, 1999, Para. 6.34<sup>15</sup>)

We are however aware of the range of differing interpretations of institutional racism across police forces in England and Wales at operational and managerial level, and note that Institutional racism cannot be judged solely on outcomes (e.g. stop and search or arrest data) because these are only indicative of processes and relationships based on racialised categorizations<sup>16</sup>. For that reason, in reviewing our data, we looked for ways in which disregard for the equal experiences and confidence of ethnic minorities in An Garda Síochána were manifested.

iReport.ie findings which confirm institutional racism in An Garda Síochána include:

- Refusal to collate and share data on racist hate crimes and other
- Marginalisation of expertise and resources for supporting good police service to ethnic minorities
- Including lacking capacity, structurally and in personnel terms, to collaborate adequately with experts in statutory and other agencies including the NGO sector
- Marginalisation of ethnic minority concerns, including the racial profiling of ethnic minority youth, the consequences of reporting hate crimes, the levels of fear of racist violence, and the regularity of victimisation of ethnic minorities.

These findings confirm the 2004 finding of Ionann Management Consultants that An Garda Síochána is Institutionally racist<sup>17</sup>.

Institutionalised racism places an additional burden on ethnic minority communities. Racism is systemic and continues unabated due to insufficient accountability. A culture of secrecy around this area is suggested by the refusal to put into the public domain details of the scope and extent of training provided to Gardaí around racism and hate crime, and the supports in place for officers for officers receiving reports of and investigating racist incidents (and the promotion of those supports across the force). There is also a refusal to release data (or clarify if this has been collated) on victim support provision, successful access to translation services for victims, and the training of officers on racist crimes.

## 7. Transparency and strategic review

- As part of the Diversity Plan, An Garda Síochána should develop clear Human Rights, Diversity, Equality and Hate Crime (HRDE&HC) policies that are understood and internalised by all officers and well publicised with the public to have operational and procedural clarity for dealing with racist crimes.
- The policies and procedures should be led through the institution by a dedicated HRDE&HC Assistant Commissioner via the Diversity Plan developed at the Highest Level in conjunction

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<sup>15</sup> Macpherson, W. 1999. The Stephen Lawrence Inquiry: Report of an Inquiry by Sir William Macpherson of Cluny, London: HMSO.

<sup>16</sup> Holdaway, S. and O'Neill, M. (2006). Institutional Racism after Macpherson: An Analysis of Police Views', Policing and Society, Vol. 16, Iss. 4, pp. 349-369.

<sup>17</sup> Ionann Management Consultants, An Garda Síochána Human Rights Audit (2004) available at: [http://www.minelres.lv/reports/ireland/PDF\\_Ireland%29Comhlamh\\_GardaHRreport.pdf](http://www.minelres.lv/reports/ireland/PDF_Ireland%29Comhlamh_GardaHRreport.pdf)

with civil society groups, overseen by Superintendents in conjunction with the dedicated Hate Crime Officers within the Garda National Protective Services Bureau and implemented by Diversity Experts in each Division and Diversity Officers in each District.

- Adherence to HRDE&HC policies should form part of the Service's performance assessment, and individual members of the Service's performance assessment.
- A racist incident strategy needs to be put in place at the top level and disseminated to all stations, with dedicated resources to address repeat harassment and prevent escalation, implemented by Diversity and Hate Crime experts at the Hate Crime division, in conjunction with Diversity Officers, and overseen by an especially appointed Assistant Commissioner for Human Rights, Diversity, Equality and Inclusion, as part of the Diversity Plan.
- As part of its Diversity Plan, An Garda Síochána must develop clear hate crime reporting standards in agreement with Civil Society and International organisations and communicate these publicly.

## 8. Data collection

Data collection on racist crimes by An Garda Síochána is an essential part of policing activity in this area. High quality hate crime data-collection mechanisms in the force are needed to:

- Understand the prevalence and nature of hate crimes;
- Improve responses in support of victims;
- Prevent hate crimes;
- Measure the effectiveness of initiatives to address hate crimes; and
- Communicate the criminal justice response to hate crimes to a wide range of stakeholders, such as victims, affected communities and the wider public.<sup>18</sup>

In addition the OSCE/ODIHR guidance on hate crime data collection notes that *"hate crimes affect individual victims, communities and wider society, who should have easy access to the data authorities have gathered and the steps they are taking to deal with the problems revealed by the data."*<sup>19</sup>

Statistical data should be collected and published on the number of incidents reported by the public and recorded by the police, the numbers investigated and the outcomes of those investigations. Data collected on hate crimes should be disaggregated according to bias motivations; and official data-collection mechanisms should be supplemented by crime-victimization surveys that include questions on hate crimes to shed light on the nature and extent of non-reported crimes.

Statistics on hate crime data are not shared regularly or consistently with the public or on the request of NGOs working in this area, and in 2017, AGS did not submit the numbers of racist crimes to ODIHR as per international standard practice. There are concerns about the reliability of the data released also, as in previous years the data published by the Office for the Promotion of Migrant Integration has been inconsistent with data submitted by AGS to ODIHR.

ODIHR recommends that criminal justice agencies *"use hate crime data to develop a co-ordinated strategy and promote action across a range of agencies to implement a comprehensive response to hate crimes from the national to the local levels."*<sup>20</sup>

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<sup>18</sup> OSCE/ODIHR (2014) *Hate Crime Data-Collection and Monitoring Mechanisms: A Practical Guide*. P.2.

<sup>19</sup> Ibid, P.2.

<sup>20</sup> Ibid.

## 9. Structural and strategic reform

### *Capacity*

The establishment of GRIDO originally signalled a commitment by AGS to address the needs and concerns of ethnic minority and migrant communities, particularly those newly arrived, and provided a high profile repository for expertise in area of police-community relations with newly arrived migrants, training and support for the first generation of Ethnic Liaison Officers, and prompt intervention in cases of police-community conflict. For example, GRIDO were actively involved in the responses to the racist murder of teenager Toyosi Shitabbey in 2010 and working to repair police-community relations throughout the investigation. GRIDO has participated in a wide range of international hate crime training projects.

Today however, GRIDO operates with limited resources and expertise, and is entirely inadequate to address either of its two primary activities; liaison with ethnic minority communities, and supporting the reporting of racist incidents. Although An Garda Síochána train officers to perform the specialised Ethnic Liaison Officer role and coordinate these through the Garda Racial, Intercultural & Diversity Office, the force is overly reliant on a small number of officers (with ELO as a part-time role) to ensure minimum standards in the reception and recording of racist incident reports.

Further, there are concerns amongst experts in this area about the cultural ethos of GRIDO. The model of community relations which GRIDO uses, observed by both authors in interactions with ethnic minority citizens, is essentialising and relies on a model of migrant-host relations which is outdated and ill-fitted to the growing maturity of Ireland's diversity.

### *Organisational structure:*

Today, serious questions arise as to whether GRIDO is the most effective way of coordinating Garda training on police relations with ethnic minorities, the investigation of hate crimes and community relations with ethnic minority communities. GRIDO's expertise is concentrated in a very small unit. This, coupled with the tendency always to redirect reports from ethnic minorities and others concerning racist incident to GRIDO, has the effect of relegating policing concerns relating to hate crime and minorities into a silo, away from mainstream policing. In addition to the insufficient CPD across the organisation in areas relating to Diversity and Hate Crime, the poor training, lack of standing and powers of GRIDO and the network of Diversity Liaison Officers (DLO) , makes for an ineffective substitute for a service-wide diversity function. Instead, GRIDO and the Network of DLOs act as a fig-leaf for An Garda Síochána's ineffectiveness in the area of community relations with minorities and hate crime prevention.

We call for the abolition of GRIDO and the network of Diversity Officers (DLOs), and an overhaul and mainstreaming of a training and awareness of Human Rights, Diversity, Equality and Hate Crime (HRDE&HC) throughout the service. This undertaking incorporates empowering leaders and enablers in a top-down and bottom-up fashion, the creation of valued, dedicated full-time and professionalised HRDE&HC Officers, Experts and Units. It also requires the incorporation of HRDE&HC into CPD and performance assessment standards.

### *Developing expertise*

It is essential that the force develop expertise appropriate to the policing of a highly diverse and integrated society, to update policies and procedures which have been primarily based on the

assumption of cohesive and homogenous ethnic minority communities. This is particularly important given the statistics on young Irish people born to one migrant and one non-migrant parent, and the marginalisation of those young people based on their skin colour rather than cultural origins. Expertise in these areas can be developed under the aegis of the **Diversity Plan** developed by a High Level Expert Group on Diversity which would include members of minority groups speaking from direct experience, jointly convened by a Deputy Commissioner for Policing a Diverse Society, and key Civil Society actors, such as a National Consultative Committee on Racism and Interculturalism (NCCRI) or similar body.

## Part 2: Areas for particular attention in the policing of ethnic minorities and hate crimes

In the following section we set out a range of issues identified in our analysis of the iReport.ie data over the last 4 years, and propose a series of additional strategic, structural and training responses to them.

### 10. Addressing incitement to hatred

Data from iReport.ie combined with statistics provided under an FOI request suggest continuing police inactivity in relation to distribution of literature inciting hatred (which may be prosecuted under the Incitement to Hatred Act which was designed specifically for such literature) and failure to undertake investigation of racist hate groups in the state (which the state declares possible under the Offences against the State Act 1939).

These two failures in the policing of hate allow a culture of impunity to grow, legitimising the criminal harassment of ethnic minorities in Ireland. The increased criminal activity in this area in recent years in Ireland, and the speed and strength of its growth across Europe which poses a significant challenge for other police forces, highlights that this is an area which warrants urgent attention with high quality intelligence and investigation. Training of Gardai to detect, investigate and prosecute these types of crimes are crucial to stemming the growth of hate groups in the state.

### 11. Encouraging and facilitating reporting

A common policing assumption is that people from minority communities are less likely to report crime because of their perceived negative experiences of police and other authorities in their country of origin.<sup>21</sup> This assumption is reflected strongly in the continued assertions between 2013 and 2018 by An Garda Síochána on their website and in repeated press statements and statements made to ethnic minority communities, in particular by the Garda Racial, Intercultural & Diversity Office (GRIDO).

The authors tested this assumption through an amendment of the iReport.ie system in 2014 to ask respondents the reasons for not reporting to Gardaí. Trust in Gardaí to act after previous incidents was the most mentioned reason for not reporting, followed by the time it requires to report an incident.<sup>22</sup>

- **Clear reporting procedures**

There must be clear, simple, well communicated and accessible procedures for reporting racist crimes, based on agreed definitions, developed in conjunction with civil society organisations and minority ethnic communities.

Barriers to reporting are still not taken sufficiently seriously by An Garda Síochána. It is not clear to the public how to report racist incidents, and insufficient information about the process, including diversion during reporting for unexplained reasons to other offices or Ethnic Liaison Officers deters even those who are initially motivated to report.

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<sup>21</sup> Recently reflected in the CJINI *Hate Crime Inspection Report 2017*.

<sup>22</sup> Michael and O'Curry 2013-18 *Ibid*.

- **Hostility in response to the reporting of racist incidents**

Garda responses both to victims of crime and witnesses described in iReport.ie highlight examples of hostility towards ethnic minorities during reporting. This includes refusing to hear the victims' accounts before speaking to perpetrators, the failure to properly record the facts of the case, and even examples of Garda aggression towards the person reporting the crime, and these are reflected in more serious psychological impacts of racist crimes.

- **Support for reporting**

Professionally trained and sworn Diversity officers are needed in each district, overseen by full-time, professionally trained and sworn Diversity Experts embedded within the Garda Protective Service Unit of each Division, under the Garda National Protective Services Bureau. These officers should have intensive Human Rights, Equality & Diversity and Hate Crime Training to the highest standards.

- **Third Party reporting**

One of the important improvements from MacPherson was the ability for people to report racist incidents 24 hours a day and not just at the police station. Online reporting for non-urgent crimes is an option which is used by other police forces, and which would allow for clear and consistent information to be provided to victims at the time of reporting, with written follow-up from An Garda Síochána

Collaboration with non-police organisations would further provide safe spaces to report and access support with Garda and criminal justice process of redress. There are models of good practice in this area evident across the UK and particularly in Northern Ireland. Translation and support services can be provided and evaluated consistently in this way.<sup>23</sup>

## 12. Recording and investigation

### *Adequate means to record racist crimes*

Civil society recording systems, including iReport.ie, highlight flaws in recording and investigation practices and poor communication with victims of racist crimes, and demonstrate that these impact negatively on whole communities, decreasing trust in police and future reporting prospects.

Tensions between the adopted MacPherson definition of a racist incident (which permits bias to be perceived by the victim or any other person), and the Crime Counting Rules (which require an officer to be satisfied him/herself of said bias) produce uncertainty amongst both officers and victims.

Data on racist and other hate crimes should be subject to regular review, to ensure that there is organisational capacity to properly record and investigate these and that this is reflected in increased prosecutions.

### *Supporting investigation*

Key to the successful investigation of racist crimes is a comprehensive understanding of hate crime and embedded strategic approach to recording and investigating hate crimes. This can be approached through a revised training approach to hate crime, strategic delivery of the Diversity Plan, and the development of expert personnel in this area.

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<sup>23</sup> <http://migrantcentreni.org/>

### 13. Training for front-line staff in investigating racist incidents

All staff should benefit from minimal Human Rights, Diversity, Equality and Hate Crime (HRDE&HC) training, including topics like victim support, bias indicators, cultural sensitivity and AGS procedures. Under PALF, the Performance and Learning Framework; all assessment and performance monitoring to include HRDE&HC evaluation, and enhanced HRDE&HC courses to be offered as part of Continual Professional Development (CPD).

In each District, specifically recruited and skilled personnel to be given enhanced Human Rights, Diversity and HC training, and sworn in as full-time Diversity Officers. Support and advice on cases to Diversity Officers to be given by specifically recruited sworn Diversity and Hate Crime Experts. Diversity Experts to be given premium training, including having embedded experience with minoritised communities as part of their training. Diversity and Hate Crime Experts should be part of a specifically constituted Hate Crime Division, under the Garda National Protective Services Bureau (GNPSB). Diversity Officers and Diversity and Hate Crime Experts to be the drivers of the bottom-up implementation of the Diversity Plan across the service.

Diversity Plan training should be delivered by a combination of experts from policing and civil society, including members of minoritised communities.

In particular the force must organise for the collection and dissemination of good practice on repeat harassment, from other forces, through OSCE/ODIHR programmes of support for criminal justice agencies, and internal to An Garda Síochána.

Recommendations of the recent CJINI inspection for improvement of the PSNI included the “use [of] hate crime specific scenarios when training officers on interviewing victims and witnesses to improve their understanding of the barriers faced and how these may be overcome in pursuit of achieving best evidence (paragraph 3.24).” We advocate the same for An Garda Síochána.

An Garda Síochána and the Office of the Director of Public Prosecutions should monitor hate crime file quality and work together to ensure that where evidence from victims and witnesses is available, it is collected and presented effectively.

### 14. Support for victims

iReport.ie data shows that in Ireland ethnic minorities are less likely to be identified as victims, and less likely to be directed to victim support services, and there are no state-supported specialist services for victims of racist incidents and no training on racist crimes and their impacts among contracted victim support agencies.

The Criminal Justice (Victims of Crime) Bill 2016 introduces rights for victims to receive comprehensive information on the criminal justice system and the range of services and entitlements available to victims. After reporting the victim will have the right to receive a written acknowledgement, and be provided with information concerning the progress of the investigation. Rights particularly relevant to ethnic minorities include the right to receive information in clear and concise language and to interpretation and translation, to be individually assessed for special measures against secondary and repeat victimisation, intimidation or retaliation, and to be facilitated to provide a victim impact statement.

The establishment of Garda Victim Services Offices in 2015 in 28 districts was designed to offer an improved and specialised service to victims. Despite the central investment in this services, there is



significant evidence that police fail to provide an adequate service to victims, and evidenced concerns that the rights provided for will not be adequately observed in the provision of policing in Ireland. The 2015 Public Attitudes Survey published by An Garda Síochána showed 41% of those surveyed were dissatisfied with Garda response, and only a third received a crime number or information about victim helplines or services. The Survey also recognised that Garda responses to repeat victimisation were poor, and victims frequently did not receive information on the progress of their case. These findings, from a general population, have been **reflected and magnified in the experiences of ethnic minorities reported by ENAR Ireland even since the establishment of Victim Services Offices** (Michael, 2016a, 2016b, 2017).

Despite the right of victims to information about the investigation of crimes reported to An Garda Síochána under the Victims Rights' Directive, there is continuing evidence of the absence of communication with victims. This has a continuing impact on the fear that victims feel. Victims Directive compliant procedures must be followed.

### 15. Risk assessments for repeat harassment and escalation

Good policing practice requires risk assessments for repeat harassment, and in the cases of repeat incidents, a harm reduction strategy to be drawn up for each case. While An Garda Síochána have introduced such assessments for domestic violence cases, there is no such policy for racist harassment. Cases of repeat harassment in this period demonstrate the vulnerability that targeted families and communities feel as a result. For example, a family suffering continued violence and threats against their children called local Gardaí, but were not given any support or information to address the ongoing harassment, and were told only to ring 999 in case of escalation.

Levels of trust in Gardaí to address racism are low, and the high number of reports which indicate that the incidents are part of an ongoing pattern of racism, particularly those which have escalated to violence over a period of time, demonstrate that Garda efforts to tackle racism before it escalates need to improve.

Even where cases are attended by Gardaí in accordance with good practice, there is evidence that the responses are inadequate to protect victims from ongoing abuse and violence. These cases demonstrate the need for a good practice handbook on addressing repeat harassment and regular review of these cases to identify risk of escalation to violence, and consistent responses where violence is already being perpetrated.

### 16. Communication of cases

Good practice in communication of cases is vital to establishing community confidence in police procedures. There is evidence of low levels of trust in Gardaí to attend all kinds of incidents in a timely manner, and to pursue an investigation. Concerns on the part of victims for follow-up suggest that Gardaí could increase levels of trust significantly by addressing the way in which communications with victims of racist incidents are organised.

Concerns on the part of victims for prompt communication appear to be driven by the desire for information about their ongoing safety rather than punitive interests, and therefore communication strategies which address safety concerns in a timely manner may gain some ground over an approach which emphasises the formal stages of investigation.

### 17. Increasing trust among ethnic minorities in the police service

Increased reporting of racist crimes does not automatically address the lower satisfaction rates of minority ethnic communities with the police<sup>24</sup>. As currently there is insufficient evidence of reflection in An Garda Síochána on community policing models and their impact on ethnic minorities, particularly in the absence of effective human rights and equality training and an ethos of equal policing for all, we advocate for the re-conceptualisation of community policing under the aegis of a Diversity Plan to address low trust with ethnic minority communities.

There is a role here for Joint Policing Committees with enhanced functions, permanently incorporating the voices of minority ethnic communities, in evaluating impact and effectiveness of policing strategies in communities.

#### *Hostility from the police towards ethnic minorities*

iReport.ie data shows that there has been evidence of explicit surveillance of ethnic minority people, and direct threats to them. This is particularly the case in rural towns rather than cities. A young woman who regularly wears clothes associated with a particular ethnic/religious group described the daily harassment she experiences from Gardaí in the local town. “I just moved out here and every time I go outside or walk down the street the cops follow me and or drive by me then do a U-turn right in front of me. They’re harassing me and not hiding the fact that they’re bothering me or watching me/harassing me.” This is not the first iReport case of young ethnic minority women being harassed in this way by Gardaí. In another case, Garda aggression towards a particular ethnic group was demonstrated by refusal of service. A Garda acted inappropriately towards the Traveller driver of a damaged car after a collision in pressuring them not to make a complaint, and warning them repeatedly not to claim damages for injury, before making racist statements against them. He accused the driver of being likely to sue because of their Traveller identity. The driver of the vehicle who had caused the damage was allowed to leave the scene without providing insurance details. Examples of police hostility towards ethnic minorities, and explicit surveillance of them based on racial profiling, are sufficient to decrease trust in Gardaí and drive down reporting rates when these groups are targeted for racist violence.

Recent public meetings in Balbriggan have highlighted the hostile treatment of young Afro-Irish people, who are searched on leaving their homes, warned not to be on the street, accused of involvement in disorder and crimes on a regular basis and treated with contempt by local Gardaí.

It is unsurprising that members of AGS view ethnic minorities as police property when hostile policing and racial profiling of Travellers continues at high levels. 70% of Travellers surveyed have experienced discrimination from the Gardaí<sup>25</sup>. Reports from Travellers to iReport.ie include accounts of Workshops with Travellers by ENAR Ireland have uncovered a high level of unreported incidents, and fears of reports to NGOs prompting retaliation by Gardaí against individuals and the wider Traveller community.

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<sup>24</sup> Pilkington, A. (2001) ‘Macpherson and After: Policing Racist Incidents’, *Modern Criminal Investigation, Organised Crime and Human Rights*, 27 (2): 3-7.

<sup>25</sup> National Traveller Community Survey 2017, Behaviours and Attitudes on behalf of Traveller Representative Organisations. <http://www.communityfoundation.ie/insights/news/national-traveller-survey-funded-by-the-community-foundation-for-ireland>

## 18. Partnership working

A holistic approach to hate crime that seeks to involve all the key agencies, and to combine a focus on offenders, victims and communities, is an important strategic priority. Barriers to this include organisational culture and lack of existing collaborative working practices across agencies.

ODIHR recommends particularly that states “develop multi-agency frameworks that pull together data collected to identify problems or sticking points, and to measure progress in policy implementation in such areas as hate crime laws, police training and community outreach”<sup>26</sup>.

In 2009, the closure of NCCRI removed an important racist incident reporting system which offered data to facilitate review of statutory response systems within police and other state agencies and highlighted key areas for attention. This was replaced by a collaboration of civil society organisations under the umbrella organisation ENAR Ireland with an online reporting system for racist incidents and discrimination, iReport.ie. In the absence of the NCCRI, this has been the only consistently analysed and shared set of data reported by the public on racism. ENAR Ireland and its constituent NGOs have demonstrated repeatedly willingness to engage with An Garda Síochána to inform and support development in tackling racism. No consistent or strategic approach has been developed by An Garda Síochána to consult with or make use of the expertise and data available from the civil society sector.

**Partnership working with civil society organisations is key to developing high quality well informed policies and intelligence.** These partnerships can be used to build beyond the Joint Policing Committees which liaise with Chief Superintendents at each division up to a national level civic engagement structure to liaise with Commissioners to develop, implement and monitor a **Diversity Plan**, comprising a hate crime and diversity community engagement strategies.

## 19. Conclusion

Policing culture in Ireland is such that there is an urgent need to reconcile the perceived tension between the effective policing of crime and community policing on the one hand, and adherence to human rights obligations on the other. Obligations under the International Bill of Rights, the ECHR, and European Law such as the Framework Decision on Racism and Xenophobia, the Victims Directive etc. are traditionally seen as inhibitory to “real” policing, or at best as providing a vocabulary for presenting reports. However as Conway argues, human rights “must be normatively embedded” as a central pillar in policing.<sup>27</sup> The lesson from post-Patten policing in Northern Ireland is that human-rights based policing is the most effective form of policing.

A community-derived Diversity Plan within this that, *inter alia*, adopts a holistic and mainstreaming approach to hate crime that seeks to involve all the key agencies, and to combine a focus on offenders, victims and communities, becomes an important strategic priority in re-establishing police legitimacy.

It must also be recognised that a human rights based approach to policing minority communities requires the establishment, as per best international practice, of a firewall between crime investigation and community policing on the one hand, and the immigration and deportation functions of the Garda National Immigration Bureau on the other. Minority communities must not

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<sup>26</sup> OSCE/ODIHR (2014) *Hate Crime Data-Collection and Monitoring Mechanisms: A Practical Guide*. P.2.

<sup>27</sup> Conway, V. (2016) “Human Rights and Policing in Ireland” in Egan, S. (ed) “*International Human Rights, perspectives from Ireland*”, Bloomsbury, London.

fear or be susceptible to threats regarding GNIB or deportation if there is to be effective community policing.

#### *Constitution of the police force*

A key to changing the culture and functioning of An Garda Síochána lies in the composition of the force in terms of its diversity. A police force which resembles the communities it serves is more likely to have their confidence. A police service with a diverse membership whose traditions and identities are valued and respected is more likely to be able to transform a “canteen culture” and to value and respect the diverse traditions and identities of the communities it serves. A Diversity Plan must also cover positive actions to increase and value the diversity of the membership of the service, in tandem with policies to develop the ethos and structure as well as internal and external policies.

#### *Recruiting ethnic minorities*

The 1999 Patten Commission recommendation of 15% staff from underrepresented groups to be recruited into the PSNI was adopted on the advice of the Equal Opportunities Commission, and strategically aimed at ensuring that minorities have an opportunity to influence the culture of the organisation. We advocate for positive action in recruitment to build a representative+ force/service, as per Patten recommendations, and at the same time deepen the pool of recruitment candidates to ensure that recruits are those with the sensitivity, emotional intelligence and capacity to police minority communities. Reform should remove barriers to allow greater pool of minorities to join – eg Irish language and educational standards barriers (the latter through implementation of other testing mechanisms). Recruits should be professionalised through training, and sensitised to a human rights culture therein.

## 20. Key sources and appendices

Michael, L. and O'Curry, S. (2013-18) iReport Reports of racism in Ireland, ENAR Ireland. URL: <http://enarireland.org/ireport-quarterly/> [Excerpts provided in appendix 2]

College of Policing (2014) Hate Crime Operational Guidance. URL: <http://library.college.police.uk/docs/college-of-policing/Hate-Crime-Operational-Guidance.pdf>

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Ionann Management Consultants, An Garda Síochána Human Rights Audit (2004) available at: [http://www.minelres.lv/reports/ireland/PDF\\_Ireland%29Comhlamh\\_GardaHRreport.pdf](http://www.minelres.lv/reports/ireland/PDF_Ireland%29Comhlamh_GardaHRreport.pdf)

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O'Brien Olinger, S. "Police, Race and Culture in the 'new Ireland', An Ethnography". Palgrave, 2016.

OSCE (2017) *Manual on hate crime training for law enforcement*. URL: <https://polis.osce.org/node/9751>

OSCE/ODIHR (2014) *Hate Crime Data-Collection and Monitoring Mechanisms: A Practical Guide*.

## Appendix 1: FOI: Sentencing under Incitement to Hatred Act 1989

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		offences before the District Courts for offences under the Prohibition of Incitement to Hatred Act 1989 recorded on the Courts Service Criminal Case Tracking System(CCTS)															
		report is based on the prosecuting Gardai using the official offence codes for the Prohibition of Incitement to Hatred Act 1989. Gardai does not use the official offence codes and enters the offence under free text, it will not be included in this.															
		is from 2000 – To Date. The CCTS has no records for prosecutions relating to Prohibition to Incitement to 2000 offence codes.															
		fence received more than one result it will appear twice on the report. e.g. Peace Bond + Imprisonment															
		was only 2 imprisonments and the sentence imposed on those offences was in 2012 (1 month imprisonment) & in 2013 (1 month imprisonment)															

	2000	2002	2004	2005	2006	2007	2008	2009	2011	2012	2013	2014	2015	2016
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## Appendix 2: Excerpts from iReport.ie analysis

On the basis of January-March 2014 data, we noted<sup>28</sup>:

**Racism Report shows urgent need for Garda Reform**

**Confidence in Garda still a problem as negative experiences outnumber positive ones 2-1**

<sup>28</sup> Michael, L. and O'Curry, S. (2013) Reports of racism in Ireland 3rd quarterly report of iReport.ie January-February-March 2014. Dublin: ENAR Ireland. URL: [http://enarireland.org/wp-content/uploads/2014/07/iReport3\\_Final\\_150dpi.pdf](http://enarireland.org/wp-content/uploads/2014/07/iReport3_Final_150dpi.pdf)

A new report has revealed that twice as many people reporting racism to An Garda Síochána receive a negative response as do a positive response. These vary from the misidentification of racist incidents, to Garda actively refusing to take statements from victims of racism. These experiences also reflect the much lower levels of racism recorded by An Garda Síochána than what is being reported via ENAR Ireland's iReport system

“An Garda Síochána need to dramatically change how it deals with racism in our society. Given our previous reports have shown a low level of confidence in reporting to the Garda, it is essential that when reporting does happen it is dealt with sensitively and effectively. That we are seeing so many cases of people's interaction with Gardai falling at the first hurdle is a striking indicator of a systemic problem.”

The data shows a significant rise in reported assaults on the previous quarter, with young Black African men being most at risk of physical racist attacks.

“This needs to be urgently addressed as part of the process of ‘enhanced cooperation’ between the Department of Justice and An Garda Síochána, with proper training and resources. Experience shows that a police service that is unable to deal with racism in society ultimately will not reflect the diversity of, or have the confidence of, the population it exists to serve. ENAR renews its call for recruitment quotas to ensure as the first step in reforming a police service that that fit for purpose in today's multi cultural context.”

ENAR recognises that the government is primarily responsible for the legislative and policy framework within which the force operate. The absence of a National Action Plan since 2008 and the failure of existing legislation to provide clear and comprehensive guidelines to An Garda Síochána is the primary barrier to effectively and positively challenging racism in Ireland today.

On the basis of the January-June 2015 data, we noted<sup>29</sup>:

Levels of formal reporting via other recording systems represented 14 percent reported to Gardaí and 16 percent reported to other authorities or NGOs. The level of satisfaction with responses was low overall, with a high level of confusion amongst victims about the support available from Gardaí and the possibility for legal action in cases of assault and damage. A number of cases misrecognised assault and these were identified in the analysis. This may point to a need for clear information to be given to victims about the procedures involved in investigating racist incidents and the capacity of the Gardaí to receive information and provide feedback. (Page 9)

Of the 182 reported cases, 55 (30 percent) were known to have been reported to the Gardaí or another authority or NGO as well as to the iReport.ie website. Twenty five cases (14%) were reported to Gardaí. Of those that reported to Gardaí, 10 reported that they were still waiting on information, 5 were explicitly negative about the Garda response, and 5 reported a positive experience. Five were neither explicitly positive or negative, but reported some response on the part of Gardaí. All of the 16 assault cases were reported to Gardaí. (Page 12)

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<sup>29</sup> <http://enarireland.org/enar-ireland-january-june-2015-ireport-of-racism-in-ireland/>



On the basis of the July-December 2015 data, we noted<sup>30</sup>:

This period highlighted some notable aspects of the data. More discrimination was evident in the course of statutory business by public servants, and in public buildings. Businesses were revealed to be explicitly exercising policies which excluded specific ethnic groups, and asking their staff to enforce these. And, in keeping with the belief in impunity suggested by the above, racist harassment and incitement to hatred are being perpetrated quite openly on social media and in the mainstream media by people easily identified as public servants or businesses, and who appear to believe there are no consequences to racist behaviour in these forums. Together, these flag a serious need for strong political leadership against racism and effective mechanisms to prevent cultures of impunity emerging.

There is evidence of low levels of trust in Gardai to attend all kinds of incidents in a timely manner, and to pursue an investigation. Concerns on the part of victims for follow-up suggest that Gardai could increase levels of trust significantly by addressing the way in which communications with victims of racist incidents are organised. Concerns on the part of victims for prompt communication appear to be driven by the desire for information about their ongoing safety rather than punitive interests, and therefore communication strategies which address safety concerns in a timely manner may gain some ground over an approach which emphasises the formal stages of investigation.

**The reports showed the highest rate of assault for a six-month period since iReport.ie began in 2013.** It is concerning that less than half of incidents we categorised as crimes were reported to Gardai, and even more concerning that threat, assault without injury, harassment and sexual harassment were considered by victims to be “too common” to report. Urgent action needs to be taken to communicate that racist incidents are taken seriously by An Garda Síochána, and that officers are equipped to deal appropriately with crimes with a racist motive.

The impact of events can be ameliorated or exaggerated by the actions taken by bystanders during or after an incident. Feelings of general unsafety and vulnerability in public are directly connected to the silence of bystanders in the cases submitted to iReport.ie. The impact of verbal abuse, for example, can be severe when it appears to be condoned by a large group of people (e.g. on public transport), or by a person in authority, who do not attempt to intervene or support the targeted person(s) in any way. Evidence gathering of the kind demonstrated by this report is however supported greatly by the information provided by witnesses and secondary witnesses, whether strangers, family, friends or acquaintances. In the absence of effective statutory mechanisms for recording racist crimes and non-crime incidents, in the context of current low trust in current mechanisms, and the burden which reporting places on victims of racism, bystanders are encouraged to document racism in order to help identify it, understand it and advocate for effective responses to it.

At the end of 2016, we noted<sup>31</sup>:

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<sup>30</sup> July-December 2015.

<sup>31</sup> Michael, L. and O’Curry, S. (2016) Reports of racism in Ireland 11<sup>th</sup> and 12th quarterly report of iReport.ie January – June 2016. Dublin: ENAR Ireland. URL:

The increased number of reports submitted to [iReport.ie](#) in this period, and over the 3 years since iReport.ie was established clearly reflects the frustration felt by both people targeted by racism and those who witness it with the existing official systems for recording racist incidents of violence, abuse and discrimination. In particular across the period there has been an increase in the number of reported assaults, with a greater number of reports indicating that Gardai responses to violence and abuse is inefficient and ineffective. Levels of trust in Gardai to address racism are low, and the high number of reports which indicate that the incidents are part of an ongoing pattern of racism, particularly those which have escalated to violence over a period of time, demonstrate that Garda efforts to tackle racism before it escalates need to improve. Research on hate crimes clearly shows that low-level abuse which is not adequately addressed can increase in quantity and severity very quickly, and this is clearly reflected in the evidence here. The data in this period shows, as in [previous periods](#), that incidents of abuse and violence are often linked to discrimination in access and provision of goods and services, including in housing, education, employment and access to shops, restaurants and public places. Racist behaviour is exhibited, in this data, by professionals, bus drivers, shopkeepers and neighbours, and most worryingly, state officials. Racist violence and abuse is experienced in schools, workplaces, community centres, and homes as well as in streets and on public transport. Reports of racist incidents are ignored, disregarded and compounded by teachers, housing officers, county councils, elected representatives, as well as by Gardai.

The patterns of exclusion evident here, in the extent of institutions which reinforce racist hierarchies and which permit explicit racist behaviours, will produce long-lasting effects on both individuals and communities. This is already evident in the experience of Travellers, and the small number of cases reported in this period by Travellers demonstrates the impact of generations of discrimination and exclusion against an ethnic group. Low levels of trust in police and officials have been produced by decades of racism by officials in decision-making and in the construction of policies which reinforce exclusion, and exclusion by wider Irish society with widespread stereotyping and the disappearance of empathy with members of the community[...]

Gardai are poorly supported to address racism with the existing legislation, unable to adequately support victims of violence and abuse, and unable to confront racism within the force. Individuals within state institutions who observe racist discrimination by their colleagues, and document the effects on the targeted people, have few options to confront and prevent repeat incidents of discrimination. Ethnic minorities targeted by racist violence are as likely to confront discrimination when they report incidents and to experience further ill effects as a result either through harassment by officials, whether in state agencies or schools, or by exclusion from access to required services.

In early 2017, we noted<sup>32</sup>:

The increased number of reports submitted to iReport.ie in this period, and over the [3 years since iReport.ie was established](#) clearly reflects the frustration felt by both people targeted by racism and those who witness it with the existing official systems for recording racist incidents of violence, abuse and discrimination. There is growing evidence of a consistent pattern of willful miscommunication and refusal to record incidents by An Garda Síochána.

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<sup>32</sup> Reports of Racism: July-December 2016. Dublin: ENAR Ireland. URL: <http://enarireland.org/enar-irelands-july-december-2016-i-report-ie-reports-of-racism-in-ireland-published/>

Levels of trust in Gardai to address racism continue to be extremely low, and the high number of reports which indicate that the incidents are part of an ongoing pattern of racism, particularly those which have escalated to violence over a period of time, demonstrate that Garda efforts to tackle racism before it escalates need to improve. More than forty percent of all incidents reported were part of a pattern of repeated harassment.

The impact of racism is evident both in the descriptions of the incidents reported, and in the specific answers given to this question. Significant levels of fear have led to mental health problems, ongoing anxiety, depression, avoidance of public places and normal life, as well as loss of confidence and work and study opportunities. These are grounded in the real, frequent and direct experiences of those targeted. There is no doubt that world events have raised anxieties about victimisation, but the reports here demonstrate that those targeted by racism undertaken extraordinary work in managing their emotional and physical responses to victimisation in order to carry on with everyday life. The extent of the injuries, physical and emotional, which they experience, and the frequency with which they experience them, are challenging in the extreme, leaving those targeted feeling entirely exposed and unsafe.

The data presented in this period highlights the very real need for effective statutory responses to racist hate incidents, support for victims, and preventative measures in the cases of repeat harassment which make up such a large part of the reports. Action is needed to address the failings in the current criminal law, in the training, supervision and accountability of members of An Garda Síochána in dealing with racism, and in the provision of statutory support for victims. Discrimination in employment, housing and service provision, and particularly in public services, must be addressed through effective publication of information about support and resolution measures, lost through the recent changes described earlier, and through training and supervision of staff in public services to prevent discriminatory treatment and abuse.

On the basis of January-June 2017 data, Michael (2018) notes:

Only thirty percent of those reporting crimes to iReport.ie also reported them to An Garda Síochána. More than two-thirds chose not to report to Gardaí, preferring to report elsewhere. Of the 18 incidents of violence reported by those targeted, only 11 reported their experience to An Garda Síochána. Trust in Gardaí to act after previous incidents was the most mentioned reason for not reporting, followed by the time it requires to report an incident. Thirty-three percent reported crimes to other organisations instead.

In the most recent report, Michael set out in detail the aspects of policing which were problematic (pages 13-16).

#### Reporting Experiences

Experiences of reporting to Gardaí were mixed. There were cases of good practice as well as cases reflecting continued failure to address this area adequately. One Dublin division demonstrated repeated good practice in responding to calls for immediate assistance, although there are still areas for improvement in preventing the escalation of incidents. Barriers to reporting are still not taken sufficiently seriously by An Garda Síochána. It is not clear to the public how to report racist incidents, and insufficient information about the process, including diversion during reporting for unexplained reasons to other offices or Ethnic Liaison Officers deters even those who are initially motivated to report.

*"I found a number for the Garda Racial and Intercultural Unit. I rang and left a message and was called back first thing the following Monday. He checked on the system and no-one had reported the incident and informed me that to have the incident reported, I had to go to Kevin Street. At this stage I had spent at least 15 minutes on the phone to him telling him what had happened - I thought I was reporting the incident - but apparently not. At that point I decided not to go to Kevin Street and report it. My observation is that it is not made easy to report racist incidents."*

#### Hostile treatment

Descriptions of Garda responses both to victims of crime and witnesses highlight examples of hostility towards ethnic minorities. As in previous periods, this includes refusing to hear the victims' accounts before speaking to perpetrators. The failure to properly record the facts of the case, and even examples of Garda aggression towards the person reporting the crime, are reflected in more serious psychological impacts of racist crimes.

A taxi driver who was racially abused by passengers refusing to pay their fare flagged down passing Gardaí for help. His case was reported by an organisation helping to support him afterwards as he coped with the impact of the Garda response.

*"When he [the taxi driver] tried to explain what was happening, they ignored him and started talking to the passenger. When he tried to explain again the guard walked towards him fast and aggressively with his fist balled up and said, 'I told you to Shut your mouth'. In the end the guards let the passengers go. The Guards simply said we will investigate it and get back to you."*

This example demonstrates vividly one of the reasons why ethnic minorities often choose not to report to Gardaí. Hostile responses like this are unpredictable, and further terrorise the victim at the point where they most need help and support.

#### Failure to respond promptly

While failure to respond promptly was a repeated theme in reports, in two cases, victims described how the failures of Gardaí to act promptly was severely detrimental to their wellbeing. One call to Gardaí about a violent threat on a lone woman in her neighbourhood received no response at all.

Hostile responses like this are unpredictable, and further terrorise the victim at the point where they most need help and support .

*"While walking near my home a man with a baseball bat yelled [racist term] at me. I asked my husband to come meet me after it happened because I was scared. I called the Garda 20 minutes later, mainly because of the bat and the close proximity to my home. The police said they would come and check it out but they never came."*

In another case, a violent mugging by strangers on a lone man was also ignored by Gardaí, who took a report, but failed to act or communicate with the victim.

*"I was approached by 3 men who told me to hand over my wallet and 'f\*ck off home you [racist term]'. I reported this to the police who took no immediate action. The incident has caused me to suffer from insomnia and clinical depression which I am receiving treatment for."*

In both cases, the failures of Gardai increased the impact of the original crime, because they reinforced the vulnerability of the victims to future attacks and the lack of access to justice and support for victims.

#### Failure to properly address repeat harassment and escalation

Good policing practice requires risk assessments for repeat harassment, and in the cases of repeat incidents, a harm reduction strategy to be drawn up for each case. While An Garda Síochána have introduced such assessments for domestic violence cases, there is no such policy for racist harassment. Cases of repeat harassment in this period demonstrate the vulnerability that targeted families and communities feel as a result.

A family suffering violence and threats against their children called local Gardai, but were not given any support or information to address the ongoing harassment. *"I did ring the Garda and reported the incident and I was told to ring 999 if things escalate....To be honest with you, my kids live in fear and we are sick from the continuous abuse."*

A woman threatened and racially abused by a group in her neighbourhood called Gardai on her return home and reported the incident by phone. *"I am completely petrified, horrified and scared that they will decide to actually hit me with the same or other improvised weapons. .... I do not know how to defend myself, my family or anyone else against a threat like this and I am certain that this group of people will strike sooner or later."*

Even where cases are attended by Gardai in accordance with good practice, there is evidence that the responses are inadequate to protect victims from ongoing abuse and violence. A Garda station in Dublin sent one Garda to an apartment building where a family were being threatened, racially abused, and their door damaged by an abusive neighbour. The incident had gone on from 9pm until 3am, when the Gardai attended and attempted "to calm things down". The Gardai spoke with the perpetrator but took no further action. After the Garda left, the neighbour continued the abuse, causing injury to one of the family, and continuing racist verbal abuse and criminal damage through the rest of the night. The targeted family were afraid of what would happen next. *"We are not able to go work, our children are terrorized, my 2 years old son is crying all the time and got sick. I am living in fear, afraid of going out with my children, dropping them to school because of the threats against them."*

#### Failure to provide information to victims

Despite the right of victims to information about the investigation of crimes reported to An Garda Síochána under the Victims Rights' Directive, there is continuing evidence of the absence of communication with victims. This has a continuing impact on the fear that victims feel. One woman reported how a violent racist attack on her near home made her fearful of being outside the house. The difficulty of explaining the incident to Gardai while she was still in shock and the lack of communication afterwards from Gardai made her feel very vulnerable. *"I was walking home, and a man started yelling at me from across the road, tons of racist abuse as well as sexual comments about what he was going to do to a "filthy [racist term] like me polluting his air." He crossed the road over to me and got in my face. He swung at me and I ducked and he fell over. When I got in I was very upset and I rang my friend and she persuaded me to call the guards which I did. They came around and took a statement but nothing happened. I was very shaken afterwards as it was daytime and so close to my house. I stopped going to the shops near me and now do my shopping in the city*

*centre instead. It left me feeling very vulnerable and unwanted and a bit dirty. The stuff he said was really vile."*

### Bias in policing

In previous iReports, there has been evidence of explicit surveillance of ethnic minority people, and direct threats to them. This is particular- iReport | QR 15 & 16 Jan-Jun 2017 15 ly the case in rural towns rather than cities. A young woman who regularly wears clothes associated with a particular ethnic/religious group described the daily harassment she experiences from Gardaí in the local town. "I just moved out here and every time I go outside or walk down the street the cops follow me and or drive by me then do a U-turn right in front of me. They're harassing me and not hiding the fact that they're bothering me or watching me/harassing me." This is not the first iReport case of young ethnic minority women being harassed in this way by Gardaí. In another case, Garda aggression towards a particular ethnic group was demonstrated by refusal of service. A Garda acted inappropriately towards the ethnic minority driver of a damaged car after a collision in pressuring them not to make a complaint, and warning them repeatedly not to claim damages for injury, before making racist statements against them. He accused the driver of being likely to sue because of their ethnic identity. The driver of the vehicle who had caused the damage was allowed to leave the scene without providing insurance details. Examples of police hostility towards ethnic minorities, and explicit surveillance of them based on racial profiling, are sufficient to decrease trust in Gardaí and drive down reporting rates when these groups are targeted for racist violence.

Comments received by the authors from members of the public, NGOs working in the area and community groups highlighted a lack of knowledge about the procedures and policies used by An Garda Síochána in this area. In the most recent report, Michael set out a brief picture of the issues at play, and reviewed data from 2013 to 2017 to identify the key areas of neglect and rights abuses which have been reported consistently to iReport.ie racist incident reporting system.

### Recording racist crimes in Ireland

Although there is no specific hate crime legislation, all crimes should nonetheless be reported to Gardaí, investigated and can be prosecuted under existing criminal legislation. Under current law and practice, the bias motivation should be recorded and investigated by Gardaí, and forwarded to prosecutors. A judge may take evidence of racism into account in sentencing, but is not obliged to do so and there is no mandatory sentencing for the bias element. In 2002, An Garda Síochána adopted the MacPherson definition of a racist incident, which allows any person to define an incident as racist in reporting to police. However Gardaí did not start recording racist motivations on Pulse until December 2015, and still require independent evidence of the racist motivation, falling short of the MacPherson definition.

Victims of racist crimes are entitled to the same rights as other victims during the process. This includes a crime number, communication with a Victim Support Officer and information about the outcome. All of these follow the initial case recording by Gardaí.

In iReport submissions over 3 years, we have identified patterns of systematic failure in An Garda Síochána in this area, which require strategic attention at senior level as well as training of front-line Gardaí. These include:

- Refusal to advise or act in cases of racist crime

- Failure to attend ongoing violent crimes
- Refusal to speak to perpetrators or relevant witnesses
- Hostile treatment of witnesses
- Failure to collect relevant evidence of crime and of bias element
- Failure to provide crime numbers to victims
- Diversion of victims and duplication of reporting
- Failure to provide information on status of case to victims, including to respond to direct and repeated queries from victims
- Failure to give crime prevention advice to victims
- Hostile interactions with ethnic minority public, including racial profiling, harassment and unwarranted searches
- Investigation of immigration status before investigation of racist crimes
- Lack of expertise in recording and investigating racist elements of crime
- Limited training and resourcing of Ethnic Liaison Officers
- Advice to victims which contradicts research on repeat harassment and endangers victims
- Unclear policies for dealing with repeat harassment and escalation

In his director's foreword to the same report, O'Curry (2018) adds:

Garda data on hate crime remains appallingly poor. And while the An Garda Síochána still blames people for not reporting, our data clearly shows that what is at fault it is the force's ability to respond appropriately.

[Appendix 3: Experiences of Racism in the Taxi Industry in Donegal \(PDF attached\)](#)