

# POLICING AND RACIAL DISCRIMINATION IN IRELAND

**A Community and Rights Perspective**



Irish Council for  
**Civil Liberties**

**FOR ALL OUR RIGHTS. NO EXCEPTIONS.**



IRISH NETWORK AGAINST RACISM



This report was drafted by independent consultants, Diversity Matters, with assistance from staff at the Irish Council for Civil Liberties (ICCL) and the Irish Network Against Racism (INAR). Our thanks to the team members at Diversity Matters: Dr Maria Manuela de Almeida Silva, Megan Flynn Dixon, Jipe Kelly and Joseph Nyirenda.



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# FOREWORD

This report is the output from a study into the under-researched area of policing and racialised communities in Ireland. The study was commissioned by the Irish Council for Civil Liberties (ICCL) and the Irish Network Against Racism (INAR) with a small grant received from the Irish Human Rights and Equality Commission (IHREC). The study was conducted on behalf of ICCL and INAR by an independent consultancy called Diversity Matters. Their small and versatile team includes researchers with lived experience and qualifications pertinent to the subject area.

In 2022, Diversity Matters conducted this limited qualitative study based on a small sample of targeted participants. Within the limited resources and parameters available, the researchers produced this report, the findings of which align with the limited existing research in the area (much of it cited in this report). For ICCL and INAR, this underscores the need for more in-depth and detailed research from State and non-State bodies into the experiences of minoritised communities with the criminal justice system generally, and for racial profiling specifically. One key prerequisite for such research is the systematic gathering of disaggregated ethnic data across all interactions between minoritised communities and the criminal justice system. Further actions required include implementing related recommendations of the National Action Plan Against Racism, in particular the key recommendation to take the necessary measures to eliminate the practice of racial profiling itself.

## ICCL's Work on Policing

ICCL has long campaigned for police reform in Ireland, including the establishment of the Policing Authority, the Garda Síochána Ombudsman Commission (GSOC) and the Garda Síochána Inspectorate. ICCL was originally established in 1976, in part, as a response to the mistreatment of suspects, police brutality and the use of extensive emergency powers legislation. In 2018, ICCL funded research on a human rights-based approach to policing and made a submission to the Commission on the Future of Policing. Today, ICCL continues to advocate for Garda reform and a human rights-based approach to policing and to monitor the implementation of the recommendations from the Commission on the Future of Policing.

## INAR's Work on Policing

In Ireland as elsewhere, policing is at the heart of the relationship between minoritised groups and the State and wider society. As the principal civil society organisation concerned with the experiences of racialised minorities in Irish society, INAR puts particular focus on the systemic and institutional drivers of racism and racial discrimination. Our consultations and data analysis going back to 2013 repeatedly throw An Garda Síochána and the wider criminal justice system into sharp focus. As a network organisation representing over 180 groups in Ireland, INAR has through its annual data reports uncovered the principal trends in the racialised interactions between Gardaí and minorities. Our expertise has seen us convene key State and non-State actors through our Connecting on Hate Crime Data in Ireland project. INAR has made submissions on policing and minorities to the Commission on the Future of Policing in Ireland, the Joint Oireachtas Justice Committee, the National Action Plan Against Racism, the European Commission, the European Commission Against Racism and Intolerance, the UN Committee on the Elimination of Racial Discrimination, the Universal Periodic Review, and the Office for Democratic Institutions and Human Rights at the Organisation for Security and Cooperation in Europe.

# LIST OF ACRONYMS

**AGS**

An Garda Síochána

**BLM**

Black Lives Matter

**CERD**

International Convention on the Elimination of All Forms of Racial Discrimination

**EU**

European Union

**ECRI**

European Commission against Racism and Intolerance

**GSOC**

Garda Síochána Ombudsman Commission

**ICCL**

Irish Council for Civil Liberties

**IHREC**

Irish Human Rights and Equality Commission

**INAR**

Irish Network Against Racism

**NAPAR**

National Action Plan Against Racism

**UN**

United Nations

# EXECUTIVE SUMMARY

## Project Overview

This report is the final product of the project ‘Strengthening awareness, evidence and advocacy on racial profiling’, funded by the Irish Human Rights and Equality Commission (IHREC) and conducted by the Irish Council for Civil Liberties (ICCL) in partnership with the Irish Network Against Racism (INAR). It was drafted by the independent consultancy Diversity Matters and edited by staff at ICCL and INAR. Its aim is to add to the evidence base regarding the experiences of racial profiling and other interactions with police on the part of members of racialised groups in Ireland, and to provide recommendations for reform. Diversity Matters completed desk-based research, alongside participatory research workshops and telephone and video interviews, to identify existing research on racial profiling, the legal framework regarding racial profiling, and individual experiences of racial profiling and policing in Ireland. A Participatory Learning and Action (PLA) method was employed to facilitate the participation of racial and ethnic minority communities and for researchers to gain a holistic understanding of the experiences of racial profiling in Ireland.

## Racial Profiling and Human Rights

Since the Black Lives Matters protests across the world in 2020, national and international bodies have been paying more attention to the phenomenon of racial profiling and discrimination in law enforcement. For example, the UN Secretary General submitted a report on Preventing and Countering Racial Profiling to the General Assembly in 2019<sup>1</sup> and the UN Human Rights Council created an Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement in 2021.<sup>2</sup> In Ireland, the National Action Plan against Racism, published in 2023, recognised the potential for racial discrimination in An Garda Síochána (AGS) by specifically identifying the need to “eliminate any type of policing practice that targets specific racial and ethnic minority groups”.<sup>3</sup>

Conscious and unconscious bias, racism, and discrimination can lead to racial profiling within law enforcement, both by individual officers and within organisations collectively. Racial profiling is a violation of human rights, and governments and police services must make every effort to identify and combat it. Profiling erodes trust between police and minoritised communities, affects the credibility of the police, and impacts community policing efforts. To combat racial profiling, regional and international human rights bodies have recommended a range of strategies, including the adoption of legislation to ban racial profiling, the sanctioning of officials engaging in racial profiling, and the recording of stop and search data.<sup>4</sup>

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<sup>1</sup> United Nations, *Preventing and Countering Racial Profiling of People of African Descent - Good Practices and Challenges*, January 2019, <https://www.un.org/sites/un2.un.org/files/2019/12/preventracialprofiling-en.pdf>, p. 11.

<sup>2</sup> United Nations Office of the High Commissioner for Human Rights, “Mandate: International Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement,” accessed 17 August 2023, <https://www.ohchr.org/en/hrc-subsidaries/expert-mechanism-racial-justice-law-enforcement/mandate>.

<sup>3</sup> Government of Ireland, Ireland’s National Action Plan against Racism, 21 March 2023, <https://www.gov.ie/en/publication/14d79-national-action-plan-against-racism/>, p.18.

<sup>4</sup> Committee on the Elimination of Racial Discrimination, “Concluding observations of the Committee on the Elimination of Racial Discrimination,” Geneva, April 4, 2011, CERD/C/IRL/CO/3-4, 2011, para. 18, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/418/40/pdf/G1141840.pdf?OpenElement>; Committee on the Elimination of Racial Discrimination, “Concluding observations on the twenty-first to twenty-third periodic reports of Spain,” Geneva, June 21, 2016, CERD/C/ESP/CO21-23, paras. 27-28, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/127/19/pdf/G1612719.pdf?OpenElement>; Committee on the Elimination of Racial Discrimination, “Concluding observations on the combined eighth to eleventh periodic reports of Slovenia\*,” Geneva, January 11, 2016, CERD/C/SVN/CO/8-11, para. 11, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/003/44/pdf/G1600344.pdf?OpenElement>; Committee on the Elimination of Racial Discrimination, “Concluding observations on the combined twentieth and twenty-first periodic reports of Poland,” Geneva, March 19, 2014, CERD/C/POL/CO/20-21, para. 11, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/418/09/pdf/G1441809.pdf?OpenElement>; Committee on the Elimination of Racial Discrimination, “Concluding observations on the combined nineteenth to twenty-first periodic report of the Netherlands,” Geneva, September 24, 2015, CERD/C/NLD/CO/19-21, paras. 13-16, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/216/36/pdf/G1521636.pdf?OpenElement>; Human Rights Committee, “Concluding observations of the Human Rights Committee: United Kingdom of Great Britain and Northern Ireland,” Geneva, July 30, 2008, CCPR/C/GBR/CO/6, para. 29, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G08/433/42/pdf/G0843342.pdf?OpenElement>; Human Rights Committee, “Concluding observations on the fifth periodic report,” Geneva, December 3, 2015, CCPR/C/AUT/CO/5, para. 20, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/275/30/pdf/G1527530.pdf?OpenElement>; Human Rights Committee, “Concluding observations on the sixth periodic report,” Geneva, August 20, 2014, CCPR/C/JPN/CO/6, para. 20(a), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/142/49/pdf/G1414249.pdf?OpenElement>.

The report uses the following definition of racial profiling from the European Commission against Racism and Intolerance (ECRI):

**The use by the police, with no objective and reasonable justification, of grounds such as race, colour, language, religion, nationality or national or ethnic origin in control, surveillance or investigation activities.<sup>5</sup>**

While the report focuses on profiling or discrimination based on race or ethnicity, we wish to acknowledge that racial profiling can also occur on the basis of intersectional identities, meaning that someone could be stopped on the basis of their race, in addition to their gender or socio-economic status, or in addition to other protected characteristics.

The absence of official disaggregated data on racial and ethnic indicators during policing operations has been used by officials to deny that racial profiling happens in AGS. However, numerous civil society reports, academic studies and observations from regional and international human rights bodies have indicated that there is evidence that racial profiling does occur in Ireland. Existing evidence is examined in Section 2 of this report. This includes reports to INAR's iReport.ie system, and studies and surveys by civil society, IHREC and the EU Fundamental Rights Agency. Examples include reports that racial profiling occurs in the use of stop and search powers by Gardaí, discriminatory border checks during cross-border travel between Ireland and Northern Ireland, and evidence that members of the Traveller and Roma community are particularly targeted for racial profiling. The unlawful removal of Roma children from their family in 2013 based on ethnic profiling is one high-profile example.

Section 3 summarises the findings from the consultation process carried out by Diversity Matters. This process involved three workshops held in Dublin, Galway and Cork, seven interviews and a number of written surveys. 36 individuals, from racial or ethnic minority communities and living in Ireland, took part in the consultation process. The report summarises the experiences and perceptions of these participants, and adds to the growing evidence base that indicates that racial profiling exists in Ireland.

The workshops addressed participants' experiences as victims, witnesses and alleged perpetrators of crime. The interviews explored positive and negative experiences with An Garda Síochána. Participants did note some helpful experiences with Gardaí. However, participants largely had negative perceptions of the Gardaí and felt that members of minoritised groups were treated differently than the settled white Irish population. 83% of participants expressed a fear of being racially profiled or discriminated against by Gardaí. Participants identified intersectional discrimination, in particular a perception that people living in areas with lower socio-economic status were treated differently by Gardaí.

Other examples of differential treatment identified by participants include discriminatory use of stop and search powers, a lack of support when filing a complaint or reporting a crime, disproportionate use of force, and excessive scrutiny of members of racial or ethnic communities. Participants experienced various challenges in engaging with Gardaí, including members being rude, but found that younger and female members are more respectful and have more diversity training. The participants identified the lack of diversity within AGS as an ongoing issue.

Section 4 provides recommendations on how to address racial profiling, echoing recommendations made by previous bodies to the Irish State, including the UN Committee on the Elimination of Racial Discrimination.

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<sup>5</sup> European Commission against Racism and Intolerance, *ECRI General Policy Recommendation No. 11* (Strasbourg, FR: European Commission against Racism and Intolerance, 2007), para. 1.



## Key Recommendations

Globally, different jurisdictions have adopted various strategies to address racial profiling, including enacting laws prohibiting racial profiling, developing guidelines for stop and search, increasing data collection, and introducing diversity and inclusion strategies. This report's recommendations are informed by these best practices, the research findings of the report and recommendations from regional and international human rights bodies.

### RECOMMENDATIONS TO GOVERNMENT

1.	Adopt a comprehensive definition of racial profiling, drawing on the ECRI definition.
2.	Prohibit racial profiling in law, including all forms of direct and indirect racial discrimination by Gardaí.
3.	Meaningfully implement Action 1.5 of the National Action Plan Against Racism, to eliminate any type of policing practice that targets specific racial and ethnic minority groups by 2025.
4.	Immediately mandate the collection of disaggregated data pertaining to race, ethnicity, religion, gender and disability across the entire Irish criminal justice system, including in all policing operations, the courts and crime statistics, to properly understand how racial and ethnic minorities are treated at each section of the justice system.
5.	Establish an independent and impartial complaints mechanism for victims to report incidents of racial profiling. Encourage victims to report by providing accessible information, including through the availability of easy-read information and information in a variety of formats (audio, video, hard-copy, large print, etc.), and offering free support services.
6.	Publicise information regarding all available procedures for complaints against Gardaí.

### RECOMMENDATIONS TO THE POLICING AUTHORITY

7.	Monitor An Garda Síochána's compliance with their human rights obligations on non-discrimination, as well as Section 42 of the Irish Human Rights and Equality Commission Act 2014 to promote equality and prevent racial discrimination when carrying out their functions.
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## RECOMMENDATIONS TO AN GARDA SÍOCHÁNA

<b>8.</b>	Ensure continuous human rights and anti-racism training for Gardaí, including at the Garda College and through ongoing professional development. <sup>6</sup>
<b>9.</b>	Develop and deliver specific training on racial profiling that addresses unconscious bias and which examines: <ol style="list-style-type: none"> <li>Cross-cultural communication and intercultural understanding;</li> <li>The different manifestations of racial profiling and the impact on the individual;</li> <li>Key indicators of how organisational racial profiling is evidenced;</li> <li>Integrating equality primes, prompts and tools into day-to-day work;</li> <li>Clarifying and building institutional buy-in for the importance of addressing racial profiling; and</li> <li>Designing processes that support past and ongoing learning, planning, and action for eliminating racial profiling altogether.</li> </ol>
<b>10.</b>	Any training related to human rights, anti-racism, and racial profiling must be evaluated on its effectiveness, including through consultation with minorities. To be most effective, experienced and qualified civil society organisations, alongside members of groups with lived experience, should contribute to designing and delivering the training.
<b>11.</b>	Develop and publish a new specific Garda policy on addressing racial profiling and how to prevent, prohibit and monitor it.
<b>12.</b>	Add the prohibition of racial profiling to the Garda Code of Conduct and the Garda decision-making model.
<b>13.</b>	Prioritise diversity in recruitment to An Garda Síochána and take steps to incorporate equality, diversity and inclusion best practice in its recruitment and hiring practices, beginning with the initial application, to ensure that the diversity of Gardaí reflects the diversity of Irish society, including intersectional identities.
<b>14.</b>	Publish an updated Diversity and Integration Strategy.
<b>15.</b>	Appoint more Ethnic Liaison Officers and expand the Garda National Diversity Unit.
<b>16.</b>	Establish and advance relationships and procedures for dialogue and co-operation between Gardaí and minority groups to rebuild trust.
<b>17.</b>	Create effective reporting procedures within An Garda Síochána, including protections for whistleblowers, to provide for effective internal accountability.
<b>18.</b>	Publish all internal policy and training materials relating to human rights, anti-racism and diversity, including any policy that describes how An Garda Síochána deals with and processes complaints.

<sup>6</sup> European Commission against Racism and Intolerance, "ECRI Statement on Racist Police Abuse, Including Racial Profiling, and Systemic Racism", adopted by ECRI at its 82nd plenary meeting (30 June – 2 July 2020), <https://rm.coe.int/statement-of-ecri-on-racist-police-abuse-including-racial-profiling-an/16809eee6a>.

# INTRODUCTION

In 2023, Ireland adopted its first National Action Plan Against Racism (NAPAR) in nearly ten years. At the launch of the long-awaited strategy, Taoiseach Leo Varadkar said that racial profiling by Gardaí “probably does happen”.<sup>7</sup> Such tentative official acknowledgement comes after numerous civil society and academic reports highlighting experiences of racial profiling in Ireland and regional and international human rights bodies repeatedly recommending the prohibition of racial profiling in legislation. Regrettably, AGS does not collect disaggregated data regarding the relationship between police and members of minoritised groups. In 2021, Dr Vicky Conway pointed out that:

**Although An Garda Síochána do not collect data that can reliably inform the discussion and confirm what is already clear to anyone involved with ethnic minority communities, in any capacity, we already have enough information to point to actual racial discrimination by An Garda Síochána.<sup>8</sup>**

This report adds to the existing evidence base indicating that racial profiling and racial discrimination occurs in An Garda Síochána. It is the final product of the project ‘Strengthening awareness, evidence and advocacy on racial profiling’, funded by IHREC and conducted by ICCL in partnership with INAR. Building on previous work completed by Irish civil society and academics in this area, this report gathers experiences that are indicative of the extent of racial profiling in Ireland. Our findings are the result of community-based participatory research and are designed to add to the evidence base of racial profiling in Ireland, with a view to underlining the importance of addressing the problem. The report and its accompanying tool also aim to empower and support all groups who experience racism.

The report’s findings confirm that it is no longer a question of whether racial profiling occurs in Ireland, rather it is to what extent it takes place and how it can be combated through legislative and policy measures. Findings from this project corroborate previously published findings that ongoing discrimination and racial profiling by members of AGS is an issue of deep concern for members of racialised groups.



<sup>7</sup> Kitty Holland, ‘Racial Profiling by Gardaí “Probably Does Happen”’, *The Irish Times*, 21 March 2023, <https://www.irishtimes.com/ireland/social-affairs/2023/03/21/racial-profiling-by-gardai-probably-does-happen-varadkar-says/>.

<sup>8</sup> Vicky Conway, ‘Policing and Racism in Ireland,’ July 8, 2021, in *Policed Podcast*, presented and produced by Vicky Conway, published by Tortoise Shack, podcast, MP3 audio, 75:07, <https://tortoiseshack.ie/25-policing-and-racism-in-ireland/>.

# METHODOLOGY

This report was written by consultancy firm Diversity Matters and edited by ICCL and INAR. Diversity Matters was appointed following a tender process advertised on the ICCL website and its social media platforms. Two bodies of research inform this report: desk research and participatory research workshops.

## Desk Research

Desk research was undertaken to identify relevant legal and policy frameworks, regional and international human rights standards, and best practices to address racial profiling. Online databases and legal archives were consulted, followed by the identification and analysis of existing publications and materials produced by relevant stakeholders (including other civil society organisations). The desk research informed the development of a series of discussion questions (used in the participatory research workshops described below) which aimed at assessing how members of racialised groups and their communities feel about policing in Ireland, their perceptions of differential treatment in policing, and their opinion on what actions are required to address racial profiling.

## Participatory Research Workshops and Additional Engagement with Members of Impacted Communities

To ground the project in the lived experience of members of racialised groups in Ireland, the research team chose to use community-based participatory research as its methodology, which sees community members and researchers working as equals in the research process.<sup>9</sup> Consistent with this approach, the voices of community members potentially impacted by racial profiling are at the heart of this report. For this reason, Diversity Matters aimed to engage directly with members of a range of groups potentially experiencing racism or other forms of discrimination in Ireland. Participants were identified through community groups, migrant networks, and the personal and professional networks of the research team and participants.

In-person workshops were held in Dublin, Cork and Galway and an additional session was conducted online. Participants were also given the option to respond to the same questions via a written questionnaire to facilitate the participation of those who expressed discomfort with sharing their identity. Seven interviews were also conducted via telephone and videoconferencing platforms with individuals who wished to participate but were unable to attend any of the four sessions, and individuals who were uncomfortable completing the questionnaire. In total, 36 people took part in the research. Participants represented a range of identities and personal experiences which are broadly reflective of the diversities within minoritised groups in Ireland.

Diversity Matters observed that there was a sense of frustration among many potential and actual participants. Many participants stated that they had previously shared their experiences with researchers but “nothing ever changes”. This context emphasises the need for meaningful action in response to the growing evidence base that racial profiling does occur in Ireland.

## Ethical Considerations

Every effort was made to ensure compliance with research ethics, including the paramount need to protect participant confidentiality. Researchers ensured that participants were supported to share their sometimes traumatic experiences of policing in Ireland, including addressing any constraints arising from limited understanding of the English language. Consideration was given to the potential vulnerability of some of the participants.<sup>10</sup> Acknowledging the potential distress caused by reliving a traumatic experience, participants were provided with a list of local contacts if they required counselling or assistance. The Diversity Matters consultants who acted as workshop facilitators also stressed their availability to assist if participants required any additional support or guidance to contact an appropriate service.

<sup>9</sup> Oxford Research Encyclopaedia of Anthropology, s.v. “Community-Based Participatory Research,” accessed 15 August 2023, <https://oxfordre.com/anthropology/display/10.1093/acrefore/9780190854584.001.0001/acrefore-9780190854584-e-225.jsessionid=70D2E137E53C53BAD-C53E4623CB5B276>.

<sup>10</sup> The authors wish to recognise that vulnerability lacks a developed theory and accepted indicators and methods of measurement. See for example Robert Chambers, “Vulnerability, Coping and Policy (editorial Introduction),” *IDS Bulletin* 37, no.4 (September 2006): 34, <https://doi.org/10.1111/j.1759-5436.2006.tb00284.x>.



# SECTION 1: SETTING THE SCENCE

## Definitions and Impact of Racial Profiling

This report uses the following definition to understand racial profiling, which speaks to the significant impact it has on the lives of members of minoritised groups:

**The use by the police, with no objective and reasonable justification, of grounds such as race, colour, language, religion, nationality or national or ethnic origin in control, surveillance or investigation activities.<sup>11</sup>**

Racial profiling can be present in the practices of police, customs, immigration and national security agencies. Its effects are disproportionately felt by members of racialised groups relating to stop and search, identity checks, arrests, border and customs checks, home searches, targeted surveillance, and immigration decisions.<sup>12</sup> Profiling can also be based on other grounds, e.g., gender or religion. Furthermore, racial profiling can occur based on intersecting grounds, e.g., a woman of colour with a disability could be stopped on the basis of her gender, her race, her disability, or all three socio-political identities.<sup>13</sup>

Law enforcement engage in racial profiling for a variety of reasons, including unconscious bias, or a failure to anticipate potentially discriminatory outcomes. Biases can be reinforced by the collective endorsement of racial profiling within institutions, as well as by a lack of human rights culture within law enforcement agencies.<sup>14</sup> Broadly speaking, racial profiling has been described as a long-standing practice in many countries which has grown in the context of increasing operations to combat terrorism and illegal migration.<sup>15</sup>

Racial profiling is one element of broader institutional racism that can be present in police forces. Following the racist killing of Stephen Lawrence in London (1993) and the inadequate police investigation, a public inquiry into his death was held which defined institutional racism as follows:

**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 minorities.<sup>16</sup>**

The impacts of racial profiling are wide-ranging and extensive. According to the American Civil Liberties Union (ACLU), racial profiling alienates members of minoritised groups from law enforcement, hinders community policing efforts and causes law enforcement to lose credibility.<sup>17</sup> Furthermore, racial profiling is an ineffective and counterproductive law enforcement tool as it erodes trust in police and undermines communities' willingness to cooperate with authorities.<sup>18</sup> Racial profiling can also exacerbate the broader societal negative stereotyping of targeted communities.<sup>19</sup>

<sup>11</sup> ECRI, *ECRI General Policy Recommendation No. 11*, para. 1.

<sup>12</sup> UN, *Preventing and Countering Racial Profiling of People of African Descent: Good Practices and Challenges*, p. 3 - 4.

<sup>13</sup> Alizé Larguier, "Intersectionality: Just Another Tool to Fight Discrimination?," EQUINET: European Network of Equality Bodies, <https://equineteurope.org/intersectionality-just-another-tool-to-fight-discrimination/>.

<sup>14</sup> UN, *Preventing and Countering Racial Profiling of People of African Descent: Good Practices and Challenges*, p.11.

<sup>15</sup> UN, *Preventing and Countering Racial Profiling of People of African Descent: Good Practices and Challenges*, p.v.

<sup>16</sup> Sir William Macpherson, *The Stephen Lawrence Inquiry*, February 1999, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/277111/4262.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/277111/4262.pdf), para. 6.34.

<sup>17</sup> American Civil Liberties Union, "Racial Profiling", accessed 15 August 2023, <https://www.aclu.org/issues/racial-justice/race-and-criminal-justice/racial-profiling>.

<sup>18</sup> European Commission, *A Union of Equality: EU Anti-racism Action Plan 2020-2025*, September 2020, [https://commission.europa.eu/system/files/2020-09/a\\_union\\_of\\_equality\\_eu\\_action\\_plan\\_against\\_racism\\_2020\\_-2025\\_en.pdf](https://commission.europa.eu/system/files/2020-09/a_union_of_equality_eu_action_plan_against_racism_2020_-2025_en.pdf), p. 7, 8.

<sup>19</sup> UN, *Preventing and Countering Racial Profiling of People of African Descent: Good Practices and Challenges*, p.10.

## Legal Framework

### International Legal Framework and Human Rights Standards

Racial profiling violates the principles of equality and non-discrimination under regional and international human rights treaties, which oblige States to prohibit discrimination on the basis of protected grounds, including race, colour and national or social origin. Human rights law also states that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law.<sup>20</sup> Due to the wide-ranging consequences of racial profiling, it can negatively affect a wide range of human rights, including the right to life, the prohibition of torture and ill-treatment, the rights to liberty, security, privacy and freedom of movement, the prohibition of arbitrary arrest/detention, and the right to an effective remedy.

While international human rights law does not directly prohibit racial profiling, several human rights mechanisms have explicitly recognised the practice as a violation of international human rights law. In a landmark case, the UN Human Rights Committee (2009) acknowledged racial profiling as a form of discrimination, as a woman had been subject to an identity check solely on the basis of her ethnicity.<sup>21</sup> Racial profiling has also been addressed in several general recommendations by the UN Committee on the Elimination of Racial Discrimination.<sup>22</sup> The Committee has emphasised the importance of human rights training for law enforcement officials and has called upon States to prevent questioning, arrests and searches conducted on the sole basis of physical appearance, colour, race, ethnicity and/or features. In their recommendations to a range of countries, both the UN Committee on the Elimination of Racial Discrimination and the UN Human Rights Committee have recommended the adoption of legislation to ban racial profiling, the sanctioning of officials engaging in racial profiling, and the recording of stop and search data.<sup>23</sup>

### Applicable Regional Human Rights Law

#### Council of Europe

The European Commission against Racism and Intolerance (ECRI) has explicitly condemned racial profiling as a form of racial discrimination. ECRI has urged Member States, including Ireland, to define and prohibit racial profiling in law, monitor police activities to identify racial profiling (such as the collection of disaggregated data regarding police activities), and conduct research on racial profiling. Additionally, ECRI has recommended training for police to combat racial profiling, including training on the use of the reasonable suspicion standard. This standard provides that “powers relating to control, surveillance or investigation activities can only be exercised on the basis of a suspicion that is founded on objective criteria”.<sup>24</sup> In other words, police powers should only be exercised based on objective criteria and not subjective assumptions based on racial stereotypes.

#### European Court of Human Rights

The European Court of Human Rights has a growing body of jurisprudence on racial profiling. For instance, in a 2022 judgement, the Court found that German authorities had failed to consult an independent body (as a means of effective investigation) to determine whether racial discrimination was a factor in the identity check of a German national of Indian origin and his daughter on a train. The Court ultimately held that the racial profiling experienced was a violation of Article 14 (prohibition of discrimination) in conjunction with Article 8 (right to respect for private life) of the European Convention on Human Rights.<sup>25</sup>

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<sup>20</sup> See Article 14 of the ECHR, Articles 20 and 21 of the EU Charter of Fundamental Rights, Article 2 of the Universal Declaration of Human Rights, Articles 2 and 26 of the ICCPR, Articles 1,2 and 5 of the ICERD, Article 2 of the Convention on the Rights of the Child, and Article 5 of the Convention on the Rights of Persons with Disabilities.

<sup>21</sup> Williams Lecraft v. Spain (27 July 2009) Communication No. 1493/2006 CCPR/C/96/D/1493/2006.

<sup>22</sup> See Committee on the Elimination of Racial Discrimination, *General recommendation No. 34: Racial discrimination against people of African descent*, (Geneva, CH: Committee on the Elimination of Racial Discrimination, 2011); Committee on the Elimination of Racial Discrimination, *General recommendation No. 31 on the prevention of racial discrimination in the administration and functioning of the criminal justice system*, (Geneva, CH: Committee on the Elimination of Racial Discrimination, 2005); Committee on the Elimination of Racial Discrimination, *General recommendation No. 13 on the training of law enforcement officials in the protection of human rights*, (Geneva, CH: Committee on the Elimination of Racial Discrimination, 1993).

<sup>23</sup> See footnote 3.

<sup>24</sup> ECRI, *General Policy Recommendation No. 11*, para. 44.

<sup>25</sup> *Basu v Germany* (judgement), ECHR No. 215/19 (2022); “Factsheet: Racial profiling,” European Court of Human Rights, accessed 15 August 2023, [https://www.echr.coe.int/documents/d/echr/FS\\_Racial\\_profiling\\_ENG](https://www.echr.coe.int/documents/d/echr/FS_Racial_profiling_ENG).

## European Union

The European Union (EU) has a strong body of anti-discrimination law and policy that is applicable to racial profiling and complements both ECRI's recommendations and the jurisprudence from the European Court of Human Rights. For example, the Race Equality Directive prohibits discrimination on the basis of race and ethnicity in access to employment, education, services and social protection.<sup>26</sup> Additionally, a European Parliament resolution on the rights of people of African descent (2019) called for an end to racial or ethnic profiling and recommended anti-racism and anti-bias training for the police to combat racial profiling.<sup>27</sup> The EU Action Plan Against Racism describes efficient policing and respect for fundamental rights as complementary, describing the recognition of diversity and ensuring fair law enforcement as essential to fighting racism.<sup>28</sup> The action plan marks the first time the EU has explicitly acknowledged the existence of structural, institutional and historical dimensions of racism. Racial profiling has additionally been widely addressed by the EU Agency for Fundamental Rights through surveys<sup>29</sup> and guides.<sup>30</sup>

## National Legal Context

Article 40.1 of the Irish Constitution guarantees the right to equality before the law, meaning that State actors cannot discriminate between citizens in their application of the law. The constitutional equality provision has been complemented with a set of legislative measures to protect against discrimination, including on the basis of race and ethnicity, namely the Employment Equality Acts 1998-2015 and Equal Status Acts 2000-2018. To date, Ireland does not have legislation prohibiting racial profiling. However, human rights provisions in the Irish Human Rights and Equality Commission Act 2014 and the Garda Síochána Act 2005<sup>31</sup> are relevant. Section 42 of the Irish Human Rights and Equality Commission Act 2014 (known as the Public Sector Equality and Human Rights Duty), requires public bodies, including AGS, to eliminate discrimination, promote equality of opportunity and protect the human rights of its staff and its service users. Government policies and guidelines complement the statutory framework, such as the newly published National Action Plan Against Racism, the Migration Inclusion Strategy and the National Traveller and Roma Inclusion Strategy.

Importantly, Section 7(1) of the Garda Síochána Act 2005 lists the vindication of human rights as a key policing objective. The relationship between policing and human rights was widely analysed in the final report of the Commission on the Future of Policing in Ireland. In its final report, the Commission declared human rights as the foundation and purpose of policing:

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<sup>26</sup> Regulations, Directives & Decisions: Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (Race Equality Directive) [2000] OJ L180.

<sup>27</sup> European Parliament, Resolution of 26 March 2019 on fundamental rights of people of African descent in Europe, (2018/2899(RSP)) (March 26, 2019), [https://www.europarl.europa.eu/doceo/document/TA-8-2019-0239\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-8-2019-0239_EN.html).

<sup>28</sup> European Commission, *A Union of Equality: EU Anti-racism Action Plan 2020-2025*, p. 7.

<sup>29</sup> European Union Agency for Fundamental Rights, *Second European Union Minorities and Discrimination Survey: Being Black in the EU*, 2018, [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2018-being-black-in-the-eu\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-being-black-in-the-eu_en.pdf); European Union Agency for Fundamental Rights, *European Union Minorities and Discrimination Survey: Data in Focus Report: Police Stops and Minorities*, 2010, [https://fra.europa.eu/sites/default/files/fra\\_uploads/1132-EU-MIDIS-police.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/1132-EU-MIDIS-police.pdf).

<sup>30</sup> European Union Agency for Fundamental Rights, *Fundamental rights-based police training: A manual for police trainers*, 2019, [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2019-fundamental-rights-based-police-training-re-edition\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-fundamental-rights-based-police-training-re-edition_en.pdf); European Union Agency for Fundamental Rights, *Preventing unlawful profiling today and in the future: a guide*, 2018, [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2018-preventing-unlawful-profiling-guide\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-preventing-unlawful-profiling-guide_en.pdf); European Union Agency for Fundamental Rights, *Towards More Effective Policing: Understanding and Preventing Discriminatory Ethnic Profiling: A Guide*, 2010, <https://fra.europa.eu/en/publication/2010/towards-more-effective-policing-understanding-and-preventing-discriminatory-ethnic>.

<sup>31</sup> This Act is due to be replaced by the Policing, Security and Community Safety Bill in 2023, but the human rights provisions outlining the "vindication of human rights" as a main function of An Garda Síochána remain relatively similar to the 2005 Act at time of writing.

<sup>32</sup> Commission on the Future of Policing, *The Future of Policing in Ireland*, 2018, [http://policereform.ie/en/POLREF/The%20Future%20of%20Policing%20in%20Ireland\(web\).pdf/Files/The%20Future%20of%20Policing%20in%20Ireland\(web\).pdf](http://policereform.ie/en/POLREF/The%20Future%20of%20Policing%20in%20Ireland(web).pdf/Files/The%20Future%20of%20Policing%20in%20Ireland(web).pdf), p. 11.

<sup>33</sup> An Garda Síochána, *Declaration of Professional Values & Ethical Standards*, February 2017, <https://www.garda.ie/en/about-us/publications/policy-documents/declaration-of-professional-values-and-ethical-standards.pdf>, p. 4, 10.



**Because the protection of human rights is fundamental to the purpose and mission of policing, it must be embedded in the thinking, ethos and operations of the police organisation at all levels. Human rights must be a central concern and an informing principle when police policies and strategies are being developed, when operations are planned and executed, and when cases are brought to a conclusion. Police leadership teams should have access to expert advice for these purposes. Front line police must always act in accordance with human rights law, taking a balanced perspective on the rights of arrested or detained persons, those of the wider public, and the rights of victims.<sup>32</sup>**

Accordingly, building a reputation for respecting human rights and enforcing laws impartially is fundamental to ensure that police are operating based on community consent. Consent of the people is essential to the legitimacy of policing.<sup>33</sup> Communities must feel represented by the police serving them, with diverse representations of race, gender, religion and ethnicity in Garda membership. At present, this is still a challenge.

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<sup>32</sup> Commission on the Future of Policing, *The Future of Policing in Ireland*, p. 11.

<sup>33</sup> An Garda Síochána, *Declaration of Professional Values & Ethical Standards*, February 2017, <https://www.garda.ie/en/about-us/publications/policy-documents/declaration-of-professional-values-and-ethical-standards.pdf>, p. 4, 10.

# SECTION 2:

## RACIAL PROFILING IN IRELAND

### Overview of Racial Profiling and Racial Discrimination in Ireland

Racial profiling in policing is a global phenomenon. As this section will explore, despite a lack of official data due to the ongoing failure of AGS to collect disaggregated data regarding policing operations, international and regional monitoring bodies, IHREC and domestic civil society organisations have identified the problem of racial profiling in Ireland.

A stark example of racial profiling by State actors in Ireland is provided by two separate cases in 2013 whereby Gardaí and the Health Service Executive removed two blonde-haired Roma children from their families based on a presumption that they were not part of the Roma family because of their appearance. An investigation into these actions found that these families were targeted due to ethnic profiling.<sup>34</sup>

The use of the police powers of stop and search is an area where racial profiling can be rife. A 2009 survey conducted by the EU Fundamental Rights Agency found that 59% of those who responded to the survey who were sub-Saharan Africans in Ireland were stopped by police at least once in a 12-month period, which was almost twice as high as the level of police stops for individuals from Central and Eastern Europe.<sup>35</sup>

Anti-racism groups have consistently monitored the issue of racial profiling with concern. A 2011 exploratory study by the Migrants Rights Centre Ireland on ethnic profiling in Ireland identified “patterns of systemic profiling in relation [to] immigration, policing and social welfare services”.<sup>36</sup>

Findings from a 2015 study conducted by IHREC indicated a serious issue of racism within public services, including the Gardaí.<sup>37</sup> IHREC has expressed the view to the UN that racial profiling in Ireland can contribute to members of racialised groups being under-protected and over-policed.<sup>38</sup>

Racial profiling has also been identified in relation to migrants undertaking cross-border travel between Ireland and Northern Ireland. Participants in a 2023 study reported several incidents of racial profiling during border checks, where persons perceived to be non-EU citizens were asked to produce their passports.<sup>39</sup> The Committee on the Administration of Justice(CAJ) has made an official complaint about this practice and with ICCL has highlighted this issue with AGS and the Government.<sup>40</sup>

The killing by Gardaí of George Nkencho, a young Black Irish man who was experiencing severe mental health difficulties, in December 2020 was a stark reminder that Ireland may not be immune to the international trend of racialised policing.<sup>41</sup> A GSOC investigation into this killing has not yet been published at the time of writing, but the file has been handed over to the Director of Public Prosecutions (DPP). At time of writing, the DPP has not yet made a decision regarding a prosecution and therefore the investigatory process can be described as ongoing. It is currently unclear what conclusions GSOC has come to regarding the role of racial profiling or racial prejudice in the killing of Mr Nkencho, but a number of commentators, including ICCL, have called for a full-scale investigation across AGS into actual and potential conscious and unconscious bias in the wake of his death.<sup>42</sup>

<sup>34</sup> European Network Against Racism and Dr. Lucy Michael, *Submission to the Commission on the Future of Policing in Ireland*, 2018, <http://policereform.ie/en/POLREF/European%20Network%20Against%20Racism.pdf/Files/European%20Network%20Against%20Racism.pdf>, p. 7.

<sup>35</sup> European Union Agency for Fundamental Rights, *European Union Minorities and Discrimination Survey: Main Results Report*, 2009, <https://op.europa.eu/en/publication-detail/-/publication/c7d1916e-cca0-4d30-a2a8-177a2f78907d/language-en/format-RDF>, p. 76.

<sup>36</sup> Migrant Rights Centre Ireland, *Singled Out: Explanatory study on ethnic profiling in Ireland and its impact on migrant workers and their families*, 2011, [https://emn.ie/files/p\\_201212180946582011\\_Singled\\_Out\\_MRCI.pdf](https://emn.ie/files/p_201212180946582011_Singled_Out_MRCI.pdf), p. 27.

<sup>37</sup> Lucy Michael, *Afrophobia in Ireland: Racism against people of African descent*, 2015, [https://inar.ie/wp-content/uploads/2019/10/afrophobia\\_in\\_ireland.pdf](https://inar.ie/wp-content/uploads/2019/10/afrophobia_in_ireland.pdf), p. 29-30.

<sup>38</sup> Irish Human Rights and Equality Commission, *Ireland and the Convention on the Elimination of Racial Discrimination*. 2019, [https://www.ihrec.ie/app/uploads/2022/08/IHREC\\_CERD\\_UN\\_Submission\\_Oct\\_19.pdf](https://www.ihrec.ie/app/uploads/2022/08/IHREC_CERD_UN_Submission_Oct_19.pdf), p. 9.

<sup>39</sup> Frances McGinnity, James Laurence, Emily Cuniffe, *Comparing Migrant Integration in Ireland and Northern Ireland* (Dublin, IE: Economic and Social Research Institute, 2023), <https://www.esri.ie/publications/comparing-migrant-integration-in-ireland-and-northern-ireland>, p. 81-82.

<sup>40</sup> ICCL Press Release, *Equality complaint made against Translink for facilitating discriminatory passport checks on cross-border buses*, September 2019 <https://www.iccl.ie/press-release/discriminatory-passport-checks-on-border/>.

<sup>41</sup> Conor Lally, “George Nkencho: File sent to DPP over fatal shooting by DPP,” *The Irish Times*, 19 June 2023, <https://www.irishtimes.com/ireland/social-affairs/2023/06/19/george-nkencho-file-sent-to-dpp-over-fatal-shooting-by-gardai/>.

<sup>42</sup> ICCL Press Release, *ICCL asks why GSOC has not interviewed Nkencho family, calls for system-wide inquiry into killing*, 24 January 2021, <https://www.iccl.ie/news/iccl-asks-why-gsoc-has-not-interviewed-nkencho-family-calls-for-systemwide-inquiry-into-killing/>

## Insights from INAR's iReport.ie System

In the absence of reliable official data, the INAR iReport.ie racist incident reporting system is an essential starting point to examine the extent to which members of racialised groups are impacted by racial profiling or discrimination in Ireland. The data finds that racial discrimination does occur in police practice.<sup>43</sup> iReport.ie data from 2013 to 2022 show consistently lower levels of confidence in AGS, underpinned by a consistent failure by Gardaí to respond appropriately to crimes reported to them by minorities, as well as a number of serious incidents of racial profiling and racialised victimisation of innocent parties.

The 2022 report of findings from iReport.ie outlines one such incident:

**A witness reported that following a commotion coming from inside a McDonald's branch, the Gardaí only targeted Black men in the restaurant and accused them of being part of the "gang" inside. They proceeded to search them in a very disrespectful manner, while they claimed they had nothing on them, which was found out to be true in the minutes that followed. This was reported to have happened to at least three unrelated groups of black men. Such reports support the view that members of racialised groups are being treated differently by Gardaí. This not only perpetuates a sense that Gardaí are over-policing certain communities, it also has a chilling effect on the reporting of racist and other crimes. Concerns have been voiced about the discriminatory use of violence by Gardaí against members of racialised groups who were suspected of crimes. For example, a witness reported to iReport.ie that Gardaí in tactical gear aggressively arrested a Black man who had been thrown out of a pub with no apparent reason for his arrest and removal.<sup>44</sup> The iReport.ie data also indicates that there are disproportionately high numbers of members of racialised groups being stopped and searched by AGS.<sup>45</sup>**

Reflecting on examples of racial discrimination in the iReport.ie report, co-founder of the reporting system, Dr Lucy Michael has stated:

**Incidents like these demonstrate a marked determination on the part of Gardaí to police difference and to signify to ethnic minorities not only that they are not entitled to equal protection from An Garda Síochána, but that they should expect any interactions with the organisation to be detrimental to them. Knowledge of these incidents amongst ethnic minority groups, as accounts told through families or friends, reduces the likelihood of all ethnic minorities to call upon An Garda Síochána when a racist incident is perpetrated against them. As is evident in the above reports, however, ethnic minorities experience worse outcomes from Garda involvement even where the racist incident is perpetrated against them and, should they call out the behaviour of the perpetrator, they are more likely to be considered suspected of instigating the incident.<sup>46</sup>**

<sup>43</sup> European Network Against Racism Ireland, *Submission to the Commission on the Future of Policing in Ireland*; Lucy Michael, Daniel Reynolds, Niloufar Omid, *Data from iReport.ie: Reports of racism in Ireland* (Dublin, IE: INAR, 2022), <https://inar.ie/wp-content/uploads/2023/03/Reports-of-Racism-in-Ireland-2022.pdf>; Lucy Michael, *Data from iReport.ie: Reports of racism in Ireland* (Dublin, IE: INAR, 2020), [https://inar.ie/wp-content/uploads/2021/03/2020\\_iReport-Reports-of-Racism-in-Ireland.pdf](https://inar.ie/wp-content/uploads/2021/03/2020_iReport-Reports-of-Racism-in-Ireland.pdf).

<sup>44</sup> Lucy Michael, Daniel Reynolds, Niloufar Omid, *Data from iReport.ie: Reports of racism in Ireland* (Dublin, IE: INAR, 2022), <https://inar.ie/wp-content/uploads/2023/03/Reports-of-Racism-in-Ireland-2022.pdf>, p. 15.

<sup>45</sup> European Network Against Racism, *Submission to the Commission on the Future of Policing in Ireland*; Lucy Michael, Daniel Reynolds, Niloufar Omid, *Data from iReport.ie: Reports of racism in Ireland* (Dublin, IE: INAR, 2022), <https://inar.ie/wp-content/uploads/2023/03/Reports-of-Racism-in-Ireland-2022.pdf>; Lucy Michael, *Data from iReport.ie: Reports of racism in Ireland* (Dublin, IE: INAR, 2020), [https://inar.ie/wp-content/uploads/2021/03/2020\\_iReport-Reports-of-Racism-in-Ireland.pdf](https://inar.ie/wp-content/uploads/2021/03/2020_iReport-Reports-of-Racism-in-Ireland.pdf).

<sup>46</sup> Lucy Michael, *Afrophobia in Ireland: Racism against people of African descent*, p.32.



Lived experiences captured by iReport.ie also highlight that trust in Gardaí and the criminal justice system among members of racialised groups is alarmingly low. The lack of trust has had a severe impact on the reporting of racialised incidents. A key indicator of this is that in 2022 only 20% of racist motivated crimes and incidents of racial discrimination were reported to the Gardaí.<sup>47</sup>

One of the most significant impacts of racial profiling on members of racialised groups is its impact on trust in the police and by extension the efficacy of community policing.<sup>48</sup> For community policing to be effective, there must be a relationship of trust and respect between all communities and the police that serve them. Racial profiling risks this relationship and creates additional barriers to building trust in the future.

## Racial Profiling Experienced by Travellers and Roma

There is significant and growing research that members of the Traveller Community and Roma face discrimination from AGS and across the criminal justice system.<sup>49</sup> The European Centre for the Study of Hate, based in the University of Limerick, published a comprehensive report with data gathered from surveys with members of Traveller and Roma communities in 2022. Among other findings, in terms of stop and search, Travellers reported harassment, threats, degrading treatment, provocation and Gardaí deliberately escalating conflict.<sup>50</sup> Over half of respondents believed they had been stopped in the past five years solely because they were a Traveller.<sup>51</sup> Other stark results<sup>52</sup> from this survey include the following:



In a 2019 report published by the EU Fundamental Rights Agency regarding Travellers' experiences of discrimination in six Western European countries, 14% of respondents in Ireland said that they believed their most recent stop by AGS was because they were a Traveller. This was the third highest rate in the EU.<sup>53</sup>

In a 2018 study published by Pavee Point Traveller and Roma Centre and the Department of Justice and Equality, members of the Roma community in Ireland reported discriminatory experiences by Gardaí. 77.5% of respondents in a 2018 study reported being stopped for identification and of these respondents, 55.9% reported being stopped four times or more.<sup>54</sup>

<sup>47</sup> Lucy Michael, Daniel Reynolds, Niloufar Omid, *Data from iReport.ie: Reports of racism in Ireland* (Dublin, IE: INAR, 2022), <https://inar.ie/wp-content/uploads/2023/03/Reports-of-Racism-in-Ireland-2022.pdf>, p. 7.

<sup>48</sup> Oireachtas Library & Research Service, *Community policing in Ireland*, 2012, [https://data.oireachtas.ie/ie/oireachtas/libraryResearch/2012-2012-10-31\\_spotlight-community-policing-in-ireland\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/libraryResearch/2012-2012-10-31_spotlight-community-policing-in-ireland_en.pdf), p. 1-2

<sup>49</sup> Sindy Joyce et al., *Irish Travellers' Access to Justice* (Limerick, IE: European Centre for the Study of Hate, 2022), [https://researchrepository.ul.ie/articles/report/Irish\\_Travellers\\_Access\\_to\\_Justice/20179889](https://researchrepository.ul.ie/articles/report/Irish_Travellers_Access_to_Justice/20179889); European Union Agency for Fundamental Rights, *Travellers in Ireland: Key Results from the Roma and Traveller Survey 2019*, [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2020-roma-and-travellers-survey-country-sheet-ireland\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-roma-and-travellers-survey-country-sheet-ireland_en.pdf).

<sup>50</sup> Sindy Joyce et al., *Irish Travellers' Access to Justice*, p.10.

<sup>51</sup> Sindy Joyce et al., *Irish Travellers' Access to Justice*, p.9.

<sup>52</sup> Sindy Joyce et al., *Irish Travellers' Access to Justice*, p.9-10.

<sup>53</sup> European Union Agency for Fundamental Rights, *Key Results from the Roma and Traveller Survey 2019*.

<sup>54</sup> Patricia Kennedy, *Roma in Ireland: A National Needs Assessment* (Dublin, IE: Pavee Point Traveller and Roma Centre and Department of Justice and Equality), 2018, <https://www.paveepoint.ie/wp-content/uploads/2015/04/RNA-PDF.pdf>, p. 54.

## The Relationship between Racial Profiling and the Disproportionate Representation of Members of Racialised Groups in the Criminal Justice System

Racial profiling contributes to the disproportionate representation of members of racialised groups in the criminal justice system.<sup>55</sup> Initial contact with a police officer, which may be a result of racial profiling, can have serious effects. A person may be stopped in relation to an alleged traffic or public order offence; this may result in a summons being issued to an individual to attend court, where if convicted, they could be subjected to wide-ranging penalties, including a sentence of up to two years' imprisonment.<sup>56</sup> The Irish Prison Service and the Probation Service have introduced an ethnic identifier in their data collection, which has led to data evidencing the overrepresentation of members of the Traveller community in Ireland's prison population.<sup>57</sup> Limited disaggregated data indicates that members of minoritised groups and non-Irish nationals comprise a higher percentage of the prison population compared to the general population.<sup>58</sup> The question has to be asked whether over-policing of particular communities has played a role in this. Further, research regarding the Irish criminal justice system suggests that racial disparities exist in sentencing, including the length and type of sentence.<sup>59</sup>

## Conclusion: Racial Profiling in Ireland

This section has described the experiences of racial profiling in Ireland based on findings from regional and international human rights bodies, IHREC, and academic and civil society research. There is a lack of official Irish government data detailing racial profiling, but there is significant evidence that it occurs. Racial profiling has serious negative consequences in Ireland, as it erodes community trust in the police and leads to disproportionate representation in other areas of the criminal justice system, such as the prison system. The following chapter will describe the outcomes of the participatory research conducted by Diversity Matters, which adds to the evidence base demonstrating the need to address racial profiling in Ireland.

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<sup>55</sup> David M. Doyle et al., *"Sometimes I'm Missing the Words" The Rights, needs and experiences of foreign nationals and minority ethnic groups in the Irish penal system* (Dublin and Maynooth, IE: Irish Penal Reform Trust and Maynooth University, 2022), [https://iprt.ie/site/assets/files/7076/iprt\\_the\\_rights\\_needs\\_and\\_experiences\\_of\\_foreign\\_national\\_and\\_minority\\_ethnic\\_groups.pdf](https://iprt.ie/site/assets/files/7076/iprt_the_rights_needs_and_experiences_of_foreign_national_and_minority_ethnic_groups.pdf), p. 14.

<sup>56</sup> Thomas O'Malley, *The Criminal Process* (Dublin: Thomson Reuters, 2009), 251.

<sup>57</sup> Sindy Joyce et al., *Irish Travellers' Access to Justice*, p. 7.

<sup>58</sup> European Website on Integration, "Ireland: The rights, needs and experiences of foreign nationals and minority ethnic groups in the Irish penal system", accessed 17 August 2023, [https://ec.europa.eu/migrant-integration/library-document/ireland-rights-needs-and-experiences-foreign-nationals-and-minority-ethnic-groups\\_en](https://ec.europa.eu/migrant-integration/library-document/ireland-rights-needs-and-experiences-foreign-nationals-and-minority-ethnic-groups_en).

<sup>59</sup> David M. Doyle et al., *Rights, Needs and Experiences of Foreign National and Minority Ethnic Groups in the Irish Penal System*, 18-19.

# SECTION 3:

## PERCEPTIONS AND EXPERIENCES OF RACIAL PROFILING IN IRELAND: OUTCOMES OF THE CONSULTATIONS

### Participatory Approach

To ground the project in the lived experience of members of racialised groups impacted by racial profiling and other forms of discriminatory policing in Ireland, the research team chose to use community-based participatory research as its methodology for the consultations. This approach attempts to treat community members and researchers as equals in the research process.<sup>60</sup> Consistent with this approach, the voices of community members potentially impacted by racial profiling are at the heart of this section. Potential participants were identified through community groups, migrant networks, and the personal and professional networks of the research team and participants.

In identifying participants, a high degree of importance was given to ensuring diversity and representation of different members of racialised groups in Ireland. Considering evidence of the disproportionate representation of the Traveller and Roma communities in the criminal justice system and previous findings on their experiences of racial profiling, additional steps were taken to identify participants from these communities. Notably, members of the Irish Traveller community reported a lack of trust in coming forward with statements on their experiences or any comments on racial profiling by the Gardaí as they feared this may reflect negatively on them and their families.

To inform potential participants and assist with recruitment, an information letter was written, detailing the nature and scope of the research, its objectives, who was involved, how the information would be collected and processed, and the goal of the research findings/outputs. Participants signed a consent form to formally take part in the research.

In-person workshops were held in Dublin, Cork and Galway and an additional session was conducted online. Participants were also given the option to respond to the same questions via a written questionnaire to facilitate the participation of those who expressed discomfort with sharing their identity. Seven interviews were also conducted via telephone and videoconferencing platforms with individuals who wished to participate but were unable to attend any of the four sessions, and individuals who were uncomfortable completing the questionnaire. In total, 36 people took part in the research. Participants represented a range of identities and personal experiences which are broadly reflective of the diversities within minoritised groups in Ireland.

Researchers used the Participatory Learning and Action (PLA) method when engaging with participants, which is when community members fully participate in the research and researchers aim to gain a full understanding of a specific situation.<sup>61</sup> It is also used to engage participation from members of racialised groups and individuals who would otherwise find it challenging to engage in research projects.<sup>62</sup> Participatory Learning and Action was chosen as the primary research approach due to the hands-on tools and techniques it provides, which makes it easier for participants to contribute their opinions irrespective of their fluency in English, and empowers participants to be more involved with the research.

Facilitators were also cautious of the fact that members of racialised groups may have participated in previous consultations which could impact their interest in engaging in this project. A flexible approach was therefore applied to ensure that the project not only gathered information, but that participants also felt listened to and their experiences and views were treated with respect.

<sup>60</sup> Oxford Research Encyclopedia of Anthropology, s.v. "Community-Based Participatory Research," accessed 15 August 2023, <https://oxfordre.com/anthropology/display/10.1093/acrefore/9780190854584.001.0001/acrefore-9780190854584-e-225jsessionid=70D2E137E53C53BAD-C53E4623CB5B276>.

<sup>61</sup> "Participatory Learning and Action," INTRAC, accessed 15 August 2023, <https://www.intrac.org/wpcms/wp-content/uploads/2017/01/Participatory-learning-and-action.pdf>.

<sup>62</sup> Robert Chambers. *Participatory Workshops: A Sourcebook of 21 Sets of Ideas and Activities* (Abingdon-on-Thames: Taylor and Francis, 2002), 7.

Diversity Matters observed that there was a sense of frustration among many potential and actual participants. Many participants stated that they had previously shared their experiences with researchers but “nothing ever changes”. This context emphasises the need for meaningful action in response to the growing evidence base that racial profiling does occur in Ireland.

## Summary of Approach and Findings

To gain a broad sense of their perceptions and experiences of racial profiling and other racialised interactions with police, participants were encouraged to share any experiences (both positive and negative) that they or members of their community had with AGS. Considering the sensitivity of the issue, the Diversity Matters research team employed ground rules such as confidentiality and non-judgement to create a safe space and develop trust between facilitators and participants.

While each participant had their own unique experiences, participants were critical overall regarding their perception of the treatment of members of racialised groups by Gardaí, reflecting the research findings and concerns raised by regional and international human rights monitoring bodies and civil society organisations outlined in Section 2.

Participants’ experiences reveal concerning trends: they shared stressful and traumatic interactions and experiences with police, and repeatedly stated that they did not feel supported, protected, or represented by Gardaí. During the workshops, participants expressed the view that Gardaí often “base their judgement on the colour of a person’s skin before any other consideration”. Many participants expressed their view that Gardaí need to identify ways to improve their treatment of members of racialised groups and that the wider organisation needs to be made aware of poor practice by individual Garda members.

## Wider Context

To set the scene, researchers asked participants whether they were aware of racial profiling in other jurisdictions. They discussed the Metropolitan Police’s mishandling of the Stephen Lawrence case in London (UK) in 1993, the murder of George Floyd by police officer Derek Chauvin in Minneapolis (USA) in 2020, and the impact of the global Black Lives Matter (BLM) movement. At the time of the workshops, participants noted that the BLM movement had had very limited impact in Ireland, and that minorities had become even more apprehensive of mistreatment by police following the killing of George Nkencho by a member of AGS in December 2020.

A stark 41.5% of participants reported a newfound fear of Gardaí in the community following the deaths of George Floyd and George Nkencho. An African Black man stated that the next time a Garda member asks him to stop he cannot be sure if that will be the day “... a knee will be put on my neck to hold me to the ground” or “if they are going to shoot me to death for no other reason than the colour of my skin”. These personal testimonies demonstrate a genuine fear that must be addressed to ensure that all members of Irish society feel safe in their interactions with Gardaí.

## Positive Experiences Engaging with An Garda Síochána

When asked to share positive experiences with Gardaí, participants described Gardaí as well-presented and approachable. Some believed that Gardaí will “listen to you”. Others said that Gardaí are helpful for non-criminal justice matters, such as lost property or giving directions. Two participants reported that a Garda member had been very helpful at the scene of an accident by phoning an ambulance and assisting an injured person. Participants noted that they found Gardaí from the community liaison unit generally more approachable and helpful.



## General Perceptions and Experiences of Engaging with An Garda Síochána

Most perceptions of and experiences with AGS were negative, which paints a concerning picture of the policing of members of groups who experience racism, and, in addition to the existing evidence base, signals a significant need to address racism and discrimination within AGS.

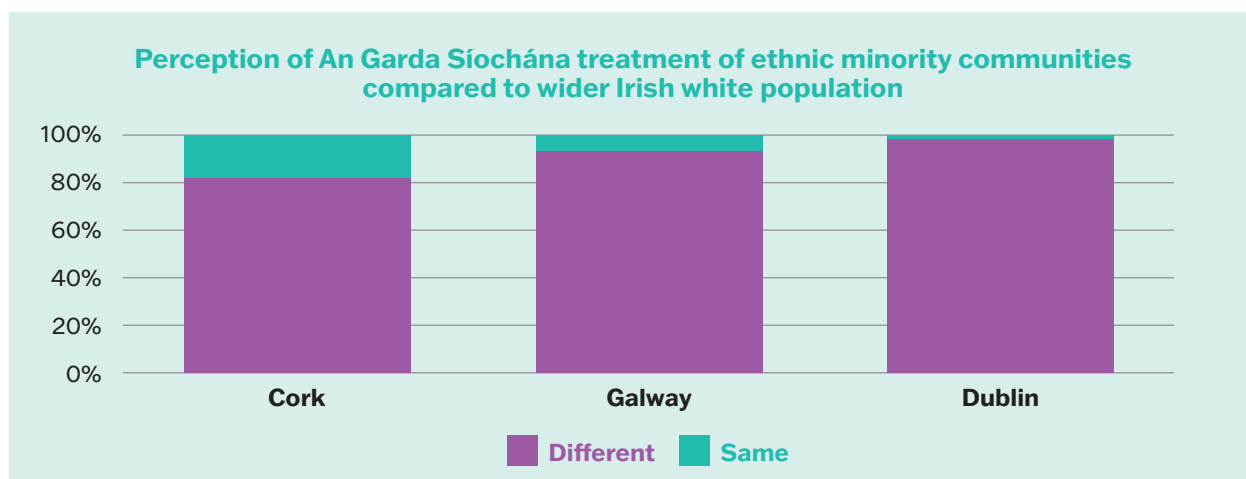
Out of 36 participants, 30 (83%) expressed a fear of being racially profiled or discriminated against by Gardaí. 11 participants specifically mentioned issues around being Black and their belief that Gardaí assume that Black people cannot be Irish. The participants also noted that there is a lack of trust within members of minoritised groups.

Based on their experiences and those of their families and communities, participants were asked if they believed Gardaí treated members of racialised groups the same as the wider white, settled Irish population. Responses to this question reveal an overwhelming perception that people belonging to minoritised groups receive differential and/or poorer treatment.



Participants (9) in Galway assessing differential treatment of minority ethnic groups in comparison to the Irish white population. Each participant was given 10 dots and asked to place them under the heading that best reflected their experience and perception of Garda treatment. The result paints a stark picture of the beliefs of participants.

There was some variance in the different perceptions of Garda treatment of members of minority groups based on location. In Dublin, almost 100 per cent of participants felt they had received differential treatment by Gardaí. This figure was 94 per cent in Galway and 82.6 per cent in Cork.



Perception of Garda treatment of ethnic minority communities compared to wider Irish white population in the three workshops in Cork, Galway and Dublin.

## Experiences of Differential Treatment When Asking for Assistance, Making a Complaint or Reporting a Crime

Many of the reported negative experiences with the police are in relation to asking for assistance, making a complaint or reporting a crime.

More than half of participants (19 out of 36) stated that in their view Gardaí are resistant to hearing complaints from members of racialised communities. They disclosed a reluctance to complain to the authorities due to anecdotal evidence of Gardaí simply ignoring complaints. Some participants also reported encountering a dismissive attitude by Gardaí when trying to report a crime. Different participants reported that they would not go to a Garda station alone and would request that a white Irish person accompany them, in the hope of getting a more respectful and attentive response. Some remarked that they felt that they would experience a change in attitude to a more dismissive and unhelpful one if their accent was perceived to be “foreign”.

The following case studies illustrate these experiences:

- A Brazilian participant, dependent on her husband's income and legal status in Ireland, reported attempts to disclose several domestic violence incidents on two different occasions and being told by a male Garda member to come back to the station another time with someone that could speak English. As she has no family or other contacts in Ireland other than the abusive partner, the woman decided not to return to the station.
- A Brazilian student reported a feeling of not being listened to by AGS. This student and a group of colleagues had reported theft of their bicycles from the university campus. The culprits (white young Irish men) had been caught on the student's mobile phone. When the students had attempted to stop them from taking the bicycles the youths were aggressive and offensive. All of this information was provided to Gardaí, but nothing was ever done about it nor were the bicycles recovered. The group of Brazilian students felt that “here is one law for native Irish persons and a completely different one for ethnic minority communities. What happens to non-Irish persons is not important for the Gardaí”.
- A Brazilian sex worker reported encountering a dismissive attitude from Gardaí when trying to report a crime, despite the fact she wanted to report being the victim of serious assault.
- A Black South African woman recounted an incident in which her child was assaulted in their housing estate by a group of white youths. She was surprised that Garda members who attended the incident tried to water down the situation by saying that “nothing really happened”. The woman recounted that one Garda member touched her son's cheek and said that she (the officer) could not see any bruises on the child's face.
- A Black man said that a Garda repeatedly beat him and, when he tried to bring the case to authorities, nothing tangible had been done. He further described how a complaint and investigation into the matter is taking several years and has not been finalised by the GSOC.
- A situation was reported whereby four individuals had submitted complaints about racism to AGS but there was no follow-up and to date no information had been provided to the complainants on the outcome of the case.

- A member of the Traveller community went to AGS to enquire about Garda vetting. The individual was asked questions related to their car insurance and who was accompanying them, a discussion that was completely unrelated to their vetting enquiry. This participant felt they had only been asked these questions because of their ethnicity.
- A Brazilian sex worker reported that while waiting for a language interpreter to assist with taking a statement at a Garda station, she repeatedly requested to use the toilet. Nevertheless, this was ignored by male Garda personnel who reportedly laughed at her attempts to speak English, pretending not to understand her.
- A Black African participant recounted that he reported his phone stolen by a staff member in a fast-food restaurant and was adamant this incident was caught on camera. However, the Garda who investigated the alleged theft refused to pursue the case, explaining that he (the Garda member) knew the shop manager was ill and did not want to cause them any added stress.
- An Eastern European participant reported shock when members of AGS came to her house and started questioning her children. This approach left the children traumatised for a long time as they did not know what was happening and thought they had done something wrong.
- A Brazilian participant said: I don't know how they treat people born in Ireland, all I know is that I was never treated with respect. I also know other Brazilian people that say it is too hard to deal with the Gardaí. Most of the times they ask to bring someone who speaks English when trying to make a complaint and if we don't bring one, we are told to come back another day. Sometimes we can't return or think there is no point in it since they always end up ignoring us.
- Another Black African participant said: (AGS) act very slow or not at all when a case is presented to them by someone from a minority background... There is a little bit of discrimination when it comes to responding to cases presented by a person from a minority background.

## Intersectional Experiences

Participants addressed the importance of recognising the occurrence of intersecting identities and how belonging to multiple minority communities impacts people's experiences with Gardaí. Participants identified socio-economic status as a factor in how an interaction with Gardaí will go, as participants considered that engagement with Gardaí is worse if they live in social housing. Participants living in areas with lower socioeconomic status, or neighbourhoods with significant migrant or Traveller populations, said they were treated differently by Gardaí. In terms of racial identity, participants believed that Black migrants are more likely to be racially profiled than white migrants. Additionally, participants identified that their experiences of policing are also influenced by their sexual orientation and/or mental health issues. In this regard, a participant shared that:

**In addition to being a Black and Indigenous migrant I am also a queer woman with a serious mental illness who is married to a disabled person. I am very fearful around how Gardaí treat those with mental illness and have seen many reports of tasers and restraints being used on people with mental illness, or in the case of George Nkencho being shot dead by the police while experiencing a mental health crisis. As a queer woman I have not reported being harassed on the street with a partner and also have fears around reporting witnessed verbal abuse [...] All of these factors make me question my safety around Gardaí and I do not feel safe around Gardaí.**

## Use of Stop and Search

The use of arbitrary stop and search against racial and ethnic minorities was raised, with participants sharing that they felt they had been subject to this practice because of their identity, rather than because of their behaviour.

- One participant recalled an experience of a Black African driver who was pulled over by a Garda because his mobile phone lit up in the car. Despite attempts to explain that the phone lit up because it was connected to a hands-free set, the participant reported that the Garda refused to listen, and instead, issued a summons to pay a fine or go to court.
- Two Black African men reported that they had been stopped at traffic checkpoints, and when they tried to question why their white counterparts were not stopped, Gardaí ignored their questions and proceeded to offer them notices and fines.

## Use of Force

Several participants reported being the victim of disproportionate use of force or witnesses to such instances.

- A Black African participant reported that after allegedly passing a red traffic light on the way to hospital he was violently pulled from the vehicle, pinned down and handcuffed before being taken to a Garda station. The participant was distressed after receiving a call to go to A&E (accident and emergency) where his wife was and remained adamant that he had not crossed a red light. While in the station, the same individual Garda carried him through a back door to a corner where there are no cameras. He reported that here “the Garda twisted my hands and continued to abuse me with racial slurs. I cried “Jesus! Jesus!” and the Garda said Jesus will not help you here”.
- A Black African participant reported aggressive and violent behaviour and the use of pepper spray after his arrest. This participant stated he had been handcuffed and beaten by Garda members.
- An African asylum seeker shared the experience of Gardaí raiding their home: “Eight Gardaí kicked the door, went into the house and pushed me into the kids’ bedroom”. The children were in their room at the time and were shocked to see their parents being handled that way in their own home. It was reported that the experience had a long-lasting impact on the children to the point that whenever they see a member of AGS, they ask if they are coming to their home again. Up to now, no explanation has been given for their home being raided.
- A Black African participant reported being arrested and kept in a cell without an explanation.
- An African woman emotionally recounted the experience of being strip-searched by AGS. Similarly, a Brazilian woman reported being stripped and searched without an explanation.
- A Black British man reported being beaten and pushed against a wall leaving his face with a big scratch as well as being called racist and xenophobic terms.



## Other Challenges When Interacting with An Garda Síochána

Participants noted numerous challenges when trying to interact with Gardaí, including members being openly rude. Participants identified differences in behaviour between different Garda members based on age and gender as they found that female and young members are often more respectful, better listeners and have more training on interacting with diverse communities.

Some participants felt that when members of racialised groups are questioned about alleged wrongdoing or criminal activity, no effort is made by Gardaí to listen. They felt that members tend to be dismissive when someone from a minoritised background attempts to provide an explanation or offer clarification for an alleged offense. It was also stated that when dealing with anti-social behaviour or a dispute between a white Irish person and a member of a racialised group, Gardaí can sometimes take sides against the person from the racialised group.

The following experiences articulated by participants highlight these challenges:

- A Traveller participant said that: For some reason, they choose to dismiss any such attempts and choose to proceed with whatever penalty/punishment they feel you deserve. It feels as if judgement of wrongdoing is immediately decided there and then.
- A Black participant reported that: The Gardaí took my passport thinking it was fake. They later found out that the passport was genuine. When returning it, the Garda did not bother to give an apology.
- An African participant attending one of the in-person workshops shared the view that AGS “wants to show you that you do not belong here and that you are different”, a view shared by all other participants in the room.

Participants expressed frustration that members of racialised groups were subject to excessive scrutiny, including by being observed and followed. Participants stated that they faced this scrutiny by Gardaí and members of private security firms as they would follow them on the street and in various commercial locations.

- A Black African woman reported that this constantly happened to her and her young children “for no apparent reason”. Supporting this claim, a Black participant added that his Roma friends have complained of being continuously followed by Gardaí, as well as by private security whenever they enter a shop. A view was shared that members of the Roma community get “followed around for no apparent reason”.
- Two Black African participants reported that they were followed by the same Gardaí on two separate days.
- Another Black African participant shared the experience of an immigrant family member who was followed by a Gardaí due to an accusation of theft by a shop owner. Once the Garda found out that the accused person was a medical doctor, what previously felt like an interrogation quickly became a cordial conversation.

## Differential Treatment and Discrimination Across the Criminal Justice System

Experiences and perceptions of differential treatment reported by participants go beyond AGS. Some expressed the view that different State agencies work in collaboration to profile minorities. Five participants felt that lawyers were contributing to discrimination. The following testimonies illustrate this discrimination:

- An African man seeking legal advice to bring a case against AGS reported being told by a solicitor “you wouldn’t get any money from this”. Their motive was not financial compensation.
- A South American and different African participants reported refusal by members of the legal profession to engage and assist in any matter involving AGS, with solicitors refusing to take cases against Gardaí if the case was brought to them by members of ethnic minority communities.
- Four Black African participants mentioned knowledge of cases being referred to the GSOC. It was the view of one person that “... after so long... it seems to be nothing happening, and we receive no information or update on the complaints”.
- A Nigerian participant reported that when receiving a fine for a minor traffic offence, the judge made the comment: “If you do not like the way we do things here then pack your bag and go back to wherever you are coming from”. He reported that as a result, the whole courtroom laughed.
- A Black African participant stated that “Agencies seem to have an aim of protecting their institutions and the plight of those marginalised in the society comes in as second best. As a result, if you happen to take a case against the Gardaí, not to mention lawyers, solicitors, judges, justice is dragged to the point that you end up feeling depressed, knowing there is no end in sight”.
- A Traveller participant shared that they would also not bring a case against the Gardaí as they “... know for sure that Gardaí will find another way to catch them ... [it is] not worth putting in the effort. Waste of my resources and will bring misery to myself and my family”.



*Facilitator leading the review discussion in Dublin to allow reflection on the comprehensive nature of participants' contribution.*

## The Impact of the Lack of Diversity in An Garda Síochána

Participants agreed that AGS is not as diverse as the population it serves. Participants felt that this partly influences how some Gardaí treat and profile members of racialised groups, including actions that appear to be or are aggressive, racist, or discriminatory: “potentially for fear of the unknown”. Several participants stated that Garda policies are only aspirational documents and feel that there is little oversight or accountability, with the feeling that things will never change. Participants noted that while Gardaí receive diversity training, they believe that it is ineffective. It was suggested that Gardaí must advance an anti-racist approach and become more culturally competent to foster respect and advance better relationships between Gardaí and members of racialised groups.

## Summary of Research Findings

The lived experiences of members of racialised groups captured in the research findings demonstrate that most participants have either experienced, witnessed or believe Gardaí are engaged in racial profiling. The majority of participants reported negative experiences with AGS, including disproportionate use of force and excessive scrutiny, and they firmly believe that members of racialised groups receive differential treatment compared to the wider white, settled Irish population. The effects of racial profiling led participants to feel unsupported, unprotected and unrepresented by Gardaí. Participants noted the lack of diversity among Gardaí and felt that this may influence actions towards members of racialised groups. The research findings support the need for the prohibition of racial profiling by Gardaí and for the wider organisation to be made accountable for the actions of individual members.

## SECTION 4: RECOMMENDATIONS AND MOVING FORWARD

### Addressing Racial Profiling: Best Practices, Strategies and Actions from Abroad

Racial profiling is a global issue. Different jurisdictions have adopted a variety of strategies to counter and combat the issue. The UN Secretary General has outlined how these strategies might manifest:

**Such strategies may involve laws and policies that prohibit racial profiling and provide guidance on appropriate conduct by law enforcement officials; systems of data collection and monitoring that track police activities; mechanisms for the internal and external accountability of law enforcement; greater community involvement in the development of law enforcement policies and practices; and improvements to training and recruitment of law enforcement personnel [...] Some studies have suggested that such practices, when combined, may help to reduce patterns of racial profiling.<sup>63</sup>**

Different jurisdictions have adopted the practices advocated by the UN to address racial profiling. For instance, Argentina, Colombia, South Africa and Spain have enacted laws prohibiting racial profiling and racial discrimination. The Netherlands introduced guidelines for police on avoiding discrimination during control activities. England, Wales and Northern Ireland have guidance on permissible and non-permissible suspicion for police searches. Sweden invested in diversity in police recruitment. In London (UK), community monitoring groups were established to review police use of stop and search. For internal accountability, the Toronto Police Force (Canada) conducted a review of community engagement, focusing on police stops. In the West Midlands (UK), a mobile app was introduced for police officers to record police stops. Spain refocused police identity checks based on monitored data. In terms of external accountability in Spain, local civil society groups have been actively involved in publishing studies on police stops and on patterns of bias.<sup>64</sup> Research suggests that police organisations around the world are diversifying their personnel, and that diversification has become a priority in police recruitment and workplace practices.<sup>65</sup>

<sup>63</sup> UN, *Preventing and Countering Racial Profiling*, p. 11.

<sup>64</sup> UN, *Preventing and Countering Racial Profiling*, p. 12-14, 17, 20-21, 23, 26.

<sup>65</sup> Toby Miles-Johnson, and Suzanna Fay, "'Being Diverse and Being Included, Don't Go Together in Policing"—Diversity, Inclusion, and Australian Constables," *Societies* 12, no. 100 (2022): 1.



## Recommendations

The research findings have provided further insight into the perceptions and experiences of racial and ethnic minorities in Ireland of discriminatory policing. The following recommendations are informed by the research findings and reflect recommendations from regional and international human rights bodies,<sup>66</sup> and other international best practices. They are also in line with previous recommendations from ICCL<sup>67</sup> and INAR.<sup>68</sup> The prevalence of recommendations regarding racial profiling demonstrates the need for action to combat and prohibit racial profiling in Ireland.

### RECOMMENDATIONS TO GOVERNMENT

1.	Adopt a comprehensive definition of racial profiling, drawing on the ECRI definition.
2.	Prohibit racial profiling in law, including all forms of direct and indirect racial discrimination by Gardaí.
3.	Meaningfully implement Action 1.5 of the National Action Plan Against Racism, to eliminate any type of policing practice that targets specific racial and ethnic minority groups by 2025.
4.	Immediately mandate the collection of disaggregated data pertaining to race, ethnicity, religion, gender and disability across the entire Irish criminal justice system, including in all policing operations, the courts and crime statistics to properly understand how racial and ethnic minorities are treated at each section of the justice system.
5.	Establish an independent and impartial complaints mechanism for victims to report incidents of racial profiling. Encourage victims to report by providing accessible information, including through the availability of easy-read information and information in a variety of formats (audio, video, hard-copy, large print, etc.), and offering free support services.
6.	Publicise information regarding all available procedures for complaints against Gardaí.

### RECOMMENDATIONS TO THE POLICING AUTHORITY

7.	Monitor An Garda Síochána's compliance with their human rights obligations on non-discrimination, as well as Section 42 of the Irish Human Rights and Equality Commission Act 2014 to promote equality and prevent racial discrimination in carrying out their functions.
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<sup>66</sup> Committee on the Elimination of Racial Discrimination, "Concluding observations: Ireland,;" Human Rights Committee, "Concluding observations: Ireland; European Commission Against Racism and Intolerance, "ECRI Report on Ireland (fifth monitoring cycle)".

<sup>67</sup> Irish Council for Civil Liberties, *Towards a National Action Plan Against Racism for Ireland: ICCL Submission to the National Anti-Racism Committee*, 2021, <https://www.iccl.ie/wp-content/uploads/2023/03/210714-ICCL-Submission-NAPAR.pdf>; Irish Council for Civil Liberties, *ICCL Submission on An Garda Síochána Strategy Statement 2022-2024*, 2021, <https://www.iccl.ie/wp-content/uploads/2021/06/210407-ICCL-Submission-AGS-Strategy-Statement.pdf>; Alyson Kilpatrick BL, *A Human Rights-Based Approach to Policing in Ireland*, 2018, <https://www.iccl.ie/wp-content/uploads/2018/09/Human-Rights-Based-Policing-in-Ireland.pdf>.

<sup>68</sup> European Network Against Racism and Dr. Lucy Michael, *Submission to the Commission on the Future of Policing in Ireland*, 2018, <http://policereform.ie/en/POLREF/European%20Network%20Against%20Racism.pdf/Files/European%20Network%20Against%20Racism.pdf>; European Network Against Racism Ireland, "Submission to ECRI NGO Roundtable – July 2018", accessed 17 August 2023, <https://inar.ie/wp-content/uploads/2019/11/ENAR-Irl-Submission-to-ECRI-roundtable-July-2018.pdf>; INAR, "CERD Report", accessed 17 August 2023, <https://inar.ie/cerd19/>.

## RECOMMENDATIONS TO AN GARDA SÍOCHÁNA

8.	Ensure continuous human rights and anti-racism training for Gardaí, including at the Garda College and through ongoing professional development. <sup>69</sup>
9.	Develop and deliver specific training on racial profiling that addresses unconscious bias and which examines: <ol style="list-style-type: none"> <li>Cross-cultural communication and intercultural understanding;</li> <li>The different manifestations of racial profiling and the impact on the individual;</li> <li>Key indicators of how organisational racial profiling is evidenced;</li> <li>Integrating equality primes, prompts and tools into day-to-day work;</li> <li>Clarifying and building institutional buy-in for the importance of addressing racial profiling; and</li> <li>Designing processes that support past and ongoing learning, planning, and action for eliminating racial profiling altogether.</li> </ol>
10.	Any training related to human rights, anti-racism, and racial profiling must be evaluated on its effectiveness, including through consultation with minorities. To be most effective, experienced and qualified civil society organisations, alongside members of groups with lived experience, should contribute to designing and delivering the training.
11.	Develop and publish a new specific Garda policy on addressing racial profiling and how to prevent, prohibit and monitor it.
12.	Add the prohibition of racial profiling to the Garda Code of Conduct and the Garda decision-making model.
13.	Prioritise diversity in recruitment to An Garda Síochána and take steps to incorporate equality, diversity and inclusion best practice in its recruitment and hiring practices, beginning with the initial application, to ensure that the diversity of Gardaí reflects the diversity of Irish society, including intersectional identities.
14.	Publish an updated Diversity and Integration Strategy.
15.	Appoint more Ethnic Liaison Officers and expand the Garda National Diversity Unit.
16.	Establish and advance relationships and procedures for dialogue and co-operation between Gardaí and minority groups to rebuild trust.
17.	Create effective reporting procedures within An Garda Síochána, including protections for whistleblowers, to provide for effective internal accountability.
18.	Publish all internal policy and training materials relating to human rights, anti-racism and diversity, including any policy that describes how An Garda Síochána deals with and processes complaints.

<sup>69</sup> European Commission against Racism and Intolerance, "ECRI Statement on Racist Police Abuse, Including Racial Profiling, and Systemic Racism," 2020.



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