



**PAVEE POINT**  
TRAVELLER AND ROMA CENTRE

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

January 2018

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Pavee Point Traveller and Roma Centre is a non-governmental organisation committed to the attainment of human rights for Travellers and Roma. The organisation comprises Travellers, Roma and members of the majority population working in partnership to address the needs of Travellers and Roma, who as minority ethnic groups experience exclusion and marginalisation.

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## INTRODUCTION

Pavee Point Traveller and Roma Centre welcomes the appointment of a Commission to carry out a fundamental review of the role, structures, leadership and management, ethos and culture of policing and existing oversight and consultative arrangements across all functions carried out by An Garda Síochána. An Garda Síochána is undergoing renewal and adopting new approaches. Likewise, the Traveller and Roma civil society sector is eager to engage with An Garda Síochána to increase collaboration and improve mutual trust and positive relations between Traveller and Roma communities and An Garda Síochána. We offer some brief comments and recommendations for this review in an effort to contribute to that objective.

Our submission highlights the particular situation of Traveller and Roma communities (see Appendix 1) and their relations with An Garda Síochána (Appendix 2). It focuses on highlighting the legal context to promoting equality and human rights by public bodies and makes a small number of recommendations for the Commission's consideration. The recommendations, in line with topics outlined in the Terms of Reference for the Commission's work, relate to the *'composition, recruitment and training of personnel; culture and ethos of policing; and appropriate structures for governance, oversight and accountability. Community policing, public safety and organisational development & capacity improvement are central to this submission also.*

### 1. COMPOSITION, RECRUITMENT AND TRAINING OF PERSONNEL

Travellers and Roma are one of the most marginalised and socially excluded groups in Ireland as a result of widespread anti-Traveller and Roma prejudice, racism and discrimination at both individual and institutional levels. Relations between An Garda Síochána and Traveller and Roma communities have historically been poor and continue to be characterised by mistrust and conflict. This can make the move towards increased partnership and dialogue with Traveller and Roma communities and the protection of Traveller and Roma victims particularly challenging.

#### Relations between Roma and An Garda Síochána:

- 54% of Roma say they feel discriminated by An Garda Síochána or in the courts
- 77.5% of Roma women report being stopped by An Garda Síochána
- Service providers and Roma report incidences where Roma Big Issue sellers are searched by members of An Garda Síochána, arrested and charged with begging <sup>1</sup>
- 2013 Inquiry by the Ombudsman for Children found that the removal of Child A and T by An Garda Síochána from their Roma parents was influenced by unfounded and deeply prejudiced myths about Roma 'stealing children'. The report found one of the cases to constitute as ethnic profiling <sup>2</sup>

There are significant concerns with regards to Traveller and Roma victims of crime in terms of low levels of reporting crime and victim satisfaction. Travellers are often 'over-policed' in relation to certain situations and crimes, and under-protected in other situations where An Garda Síochána fails to respond to calls for help. As a result, crimes, such as hate crime and domestic and sexual violence, often go underreported by Travellers and Roma. There is an opportunity to address this situation by the inclusion of the following priorities within the review of policing strategies and plans:

<sup>1</sup> Curran, S., A. Crickley, A., R. Fay, F. Mc Gaughey (eds), *Roma in Ireland - a National Needs Assessment*, Department of Justice and Equality and Pavee Point Traveller and Roma Centre (forthcoming in 2017).

<sup>2</sup> The cases were influenced by the case of 'Maria' in Greece, which witnessed the removal of a blonde child from a Roma family based on similar prejudice, in Ombudsman for Children, *Garda Síochána Act 2005 (Section 42) (Special Inquiries relating to Garda Síochána) Order 2013, 2014*, <http://www.justice.ie/en/JELR/Emily%20Logan%20report.pdf/Files/Emily%20Logan%20report.pdf>.

### 1.1 'Recruitment of Minority Groups'

There is a gap in recruitment of Travellers and Roma within An Garda Síochána. Increased inclusion of Travellers and Roma within the Garda force through a dedicated quota would promote improved relations and mutual trust between members of An Garda Síochána and Traveller and Roma communities.

#### Recommendation:

- Identify barriers to and increase / resource '*Recruitment of Minority Groups*' (inclusive of Travellers and Roma) as a priority in Policing Strategies and Plans in order to build trust and relations between minority groups and An Garda Síochána

### 1.2 'Promotion of Anti-racism, Anti-discrimination and Human Rights'

Section 42 of the Irish Human Rights and Equality Commission Act 2014 mandates all public bodies to take due note of equality and human rights in carrying out their functions. In performing their duties, public bodies are required to take proactive steps to assess and actively promote equality, protect human rights and combat discrimination. This duty must also be reflected in Policing Priorities and Policing Plans.

Standard anti-racism and cultural diversity training doesn't capture the experiences of anti-Traveller racism and anti-gypsyism faced by Travellers and Roma in Ireland. Furthermore, there is a gap in the provision of initial and ongoing professional training on the human rights situation of Travellers and Roma within An Garda Síochána (see Appendix 2).

#### Recommendation:

- Ensure that Section 42 of the Irish Human Rights and Equality Commission Act 2014 is explicitly included as a rationale/source of information to influence the ethos and culture of future Policing Strategies and structures in order for An Garda Síochána to comply with this legal duty
- Include '*Promotion of Anti-racism, Anti-discrimination and Human Rights*' (inclusive of Traveller and Roma human rights and anti-Traveller and Roma racism/discrimination) across all aspects of policing and policing structures
- Resource and mandate future Garda training and professional development to be inclusive of substantive and mainstreamed anti-racism, anti-discrimination and human rights training in a consistent manner

## 2. CULTURE AND ETHOS OF POLICING

### 2.1 'Meaningful Participation of Minority Groups at Policy Level'

Traveller and Roma organisations bring experience, knowledge and commitment to building positive relations between An Garda Síochána and Traveller and Roma communities. As leaders in the field of community development and human rights, it is essential that Traveller and Roma organisations are represented in relevant policing structures to inform policy and practice within An Garda Síochána. This includes including representatives of Traveller and Roma organisations on diversity strategy boards, local policing forums and other relevant structures.

#### Recommendation:

- Include '*Meaningful Participation of Minority Groups at Policy Level*' as a priority in future Policing strategies in order to ensure that policy and practice within An Garda Síochána is informed by good practice

### 3: APPROPRIATE STRUCTURES FOR GOVERNANCE, OVERSIGHT AND ACCOUNTABILITY

#### 3.1 Independence and resourcing of GSOC

In light of recent controversies and commissions of enquiry in relation to garda ‘whistleblower’ matters, it is important that, henceforth, structures and mechanisms for oversight and for accountability are independent in practice but are also perceived to be independent. A police service should be accountable to the community as well as to government and this needs to be led from the top but based on effective community policing models which are resourced appropriately.

#### **Recommendation:**

- GSOC should be accountable to the Oireachtas, modelled on the IHREC (2014 Act) and completely independent of the Department of Justice and Equality. This requires adequate resourcing in terms of funding, staffing and breadth of powers.
- Strengthen supports for community oversight and external scrutiny of policing
- Increase the number and range of community policing units

### 4: ORGANISATIONAL DEVELOPMENT AND CAPACITY IMPROVEMENT

#### 4.1 ‘Establishment of a Comprehensive Data Collection System’

The operationalisation of An Garda Síochána’s activities and plans fail to be based on comprehensive data due to lack of data disaggregated by ethnicity in the PULSE system. This results in policy and practice working from a vacuum.

Numerous UN human rights committees have urged state agencies in Ireland to disaggregate data by ethnicity. In 2017, the UNCEDAW Committee raised concerns at reports of lack of data disaggregated by sex, gender, ethnicity, disability and age in informing policy and programming.<sup>3</sup> In 2014 the UN Human Rights Committee expressed concerns about the lack of comprehensive data collection system on domestic and sexual violence and the significant obstacles for marginalized women to access support services. The UN Human Rights Committee recommended for “the State to take further legislative as well as policy measures to ensure that all women, particularly women from vulnerable and marginalized groups, have equal access to protection against perpetrators of violence”. The Committee also urged for the state agencies to “establish a systematic data collection system to inform current and future policies and priorities, and provide, in its next periodic report, disaggregated statistics on complaints, prosecutions and sentences regarding violence against women”.<sup>4</sup> While the Second National Strategy on Domestic, Sexual and Gender-based Violence includes an action whereby all state agencies, including An Garda Síochána, have committed to disaggregating data by ethnicity, there has been significant resistance to implementing this action.

#### **Recommendation:**

- Include ‘Establishment of a Comprehensive Data Collection System’ (inclusive of disaggregation of data by ethnicity in line with human rights-based standards) as a priority in all policing strategies and plans in order to generate robust and reliable data to inform policing policy and practice

<sup>3</sup> UN Committee on the Elimination of Discrimination against Women, *Concluding observations on the combined sixth and seventh periodic reports of Ireland*, CEDAW/C/IRL/CO/6-7, 3 March 2017.

<sup>4</sup> The UN Human Rights Committee, *Concluding Observations on the Fourth Periodic Report of Ireland, International Covenant on Civil and Political Rights*, 2014.

## APPENDIX 1 - Data and Sources re Travellers & Roma in Ireland

Travellers refer to the approx. 35,000 Irish Travellers living in Ireland<sup>5</sup>, who were officially recognised as a minority ethnic group in 2017.<sup>6</sup> Roma refers to those who identify as Roma in Ireland, approx. 4,000-5,000 people.<sup>7</sup> This includes migrants and second and third generation Roma, many of whom are Irish citizens. In 2017 the Department of Justice and Equality launched the *National Traveller and Roma Inclusion Strategy (2017–2021)* (NTRIS).<sup>8</sup> This was welcomed by Traveller and Roma groups on the NTRIS Steering Group who have sought the development of a comprehensive Strategy since 2011. However, there are still outstanding issues to be progressed, namely a need for an allocated budget, impact indicators, timelines and inclusion of Roma under the section on accommodation.

Data in this submission is from recent reports including the 2017 Census profile information from Census 2016.<sup>9</sup> It includes information from a 2017 report by the Economic and Social Research Institute (ESRI) which draws on analysis of micro-data from Census 2011 to examine the situation of Travellers,<sup>10</sup> and a second piece of research which examines data collected for the equality module of the 2014 Quarterly National Household.<sup>11</sup> Data is provided from an independent review of the funding of Traveller accommodation.<sup>12</sup> Findings from a National Survey of Travellers in Ireland are also sourced.<sup>13</sup> It includes information from 2017 reports by the Special Rapporteur on Child Protection in Ireland.<sup>14</sup> Finally, it includes data from a national needs assessment of Roma in Ireland, published by Pavee Point Traveller and Roma Centre and the Department of Justice and Equality in January 2018.<sup>15</sup>

## APPENDIX 2 – Policies & Legislation that impact on Traveller & Roma relations with Gardaí

Criminal trespass legislation is not linked with housing functions of local authorities and makes no allowance for necessity. In particular, Traveller groups see the legislation, while being facially neutral as being targeted at the nomadic way of life of Travellers in Ireland. Since its introduction, there has been no review of this legislation by the State and the adverse impact it may have on Travellers waiting on the delivery of local authority accommodation, and Travellers who remain nomadic for all or part of the year.<sup>16</sup>

Previous forced evictions have had a chilling effect; this has been raised as a concern by the UN CRC who expressed concern with the “criminalisation of nomadism, pursuant to the Housing (Miscellaneous) Provisions Act 2002 combined with the inadequate provision of transient halting sites, resulting in forced evictions and the suppression of nomadism as a cultural practice.”<sup>17</sup> The Committee recommends that Ireland “Respect the

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<sup>5</sup> Census 2016 enumerated 30,987 Travellers living in Ireland. This remains lower than the figure of 36,244 from the All Ireland Health Study, see Kelleher et al., *Our Geels All Ireland Traveller Health Study* (University College Dublin and Department of Health and Children 2010).

<sup>6</sup> On 1 March 2017 the Taoiseach (Irish Prime Minister) formally recognised Travellers as a minority ethnic group in Ireland, following a 30 year campaign by Traveller organisations. He stated, “I now wish formally to recognise Travellers as a distinct ethnic group within the Irish nation. It is, therefore, a historic day for Travellers and a proud day and a day of maturity for Ireland.”

<sup>7</sup> Pavee Point Traveller and Roma Centre & Department of Justice and Equality, *Roma in Ireland – A National Needs Assessment* (Forthcoming – Jan 2018).

<sup>8</sup> Department of Justice and Equality, *National Traveller and Roma Inclusion Strategy, 2017 - 2021* (Department of Justice and Equality 2017).

<sup>9</sup> Central Statistics Office, ‘Profile 8 - Irish Travellers Ethnicity and Religion – Census 2016 Results’ (Press Statement) (2017).

<sup>10</sup> Dorothy Watson, Oona Kenny and Frances McGinnity, *A Social Portrait of Travellers in Ireland* (ESRI 2017).

<sup>11</sup> See Frances McGinnity, Raffaele Grotti, Oona Kenny and Helen Russell, *Who experiences discrimination in Ireland? Evidence from the QNHS Equality Modules* (IHREC and ESRI 2017).

<sup>12</sup> RSM, *Review of Funding for Traveller-Specific Accommodation and the Implementation of Traveller Accommodation Programmes* (Housing Agency, 2017) 31.

<sup>13</sup> Behaviour and Attitudes, ‘Traveller Community National Survey’ (CFI 2017).

<sup>14</sup> Geoffrey Shannon, *Tenth Report of the Special Rapporteur on Child Protection - A Report Submitted to the Oireachtas* (Department of Children and Youth Affairs, 2017) & Geoffrey Shannon, *Audit of the exercise by An Garda Síochána of the provisions of Section 12 of the Child Care Act 1991* (2017).

<sup>15</sup> Pavee Point Traveller and Roma Centre & Department of Justice and Equality, *Roma in Ireland – A National Needs Assessment* (Forthcoming – Jan 2018). This research was conducted on foot of recommendation 4.2.3 of the Ombudsman for Children’s report into the removal of Roma children from their families in October 2013. The National Needs Assessment of Roma is based on interviews with 108 Roma respondents, who gave information on a further 501 household members.

<sup>16</sup> We have issued a question to the parliament and a request to the Chief Commissioner of An Garda Síochána for data on the number of forced evictions that have taken place under this legislation in 2017. Awaiting a response.

<sup>17</sup> United Nations Committee on the Rights of the Child, ‘Concluding observations on the combined third and fourth periodic reports of Ireland’ (2015) CRC/C/IRL/CO/3-4, para 69 d.

right to the cultural practice of nomadism, including by repealing/amending relevant legislation to ensure that this cultural practice is not criminalised; in doing so, the State party should also ensure adequate safeguards against forced eviction and access to timely recourse and commensurate reparation for victims of such forced evictions.”<sup>18</sup>

A national survey on Travellers found that 1 in 3 Travellers have been forced to move from their accommodation/area at some point (vs. 49% in 2000).<sup>19</sup> The survey showed that less Travellers are travelling now. Only 1 in 10 respondents said that they still travel, versus 1 in 3 when asked in 2000.<sup>20</sup> For those who had travelled, but no longer do so, 19% said they stopped as they are not allowed to do so by law and 18% said it was because there are less places to travel to now (which is a direct result of the change in the law).<sup>21</sup>

### **Discriminatory behaviour by police**

A 2017 national survey of Travellers found that 48% of respondents felt discriminated against by the Gardaí in the last year.<sup>22</sup> 77.5% (n=102) of Roma respondents in the national needs assessment reported being stopped by the Gardaí at least once for ID. This is a high rate of people of a particular ethnicity being stopped for ID checks.

There is no specific legislation addressing discriminatory behaviour by members of An Garda Síochána. There is a general statutory mechanism for dealing with complaints against Gardaí. The Garda Síochána Act 2005 established the Garda Síochána Ombudsman Commission (GSOC) to deal with complaints of breaches of discipline by An Garda Síochána. Relevant breaches of discipline are contained in Garda Síochána (Discipline) Regulations 2007. Those Regulations do not specifically refer to discriminatory behaviour. A Code of Ethics for An Garda Síochána was adopted for the first time in 2017.<sup>23</sup> The Code specifically refers to membership of the Traveller community as being a wrongful ground of discrimination and enjoins members of An Garda Síochána not to engage in discrimination. However, in the absence of any legal enforceability it is unclear how useful the Code, together with the Disciplinary Regulations, will be in addressing discrimination by the police against Travellers and Roma.

A report by the Special Rapporteur on Child Protection noted that when Gardaí were asked about cultural competence and diversity training, all but one member interviewed remembered receiving such training.<sup>24</sup> The report notes, “In the cases where respondents dealt with foreign national children, and/or foreign national parents, there was a distinct hesitancy or discomfort among respondents in their discussion of those interactions.”<sup>25</sup> And “In what little discussion there was of these engagements in the interviews, the language used by those members lacked sensitivity and suggested an absence of critically sophisticated understanding of the complex needs of an increasingly culturally and ethnically diverse population.”<sup>26</sup>

The report also notes that the appointment of 277 Ethnic Liaison officers is positive in building trust, however the report’s findings indicate that “current policies and practices in this regard have not filtered through to most Garda members.”<sup>27</sup> All Garda members should undertake diversity training.

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<sup>18</sup>Ibid, para 70 d.

<sup>19</sup>Behaviour and Attitudes, ‘Traveller Community National Survey’ (CFI 2017), 57.

<sup>20</sup>Ibid, 66.

<sup>21</sup>Ibid, 68.

<sup>22</sup>Behaviour and Attitudes, ‘Traveller Community National Survey’ (CFI 2017), 87.

<sup>23</sup>Code of Ethics for the Garda Síochána, The Policing Authority 2017.

<sup>24</sup> Geoffrey Shannon, *Audit of the exercise by An Garda Síochána of the provisions of Section 12 of the Child Care Act 1991* (2017), 167.

Only one member of FG 1 had received specific training on AGS’s policing strategy for Ireland’s increasingly diverse population. This participant was not enthusiastic about the training he had received, and noted that his two day training programme now meant he was the station’s designated ethnic liaison officer – a role he was not confident he could perform.

<sup>25</sup> Geoffrey Shannon, *Audit of the exercise by An Garda Síochána of the provisions of Section 12 of the Child Care Act 1991* (2017), 168.

<sup>26</sup> Ibid.

<sup>27</sup> Geoffrey Shannon, *Audit of the exercise by An Garda Síochána of the provisions of Section 12 of the Child Care Act 1991* (2017), 277.