

## **Submission to Cork City Joint Policing Committee: Six Year Strategy**

### **1. Introduction**

Nasc is a non-governmental organisation working for an integrated society based on the principles of human rights, social justice and equality. Nasc (which is the Irish word for link) works to link migrants and ethnic minorities to their rights through protecting human rights, promoting integration and campaigning for change.

Nasc was founded in 2000 in response to the rapid rise in the number of asylum seekers and migrant workers moving to the city of Cork. It is the only NGO offering legal information and advocacy services to immigrants in Cork City. Nasc's legal team assist some 1,000 immigrants annually in navigating Ireland's protection, immigration and naturalisation systems. Our campaigning agenda is informed by our day-to-day work with migrants and the issues that arise from our legal clinics.

We also assist migrants and ethnic-minority Irish people who encounter community-based and institutional racism and discrimination. Nasc works in partnership with other Cork-based organisations including CESCA, HSE Social Inclusion, New Communities Partnership, Cork Community Policing, Cork City Council, Cork City Partnership, Cork Migrant Centre and others to tackle racism and promote the integration of new communities in Cork City.

Nasc welcomes the opportunity to make a submission on the development of the Cork City Joint Policing Committee's Six Year Strategy. Based on our work with migrants and ethnic minorities, we have identified a few key areas – based on the priorities set out in the JPC Work Plan – where we believe An Garda Síochána could improve its policing service and promote the integration and inclusion of migrant and ethnic minority communities in Cork City. Nasc believes integration and inclusion are essential components in protecting and promoting the safety and security of all of the residents of Cork.

### **2. Policing New Communities**

#### **2.1. Demographics**

Cork is an increasingly diverse city. The 2011 Census figures show that Cork City and County experienced some of the highest growths in migrants living within its borders. In the 2011 Census, the number of migrants living in Cork County stood at 42,886, an increase of 10,518 since 2006, placing the county third on the list of counties with the highest number of migrants in terms of absolute numbers, behind Dublin City and Fingal. Remarkably, there are fifteen towns in County Cork where the migrant population exceeds 20% of the overall population. In Cork City, the census disclosed that there a total of 14,611 people of different nationalities living here, bringing the total between City and County to 57,497.

## 2.2. Racism and Racist Crimes

Combating racism and discrimination in all its form plays a critical role in promoting the inclusion and integration of ethnic minority and migrant communities. Unfortunately, racism forms part of the lived experience of migrants and ethnic minorities living in Ireland. The impact of racism is not confined to the victim but has a detrimental impact on communities and it undermines social cohesiveness. Through our work with victims of racism, we have seen firsthand the hard that is caused to both the individual and the community at large.

### 2.2.1. Reporting Racism

As Cork becomes more diverse, racism has become an ever-increasing problem in the city and throughout the country. This was noted in a survey conducted for the Mid-Term Review of the Cork City Integration Strategy in 2010 (available here: <http://www.nascireland.org/wp-content/uploads/2011/11/CCIS-Midterm-Review-2010.pdf>). This trend has been noted in research and by NGOs and community groups working in this area, including ourselves.<sup>1</sup> Nasc was one of the first NGOs in the country to pilot ‘third party’ racist reporting, a confidential reporting initiative originally developed by Cork-based Community Garda Sgt. Trevor Laffan (now retired), to promote wider reporting of racist incidents. Many types of racist incidents do not constitute a crime under Irish law and they are not recorded as such in the Garda PULSE system. The racist reporting mechanism emerged as a result of low levels of official reporting of racist incidents (low levels of official reporting have also been noted by the Garda Inspectorate in their 2014 Report<sup>2</sup>). A lack of “minority ethnic community confidence” in the police and other criminal justice agencies and the role the Gardaí play in immigration, as well as other factors, contribute to low levels of reporting among migrant and ethnic minority communities.<sup>3</sup>

In 2012, Nasc published a short report on racism, *Stop the Silence: A Snapshot on Racism in Cork* (available to download from our website at <http://www.nascireland.org/wp-content/uploads/2012/02/NASC-Report.pdf>), which was based on analysis of our racist reporting mechanism. We also conducted a broad survey of people’s attitudes to racism in the city, and the findings of this survey were included in the report. The survey indicated that 55% of people in Cork think racism is a problem, and that the Black African community were most at risk of experiencing racism.

Since Nasc launched the mechanism fully in 2011, we have received 129 racist reports, including 75 instances of individual racism and 54 instances of institutional racism (see table below for breakdown):

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<sup>1</sup> See for instance ENAR Ireland’s Quarterly Reports, available on their website at: [www.enarireland.org](http://www.enarireland.org).

<sup>2</sup> Crime Investigation - Garda Inspectorate Report (2014), available: [http://www.gsinsp.ie/index2.php?option=com\\_docman&task=doc\\_view&gid=243&Itemid=152](http://www.gsinsp.ie/index2.php?option=com_docman&task=doc_view&gid=243&Itemid=152).

<sup>3</sup> Taylor, Responding to Racist Incidents and Racist Crimes in Ireland: An Issues Paper for the Equality Authority (Maynooth: NUI Maynooth, 2010), p. 33

### Racist Report Breakdown, 2011 to 2015

Individual	Institutional
Verbal abuse: 23	Goods/Services: 13
Online racism: 15	Criminal justice: 15
Physical abuse: 9	Housing: 5
Non-verbal abuse: 11	Employment: 6
Criminal damage: 7	Education: 7
Incitement: 10	Healthcare: 2
	Social Services: 6
<b>Total Individual: 75</b>	<b>Total Institutional: 54</b>

#### 2.2.2. Housing issues & Anti-social behaviour

In 2015 to date, Nasc has noted an increase in reports in relation to racist anti-social behaviour in housing estates, especially on Cork's Northside. Despite working closely with Cork Community Policing, the Housing Authority, and local community supports, several families continue to be forced to stay in council houses where they are subject to ongoing racial harassment and abuse. According to the Housing Authority, they cannot effect transfers because of anti-social behaviour and the Gardaí report they cannot act on anti-social behaviour until they catch perpetrators 'in the act', so families continue to suffer and grow increasingly isolated. Nasc recommends that a coordinated, anti-racism response is needed amongst key stakeholders (e.g. local community groups, community leaders/elected officials, An Garda Síochána, the Housing Authority, and any other relevant bodies) to provide support for people experiencing racism in housing estates.

#### 2.2.3. Ethnic Profiling

In the course of our work, we have also noted an increasing prevalence of reports of discriminatory ethnic profiling by Gardaí of ethnic minority and migrant communities, especially amongst Black African communities and the Roma community. We are deeply concerned about the increase in these reports, and the absence of any legislation to prohibit discriminatory ethnic profiling. Discriminatory ethnic profiling was highlighted in the 2009 EU-MIDIS Survey conducted by the Fundamental Rights Agency<sup>4</sup>, which showed that Ireland had the second highest rate of police stops in the EU. 59% of Sub-Saharan Africans reported being stopped by police in the previous 12 month period, with 93% of these stops occurring when respondents were driving cars or riding motorbikes. The most recent report on Ireland by the European Commission on Racism and Intolerance (ECRI) (2013) also highlighted the issue of ethnic profiling and the lack of legislation prohibiting it.<sup>5</sup> In Nasc's experience, ethnic profiling is most commonly reported in the context of: traffic stops, street searches, begging, and identity documents.

<sup>4</sup> European Union Agency for Fundamental Rights, European Union Minorities and Discrimination Survey (2009).

<sup>5</sup> ECRI Third Report on Ireland (2013), available here: <http://static.rasset.ie/documents/news/ecri-report-ireland.pdf>

In our work with the Roma Community in Cork, Nasc has found that a significant number within the Roma community have consistently been found to be in breach of the Criminal Justice (Public Order) Act 2010, which restricts the activity of begging in the State. In their experience, a member of An Garda Síochána consider them to be begging in a prohibited location or in a manner considered to be obstructive.

The Act prohibits harassment or intimidation of members of the public by persons who engage in begging and confers power on members of An Garda Síochána to give directions to persons to desist from begging. Begging within certain circumstances is permitted. The limitations outlined relate to the location where the begging takes place ( Section 3 (2)) and the behaviour of the individual engaging in the activity (Section 2). Section 3 outlines the powers granted to An Garda Síochána<sup>6</sup> and Section 4 outlines the Power of arrest afforded to members of An Garda Síochána:

4.—(1) A member of the Garda Síochána may arrest without warrant any person whom he or she suspects, upon reasonable grounds, of having committed an offence under section 2 or 3.

(2) A member of the Garda Síochána may require a person whom he or she suspects of having committed an offence under section 2 or 3 to inform the member of his or her name and the address at which he or she resides.

Members of the Roma community believe they are begging within the remit of the Act. Additionally there have been cases of repeated arrests of the same individual. We are concerned that there appears to be some targeting of this community. These issues were documented in our 2013 report on the structural discrimination experienced by the Roma in Ireland: *In from the margins – Roma in Ireland* (2013),<sup>7</sup> where for example, an astonishing 91% of Roma women who participated in the research reported having come to the attention of the Gardaí at some point. A recent upsurge in arrests in the summer of 2015 has increased our concerns regarding the possible discriminatory ethnic profiling of members of the Roma community.

Nasc would recommend clarification of the ‘reasonable grounds’ required to allow a member of An Garda Síochána to arrest without warrant any person he or she suspects of committing an offence under the Act, to ensure that this is not functioning as a means of discriminating against a particular community in Cork. Also, we believe information sessions relating to the types of begging permitted for the Roma community would be beneficial.

The relationship between a community and its police force has a significant impact on the integration and social inclusion of that community. If certain communities become associated with criminality in the minds and actions of the police force, this will only serve to further marginalise and exclude certain

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<sup>6</sup> <http://www.oireachtas.ie/documents/bills28/bills/2010/0710/b0710d.pdf>

<sup>7</sup> Available at: <http://www.nascireland.org/wp-content/uploads/2013/05/NASC-ROMA-REPORT.pdf>

migrant and ethnic minority communities, and enhance the mistrust between those communities and An Garda Síochána.

#### ***2.2.4. Anti-Racism Training***

As a result of our work with migrant and ethnic minority communities, Nasc maintains a strong relationship with Cork Community Policing, and we would liaise with Community Garda Sgt. O'Connor on a regular basis in relation to reports received and other issues that impact migrant and ethnic minority communities in Cork. In the past year, we have met with Chief Superintendent Mick Finn and Assistant Superintendent Tom Myers regarding areas of concern to migrant and ethnic minority communities. We have also, with the support of the Garda Commissioner, been working closely with Sgt. John O'Connor and Gardaí in the Garda Racial, Intercultural and Diversity Office to develop anti-racism training for Gardaí, which we have delivered to over 60 Gardaí in Cork City since last year.

Nasc recommends the introduction of hate crime legislation, to ensure that hate motivated incidents are treated as crimes in the investigation and prosecution stages of the criminal justice system. This would bring Ireland in line with our obligations under the EU Framework Decision on Combating Racism and Discrimination. We would also recommend that the Gardaí receive training on the existing legislative and policy mechanisms for tackling racism and discrimination, especially amongst particularly vulnerable and/or invisible ethnic minority and migrant communities, as well as receive intercultural awareness, anti-racism and diversity training to ensure Gardaí are not profiling or stereotyping based on race or ethnicity. In addition, we recommend that the inclusion of hate-based incidents be mandatory for Gardaí in official reporting on the recently updated PULSE system.

### **2.3. Immigration**

As an organisation working on behalf of migrants, Nasc is concerned that many migrants are experiencing difficulties when accessing the Garda National Immigration Bureau services at Anglesea Street. We have received a number of reports that when accessing services such as registration, they are frequently dealt with in an inappropriate manner by immigration Gardaí. Migrants are extremely reluctant to make a formal complaint when they experience unfair treatment as they believe it will mitigate against them in any future interaction with immigration Gardaí and that it may impact upon the future renewal of their immigration permission.

Our experience indicates that often changes in national policy are not being carried out at local level, necessitating having to contact head office in Burgh Quay to reissue an instruction which is time consuming for all concerned. There are also reports of generally unfair and even at times belligerent treatment of migrants who are presenting in Anglesea Street, even when migrants are in possession of the correct documentation. Overall, Nasc would recommend a review of service provision at the immigration desk and a meaningful engagement with NGOs working in the area in the city, to achieve increased efficiencies and increase the confidence of the migrant community in the Gardaí. As the

majority of migrants' experience of interacting with the Gardaí is in an immigration context, a negative experience here can lead to a distrust of the Gardaí in general.

From a national and more long-term perspective, we would recommend that immigration services be separated from policing, as we do not believe this promotes a positive immigration experience and effectively equates immigration with crime. At the very least, it should be autonomous from other policing activities. We are aware that services currently delivered by GNIB are in the process of being transferred over to INIS, and it would be useful to know when this transition will be effected and what, if any, immigration related services might be retained by An Garda Síochána in the future.

We are also concerned about the issue of immigration-related detention and refusals of leave to land at Cork Airport, which will continue to be overseen by GNIB. More transparency is needed about the decision-making involved in refusals of leave to land, and what information about rights, etc is being communicated to those who are detained for immigration-related reasons.

#### 2.4. Domestic Violence

Migrant victims of domestic violence can be particularly vulnerable when making a report to the Gardaí. On top of the trauma of experiencing domestic violence, there may be language and cultural barriers as well as concerns about immigration status. As a result of our day-to-day interactions with migrant victims of domestic violence, we are concerned that Gardaí are not fully cognisant of the particular issues which impact migrant victims and the specific needs they may have in seeking out An Garda Síochána.

According to recent guidelines published by the Irish Immigration and Naturalisation Service (INIS), migrant victims of domestic violence whose residency is dependent on their violent partner can apply to gain independent residency. When a migrant victim of domestic violence is making an application to the Minister of Justice to seek independent residency permission, there are several types of formal documents that can aid in their case, including a Garda report; barring, safety or protection orders; or even proof that the Gardaí have been contacted in relation to a particular violent incident.

Not only do these documents aid in a migrant victim gaining independent residency and allowing the person freedom from control and the possibility of leaving the family home, they can also aid in the victim's ability to access emergency support services such as community welfare, a medical card and refuge services. We have received reports from migrant victims that we would support that they were experiencing difficulties reporting domestic violence to the Gardaí and that when they presented at a Garda station to make a report, Gardaí were allegedly refusing to take reports of domestic violence.

We would recommend compassionate, culturally sensitive and timely treatment of a particularly marginalised category of people going through an extremely difficult time. We would also recommend up-to-date training on policies and procedures relating to migrant victims of domestic violence seeking

independent residency so that the necessary documents are supplied to provide a measure of independence and safety for migrant victims of domestic violence.

We are happy to note the establishment of the Garda Victims of Crime Unit, and have already engaged with the Unit in a productive way. We are hopeful this unit will have a positive impact for migrant victims of domestic violence, as well as all migrant and ethnic minority victims of crime in Cork.

### **2.5. Embedding Equality**

Under Ireland's equality legislation, discrimination based on any of the nine grounds is unlawful. While the equality provisions provide a good framework and clearly articulate the State's commitment to equality, as enshrined in Article 40.1 of the Constitution, it must be noted that a number of exemptions exist that serve to dilute the effectiveness of the legislation. In addition, the definition of 'service' in the equality legislation means that An Garda Síochána does not fall under its remit, which makes ensuring that An Garda Síochána operates under the equality provisions is up to the body itself.

The recent IHREC Act, 2014, which legislates for the establishment of the newly merged Irish Human Rights and Equality Commission, includes a provision which puts a positive duty on public sector bodies to embed equality and human rights into their infrastructure. This duty goes beyond the need for public sector bodies to avoid potentially discriminatory acts; public bodies are now required to consider how they will proactively and positively advance equality for groups protected under the nine grounds, and how they will protect the human rights of all people in the regard to the human rights obligations in the Constitution, international human rights instruments and domestic legislation. The duty requires public bodies to consider the human rights and equality impact of their policies, services, procedures and practices and ensure that the promotion of equality and human rights becomes a core part of the way in which the organisation operates. This includes an assessment of human rights and equality issues, as well as plans and actions to be put in place to address those issues, be included in the organisation's strategic plan; and that developments and achievements in relation to the plan be reported annually. This process should begin within An Garda Síochána as soon as possible, and Nasc believes the Joint Policing Committee's Six Year Strategy should include actions and plans in relation to that process, to ensure that equality and human rights are fully embedded in An Garda Síochána.

### **2.6. Efficient Use of Resources**

Our work often puts us into contact with Cork Community Policing, who are doing excellent work in developing positive relationships in the city, tackling racism and promoting integration of migrant and ethnic minority communities. We are concerned that budget cuts have significantly reduced the capacities of community Gardaí to respond to issues. This is an important arena where An Garda Síochána interact with the community to prevent crime instead of respond to it, and we would recommend ensuring that community policing has sufficient resources to maintain its positive presence in the city.



### **3. Further Information**

For further information, specific data or clarification of any of the above, please do not hesitate to contact Jennifer DeWan, Communications and Campaigns Manager, at Nasc at: (021) 450 3462 or [jennifer@nascireland.org](mailto:jennifer@nascireland.org).