



**NEW COMMUNITIES PARTNERSHIP**

**SUBMISSION TO THE GOVERNMENT WHITE PAPER ON CRIME**

**September 2011**

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#### EXECUTIVE SUMMARY

New Communities Partnership (NCP) is a national network of 117 ethnic minority led organisations with offices located in Dublin, Limerick and Cork. The organisation's mission is to represent and empower ethnic minority led organisations at all levels of society, with a vision to influencing positive changes in policies that impact on their lives.

NCP works to promote effective integration and social inclusion initiatives at local, regional and national levels while raising awareness of and improving access to services in the local community through information provision and advocacy.

Findings from research conducted by the Fundamental Rights Agency<sup>1</sup>, Immigrant Council of Ireland<sup>2</sup> and NCP<sup>3</sup> indicate that ethnic minorities are more vulnerable to crime and victimisation. This can be largely attributed to a wide range of issues like prejudice, language barrier, immigration status, existing legislation or policies and a lack of basic understanding of the criminal justice system. A typical example of this would be the vulnerability of ethnic minority women and migrant domestic workers to domestic violence and exploitation.

Given the peculiarity of the needs of ethnic minorities in terms of their exposure to crime and victimisation, NCP recognises the importance of participating in examining approaches to intervention, prevention and enforcement in the criminal justice system. New Communities Partnership is therefore putting forward this submission as a response to the Government White Paper on crime which will set out the overall policy framework for strategies to combat and prevent crime.

It is important to also mention that several initiatives have been taken by the several bodies that comprise the criminal justice system to improve public confidence. However huge concerns about lack of confidence amongst ethnic minorities in the criminal justice system remain. Under-reporting of race related crime was found to be prevalent in the state in a survey conducted by the Fundamental Rights Agency as recently as 2009. The NGO, Alliance Against Racism (NAAR), shadow report on the occasion of Ireland's third and fourth periodic report to the UNCERD Committee earlier this year also highlights some of the issues that this submission hopes to address.

#### BACKGROUND AND FRAMEWORK

New Communities Partnership welcomes the invitation for written submissions on the issues raised in the discussion document published by the Department of Justice and Equality, entitled '**The Community and the Criminal Justice System**' as part of the final stage of the consultation process on the Government White Paper on crime.

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<sup>1</sup> European Union Agency for Fundamental Rights, *European minorities and discrimination survey 2009*

<sup>2</sup> Immigrant Council of Ireland, *Getting on: From migration to Integration 2008*

<sup>3</sup> New Communities Partnership, *UPR submission to UNHCHR 2011*

A recurring theme in the white paper consultation process has been the relationship between the criminal justice system and the community it serves. This submission will attempt to focus on avenues for improving the relationship between ethnic minorities in our society and the criminal justice system.

A number of laudable initiatives to improve public confidence in the criminal justice system have been taken over the years. Specific social inclusion initiatives include the establishment of the Garda Racial Intercultural and Diversity Office, the appointment of Ethnic Liaison Officers (ELO) and the publication of the An Garda Síochána Diversity Strategy 2009-2012. Measures taken by the court services and the office of the DPP in public awareness raising have included publication of information leaflets targeting end users in a number of languages. Again, the '**Irish Sentencing Information System**', set up recently, reflects the range of sentences and other penalties that have been imposed for particular types of offences across the jurisdiction.

A 2009 survey by the Fundamental Rights Agency noted that only 16% of minorities who experience racially motivated crimes report such crimes to the Gardai. Even more disturbing, only 18% of those who had experienced racist attack reported to the Gardai. According to findings in the CSO 2010 *Crime and Victimization: Quarterly National Household Survey*, under-reporting is indicative of lack of confidence in the Gardai's willingness or ability to respond effectively to the report.

Given the foregoing expositions, the NCP hereby makes the following representations:

#### **1. PUBLIC CONFIDENCE IN THE OPERATION OF THE CRIMINAL JUSTICE SYSTEM**

The lack of confidence in the criminal justice system prevalent amongst ethnic minorities in the State stems from the nature of their interaction with the several bodies within that system. While direct engagement with any of the bodies interacting within the criminal justice system for many in the society is infrequent and would generally occur only if they were either a victim or a suspect of crime, this is not the case with ethnic minorities. Ethnic minorities frequently engage with the criminal justice system in the context of immigration control. The nature of encounters that ethnic minorities have with members of An Garda Síochána and the Department of Justice and Equality as well as the courts generally influences their attitude towards the criminal justice system. Participants at NCP's focus group in considering this first key issue, generally expressed confidence in the ability of the criminal justice system and in particular the gardai to tackle crime. However, 64% of the participants due to their previous contact with the criminal justice system, most notably with the Gardai at ports of entry and in the course of running their business did not generally perceive the system as fair and without discrimination. Participants perceived 'Stop and search' practices of the Gardai as often prompted by ethnic identity. The European Union's Fundamental Rights Agency in its key findings on respondents' experiences of discrimination, victimisation and police stops reported that with respect to police stops, sub-Saharan African respondents were by far most likely to be stopped in Ireland as compared to some other European member states<sup>4</sup>. Concern has been expressed about the treatment of foreign nationals at ports of entry to the state which have often been described as humiliating and arbitrary and the need to put in place safeguards against arbitrary detentions is crucial.

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<sup>4</sup> European Union Minorities and Discrimination Survey 2009, pg.82

Participants at the focus group did not express fear about becoming the victims of crime although there was a general consensus that racially motivated crime and acts of discrimination may prove more difficult to tackle due to their nature.

## **2. COMMUNICATIONS BETWEEN MEMBERS OF THE PUBLIC AND THE CRIMINAL JUSTICE SYSTEM**

The appointment of ethnic liaison officers (ELO's) within the Gardai contributes in opening lines of communication between the Gardai who are the most visible face of the criminal justice system and ethnic minority communities. Many participants at the NCP focus group expressed the view that working with ELO's in addressing specific concerns of ethnic minorities' holds immense potential for improving communication between the communities and the Gardai. While the experiences of participants varied in their encounter with ELO's, with participants expressing satisfaction to moderate dissatisfaction with the services of ELO's the appointment of ELO's is recognised as a confidence enhancement measure.

The court service publications are a useful resource although many ethnic minorities appear to lack adequate information about the court processes to make an informed decision as to what plea to make if charged with a criminal offence. Some indicated that there is an over emphasis in the court on the consequences of a 'not guilty' plea if a trial subsequently ends in a conviction for the accused who has failed to make a plea of guilt. This type of approach could lead an accused who may have pleaded otherwise to make a plea of guilt.

The court service project the Irish sentencing information system (ISIS) which provides information on sentencing decisions is a laudable initiative. The service can be further enhanced by ensuring that statistics on sentencing also reflect nationality and ethnicity.

Ethnic minorities who appear before the courts as accused persons do not always request the services of an interpreter even when it is obvious that they would be better able to put up a robust defence with the assistance of an interpreter. Judges presiding over cases where it is apparent that the persons engaging with the criminal justice system lack the communication skills to represent themselves effectively should facilitate the provision of an interpreter for that purpose.

Cognisance should be taken of the cultural differences that influence body language in the course of court trials and /or investigations by the Gardai. Concern was expressed among participants that lack of eye contact is often perceived as an indication of guilt when this sort of body language is commonly as a result of cultural norms and practices.

## **3. RESPONSIVENESS TO MEMBERS OF THE PUBLIC IN THEIR DIRECT DEALINGS WITH THE CRIMINAL JUSTICE SYSTEM.**

The responsiveness to members of the public of the different bodies within the criminal justice system is generally considered as very good. However, the effectiveness of the system in identifying, deterring and punishing racially motivated crime is rated low with 57% of participants indicating a lack of confidence in the ability or willingness of the system to tackle these types of crimes except in circumstances where the crime has resulted in serious harm or loss of life.

The most common racially motivated crimes are verbal abuse, harassment, damage to property and physical assaults. Participants had either experienced all or one of these crimes or knew of someone

who had. In nearly every instance, the crime had been committed by a stranger and under circumstances where it was felt that it would be difficult to apprehend the offender even if the Gardai were to be called. The response of the Gardai to reported incidents have generally not resulted in arrests or prosecutions and this appeared to be one reason for poor reporting practices. In one instance mentioned, there was a lack of response to a call to the Gardai and in another; there was a reported casual dismissal of a report of an assault to a Garda in the vicinity.

The publications of the court service and the office of the Director of Public Prosecutions are helpful in assisting ethnic minorities navigate the criminal justice system. However, there is need to increase public education tailored to meet the needs of ethnic minorities due to language barrier, cultural barrier and lack of familiarity with the criminal justice system that hampers engagement with the system.

#### **4. A GREATER ROLE FOR MEMBERS OF THE PUBLIC IN RESPONDING TO CRIME.**

Ethnic minorities in the state would generally associate engagement with any of the bodies that comprise the criminal justice system as indication of a problem. There would be the inclination to avoid engagement and this may stem from lack of confidence.

A greater role for ethnic minorities in responding to crime can be encouraged by building on some of the social inclusion measures taken so far. Furthermore, the composition of the Joint Policing Committee should adapt to increase representation from ethnic minority communities to enhance relationships between the Gardai and ethnic minority groups.

Other measures to enhance the confidence of ethnic minorities to play a greater role in responding to crime would be to improve the way ethnic minorities perceive the criminal justice system. The engagements of ethnic minorities with some of the bodies that comprise the criminal justice system have been adversarial at the best of times. Immigration law and policing policies need to be reviewed and strengthened to ensure non-discrimination in order to improve the confidence of ethnic minorities in the criminal justice system.

The recruitment of more ethnic minorities into the An Garda Síochána will go some way in fostering a feeling of ownership that will promote greater participation of ethnic minorities in responding to crime.

#### **5. RECOMMENDATIONS**

(i) Joint policing committee structures should be adapted to increase representation from ethnic minority communities.

(ii) Irish sentencing information service information should reflect information on nationality and ethnicity.

(iii) The recruitment of members of the ethnic minority community into An Garda Síochána will be beneficial to building the confidence in the criminal justice system.

(iv) Immigration law and police policies guidance and training need to be reviewed and non-discrimination provisions strengthened in order to improve confidence of ethnic minorities in the criminal justice system.

(v) Interpreters should be facilitated for ethnic minorities appearing in court where it is apparent that there are language difficulties.

(vi) Body language that is as a result of cultural norms and values should not be misinterpreted during Garda investigations or court trials.

(vii) Public education measures targeting ethnic minority communities should be introduced.

(viii) Human rights and diversity training should be carried out in all bodies that comprise the criminal justice system.

(ix) Referring incidents of alleged discrimination by members of An Garda Síochána to the Garda commissioner by the Garda Síochána Ombudsman Commission should be discontinued as this discourages reporting.

(x) The state should adopt legislation that prohibits any form of racial profiling.

## **6. CONCLUSION**

New Communities Partnership welcomes the opportunity to make an input into the policy framework for the strategies to combat and prevent crime. NCP recognises the importance of identifying and putting forward some of the issues articulated by the members of new communities in their engagement with the criminal justice system. To date, a number of laudable measures have been introduced by the different bodies that comprise the criminal justice system. However, implementing some of the recommendations put forward in this submission will go a long way in enhancing the confidence of ethnic minorities in their engagement with the criminal justice system.