



## Sentencing Gypsy, Traveller and Roma children

From 1 June 2017, [new sentencing guidelines](#) for children and young people will place increased focus on the background, circumstances and vulnerability of children in the youth justice system. They will also require courts to consider the overrepresentation of Black, Asian and Minority Ethnic (BAME) children in the system and to take into account particular factors arising in the cases involving children from these groups.

**Gypsy, Traveller and Roma (GTR)<sup>1</sup> people are distinct ethnic groups yet they rarely receive the same recognition as other BAME communities, notwithstanding data that shows they experience multiple inequalities in society. The implementation of the new guidelines offers an opportunity for meaningful change.**

Compared to the general population, GTR people, including children, are more likely to suffer mental and physical ill health and substance misuse issues. They are at greater risk of infant mortality, maternal mortality, and suicide. At school, they are more likely to face bullying or exclusion, and less likely to attain qualifications. They encounter discrimination throughout their lives and, more often than not, their experiences of authority are negative ones.

Against this backdrop, it is unsurprising that that GTR children are overrepresented in the youth justice system.

Despite just **0.1%** of the population of England and Wales identifying themselves

as Gypsy or Irish Traveller<sup>2</sup>, their children make up **12%** of Secure Training Centres (STCs), **7%** of Young Offender Institutions (YOIs) and **17%** of the Keppel Unit<sup>3</sup>.

The most significant barrier to change (and evidence in itself that this group has been overlooked) is the fact that GTR children are not included in most youth justice ethnic monitoring systems, so do not appear in official data<sup>4</sup>. There is now a pressing need for all involved in the youth justice system to re-think sentencing for young GTR offenders, recognising the complex array of factors that have led such overrepresentation of GTR children in the youth justice system. The new sentencing guidelines offer the opportunity to start redressing the balance.

**We urge legal practitioners to ensure they are aware of common factors relevant to GTR children as members of a BAME group, enquire into their GTR defendant's background and circumstances and bring them to the attention of the court. The judiciary and probation services are urged to ensure that such matters are recognised when sentencing, in accordance with the requirement to ensure that rehabilitation and the welfare of the child is a paramount consideration.**

'Both STCs and YOIs continued to hold a **hugely disproportionate** number of children who described themselves as being from a Traveller or Gypsy background.... **a hundred times greater** than the 0.1% which is the estimated proportion in the population as a whole.

We have repeatedly raised our concerns about this issue – **with any other group such huge disproportionality would have led to more formal inquiry and investigation into what part of their backgrounds or interaction with the criminal justice system had led to this situation.**'

Nick Hardwick, former HM Chief Inspector of Prisons, 2015

## **Welfare considerations identified in the Sentencing Children and Young People: Definitive Guideline and their relevance to GTR children**

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**1.12 In having regard to the welfare of the child or young person, a court should ensure that it is alert to:**

**any mental health problems or learning difficulties/disabilities;**

- Gypsies and Travellers are nearly 3 times more likely to suffer anxiety and over twice as likely to be depressed,<sup>5</sup>
- Irish Travellers are 3 times more likely to die by suicide than the general population,<sup>6</sup>
- There are higher levels of mental health problems among the adult GTR prison population compared to other prisoners,<sup>7</sup>
- GTR pupils are reported to have the highest level of Special Educational Needs of all ethnic minority groups,<sup>8</sup>

**any experiences of brain injury or traumatic life experience (including exposure to drug and alcohol abuse) and the developmental impact this may have had;**

- Alcohol is often used as a coping strategy for Travellers who found it difficult to access health services for help,<sup>9</sup>
- 40% of GTR boys reported that they had a problem with drugs when they first arrived in YOIs,<sup>10</sup>

**any speech and language difficulties and the effect this may have on the ability of the child or young person (or any accompanying adult) to communicate with the court, to understand the sanction imposed or to fulfil the obligations resulting from that sanction;**

- Since 2009/10, GTR pupils in England have consistently remained the lowest achieving ethnic groups in schools at all key stages,<sup>11</sup>
- The 2011 Census found that Gypsies and Travellers had the highest proportion of people with no qualifications for any ethnic group,<sup>12</sup>
- Probation officers maintain that frequent cases of poor literacy amongst these groups mean they are more frequently given custodial sentences because fewer accredited probation programmes were available to non-literate offenders,<sup>13</sup>

**the vulnerability of children and young people to self harm, particularly within a custodial environment;**

- The profile of Irish Traveller prisoners in England & Wales is marked by high levels of self-harm and depression,<sup>14</sup>
- Bullying in prison has been identified as increasing the risk of self-harm<sup>15</sup>; GTR children in STCs & YOIs were significantly more likely to report experiencing bullying,<sup>16</sup>

**the effect on children and young people of experiences of loss and neglect and/or abuse;**

- A GTR person's life expectancy is 10-12 years lower than the national average<sup>17</sup> which, coupled with high infant and maternal mortality rates<sup>18</sup>, means it is not uncommon for GTR children to have experienced the loss of a sibling or a parent,
- A study found that 61% of married English Gypsy women and 81% of married Irish Traveller women had experienced direct domestic abuse<sup>19</sup> so the majority of GTR children will have witnessed or experienced abuse at home,

**1.15 The court should consider the reasons why, on some occasions, a child or young person may conduct themselves inappropriately in court (e.g. due to nervousness, a lack of understanding of the system, a belief that they will be discriminated against, peer pressure to behave in a certain way because of others present, a lack of maturity etc);**

- GTR people are significantly underrepresented as victims in the criminal justice processes and overrepresented as offenders. There is subsequent mistrust of criminal justice processes and personnel among the communities,<sup>20</sup>
- More than half of GTR boys in YOIs were 14 or younger the last time they were in education and 84% of GTR boys in YOIs had been excluded from school,<sup>21</sup>
- A lack of formal education and negative experiences with authority can result in inappropriate behaviour in formal situations,

**1.16 When dealing with a child or young person who is looked after, the court should also bear in mind the additional complex vulnerabilities that are likely to be present;**

- Department for Education figures suggest that Gypsy and Traveller children living in the UK could be 3 times more likely to be taken into care,<sup>22</sup>
- 47% of GTR children in STCs and 33% of those in YOIs have been in local authority care,

**1.18 A further factor may be the experience of such [BAME] children and young people in terms of discrimination and negative experiences of authority;**

- The interim findings of TM's 2016 discrimination survey show that 98% of GTR respondents had experienced discrimination because of their ethnicity,<sup>23</sup>
- Negative experiences of authority, such as exclusion from education and perceived discriminatory policing often mean GTR children are distrustful of authority.

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<sup>1</sup> While many studies cover Gypsy, Traveller and Roma people, with 'Roma' encompassing migrant Roma as well as Romani Gypsies, others focus on one or two of the groups (most often Gypsies and Travellers), hence why the terminology varies throughout this briefing

<sup>2</sup> ONS, [2011 Census Analysis](#), January 2014

<sup>3</sup> The Keppel Unit is a specialist high-dependency unit based in HMYOI Wetherby for the most traumatised and vulnerable boys who would struggle in a mainstream establishment

<sup>4</sup> TM has secured a commitment from the Minister for Families Victims and Young People to implement 2011 census categories in the youth justice system, which include 'Gypsy and Traveller'. We understand the Home Office is about to announce that the police will be rolling out 2011 census categories across all forces in England and Wales. Changes expected to be completed Spring 2018

<sup>5</sup> DCLG, [Inequalities Experienced by Gypsies and Travellers](#), 2012

<sup>6</sup> ibid

<sup>7</sup> [Learning Lessons Bulletin](#), Prisons and Probation Ombudsman for England and Wales, January 2015

<sup>8</sup> DfE, [Improving outcomes for Gypsy, Roma and Traveller pupils: final report](#), 2010

<sup>9</sup> DoH, [The Health Status of Gypsies & Travellers in England](#), 2004

<sup>10</sup> TM, [Overlooked and Overrepresented – Gypsy, Traveller and Roma children in the youth justice system](#), 2016

<sup>11</sup> DfE, 2016. Revised GCSE and equivalent results in England: 2014 to 2015. [Main national tables: SFR 01/2016 – Characteristics summary table](#)

<sup>12</sup> ONS, [2011 Census Analysis](#), January 2014

<sup>13</sup> Traveller Equality Project, [Working with Gypsy and Traveller Offenders: A Thames Valley Probation Case Study](#), 2015

<sup>14</sup> Dr Conn Mac Gabhann, [Voices Unheard](#), 2011

<sup>15</sup> Prisons and Probation Ombudsman for England and Wales, [Learning Lessons Bulletin](#), January 2015

<sup>16</sup> TM, [Overlooked and Overrepresented – Gypsy, Traveller and Roma children in the youth justice system](#), 2016

<sup>17</sup> DCLG, [Inequalities Experienced by Gypsies and Travellers](#), 2012

<sup>18</sup> Equality and Human Rights Commission, [England's most disadvantaged groups: Gypsies, Travellers and Roma](#), March 2016

<sup>19</sup> Equality and Human Rights Commission, [Research Report 12: Inequalities experienced by Gypsy and Traveller communities](#), 2009

<sup>20</sup> Buckinghamshire University, [Bridging the gap between academics and policy makers](#), 2014

<sup>21</sup> TM, [Overlooked and Overrepresented – Gypsy, Traveller and Roma children in the youth justice system](#), 2016

<sup>22</sup> DfE statistics: [Children looked after in England including adoption](#), analysed by [Traveller and Romani Advice and Information Network](#)

<sup>23</sup> TM, [Discrimination experienced by Gypsies, Travellers and Roma: Interim results](#), 2016; the final results are due to be published in March 2017