

STAD REPORT
2014-2016

**STAD: STOP TRANSPHOBIA AND
DISCRIMINATION REPORT: 2014-2016**

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Transgender
Equality
Network
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UNIVERSITY of LIMERICK
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We are indebted to The University of Limerick Foundation, which, through their generous funding, helped to make this report possible.

FOREWORD

In 2014, Transgender Equality Network Ireland (TENI) published the first in a series of reports documenting incidents and crimes motivated by hatred or prejudice against a trans or gender variant person. The first report covered the year 2013 and documented 32 incidents or crimes identified under the STAD (Stop Transphobia and Discrimination) reporting project.

I am therefore pleased to publish the second report in the STAD series, covering the period 2014-2016. The report includes 79 documented incidents or crimes motivated by hatred or prejudice against a trans or gender variant person in the period covered. Fifty of these reports were categorised as hate crimes including rape, aggravated sexual assault, assaults causing harm, threats to kill and public order offences.

TENI defines transphobia as the fear, dislike or hatred of people who are trans or are perceived to challenge conventional gender categories or 'norms' of male or female. The experiences described in this report will be familiar to many members of our community and are indicative of the type of transphobia and discrimination which manifests itself as harassment, abuse, violence, or exclusion that many trans or gender variant people experience in their lives, often on a daily basis, as a result of their gender identity or gender expression.

The findings of this report highlight a disturbing and persistent level of violence and intimidation against trans or gender variant people in evidence throughout the world. For example, during the same period the Trans Murder Monitoring Project¹, a global initiative of Transgender Europe (TGEU) to systematically monitor, collect and analyse reports of homicides of trans and/or gender-diverse people, documented 909 murders of trans and gender variant people worldwide.

While there has been no recorded murder of a trans or gender variant person in Ireland, trans and gender variant people continue to be targets of serious harassment, violence and discrimination because of their gender identity or gender expression. For many, the simple act of walking down the street can be cause for real fear and danger, causing changes in behaviour, affecting mental health and contributing to social isolation and exclusion.

Ireland, unlike most other EU countries, currently has no specific laws governing the type of incidents highlighted in this report, i.e. hate crime. In addition, the impact of hate crime often extends beyond individual victims to family members, friends, colleagues and entire communities, fostering a sense of fear and anxiety.

Through the STAD reporting project TENI aims to give voice to the many trans and gender variant people in Ireland who have been victims of hate crime or

¹ For more information: <http://transrespect.org/en/trans-murder-monitoring/tmm-resources/>

incidents, to improve official and unofficial reporting rates and to educate stakeholders and policy makers of the need for legislation to tackle hate crime including through reform of the criminal justice system.

In the years this report covers, Ireland has made significant progress in the area of trans rights, not least with the welcome introduction of the Gender Recognition Act 2015, which is based on a model of self determination. However, in order to be truly meaningful, these advances must be matched by sustained efforts by the authorities and by communities to combat and, ultimately STOP transphobia and discrimination in Ireland.

I am grateful to the University of Limerick and to the authors of the report, Dr Amanda Haynes and Ms Jennifer Schweppe of the Hate and Hostility Research Group for their expertise and support in the production of this report.

Sara R. Phillips
TENI Chair



GLOSSARY

Cisgender: A non-trans person (i.e. a person whose gender identity and gender expression is aligned with the sex assigned at birth).

Cisnormativity: The assumption that everyone is cisgender. Cisnormativity has the effect of rendering gender variant persons invisible and marginal.

Cissexism: The assumption that a cisgender identity is more authentic or natural than a trans identity. The belief that a person's sex assigned at birth always remains their real gender (e.g. suggesting that a trans woman is 'really a man' or a trans man is 'really a woman').

Coming out: The process of accepting and telling others about one's gender identity, gender expression or sexual orientation. Many trans people will 'come out' as a different gender to the sex assigned at birth and may begin a social or physical transition (see definition of 'Transition'). Coming out is a process rather than a single event. Each new encounter can entail a choice as to whether or not to come out.

Gender: A term that is often used to refer to ways in which people act, interact or feel about themselves, which are associated with boys/men and girls/women. The term 'gender' is distinct from 'sex' (see definition below).

Gender Dysphoria: Refers to strong persistent feelings of identification with a different gender to the one assigned at birth and discomfort with one's assigned sex that results in significant distress.

Gender Identity: Refers to a person's deeply-felt identification as male, female, or some other gender. This may or may not correspond to the sex they were assigned at birth.

Gender Expression: The external manifestation of a person's gender identity. Gender can be expressed through mannerisms, grooming, physical characteristics, social interactions and speech patterns.

Gender Fluid: Refers to a gender identity that varies over time. A gender fluid person may at any time identify as male, female, gender neutral, or any other non-binary identity, or some combination of identities. Some individuals refer to themselves as genderqueer, or non-binary.

Gender Recognition Certificate: The Gender Recognition Certificate is a part of the GRA15. It allows someone over 16 to change the gender mark on their birth certificate to either male or female.

Intersex: Refers to individuals who are born with a difference in their sex characteristics (such as chromosomes, genitals, and/or hormonal structure) that do not belong strictly to male or female categories, or that belong to both at the same time. Just like diadic (non-intersex) people, intersex people can be either cisgender or transgender.

Non-binary: An umbrella term for gender identities that fall outside the gender binary of male or female. This includes individuals whose gender identity is neither exclusively male nor female, a combination of male and female or between or beyond genders. Similar to the usage of transgender, people under the non-binary umbrella may describe themselves using one or more of a wide variety of terms.

Sex: The designation of a person at birth as male or female based on their anatomy (genitalia and/or reproductive organs) or biology (chromosomes and/or hormones). People are usually either assigned male at birth (AMAB) or assigned female at birth (AFAB).

Sexual Orientation: Refers to a person's physical, emotional or romantic attraction to another person. Sexual orientation is distinct from sex, gender identity and gender expression. Transgender people may identify as lesbian, gay, heterosexual, bisexual, pansexual, queer or asexual (see definition of 'Transgender').

Transgender: A person whose gender identity and/or gender expression differs from the sex assigned to them at birth. This term can include diverse gender identities. Not everyone who identifies with a gender different to that assigned to them at birth will regard themselves as transgender.

Trans: Commonly used shorthand for transgender.

Trans history: Rather than referring to themselves as trans, some people prefer to describe themselves as having a trans history or experience.

Transphobia: The fear, dislike or hatred of people who are trans or are perceived to challenge conventional gender categories or 'norms' of male or female. Transphobia can result in individual and institutional discrimination, prejudice and violence against trans or gender variant people.

Transition: A process through which some transgender people begin to live as the gender with which they identify, rather than the one assigned at birth. Transition might include social, physical or legal changes such as coming out to family, friends, co-workers and others; changing one's appearance; changing one's name, pronoun and sex designation on legal documents (e.g. driving licence or passport); and medical intervention (e.g. through hormones or surgery).



EXECUTIVE SUMMARY

WHAT IS TRANSPHOBIA

TENI defines transphobia as the “fear, dislike or hatred of people who are trans or are perceived to challenge conventional gender categories or ‘norms’ of male or female.” Transphobia comes in many forms and can manifest as criminal offences, discrimination or everyday hostility. Transphobia operates when a trans person is chased down the street and subjected to transphobic slurs, or when they are fired from their job when they ‘come out’. It happens on the streets, in the workplace, at school and in the home.

In 2014, the European Union Agency for Fundamental Rights (FRA) reported that Ireland held the ignoble distinction of having the second highest prevalence of hate motivated violence against trans people among the EU Member States, with 13 per cent of respondents reporting that they had been physically attacked, sexually attacked, or threatened with violence in the preceding 12 months, a considerably higher figure than the EU average of 8 per cent.

ABOUT STAD

The STAD (Stop Transphobia and Discrimination) reporting system seeks to record manifestations of transphobia, give voice to the experiences of trans people, and provide an evidence base for policy and legislative change for trans rights in Ireland. Launched in 2013, the first report of its findings was published in June 2014. This report covers the period 2014-2016. A total of 79 reports were made to STAD in this period, 74 related to the Republic of Ireland and five to Northern Ireland. Fifty reports related experiences of hate crime (46 of which occurred in the Republic of Ireland). Thirty-three reports related experiences of non-crime hostile actions including discrimination, harmful digital communications and everyday microaggressions (32 of which occurred in the Republic of Ireland).²

In some cases a single report logged an incident which included more than one act of hostility or logged multiple incidents. The analysis of reports submitted in each year identified that in some cases respondents reported incidents which occurred many years, even decades, previously. The reports of these historical incidents are not included in this analysis but speak in particular to the need for an outlet by which victims can have their experiences heard, even where a criminal justice response is unlikely.

HATE CRIME

A total of 50 reports (46 from the Republic of Ireland and four from Northern Ireland), detailing a total of 62 anti-transgender hate crimes (57 in the Republic and five in Northern Ireland) were reported to STAD as having occurred during the period 2014-2016. The offences reported included rape, aggravated sexual assault, sexual assault, assault causing harm, threats to kill, and public order offences.

“The two with knives came at me and the others were cheering them on. ... They made swipes at me with the knives but missed me on purpose ... I ran home and they followed me half way and stopped when they saw me put a key in the door”. (2014)

“I was walking to town ... and three lads grabbed me, beat me up, hit me with hurls, screamed abuse at me, and then ran off and left me on the path, bleeding and almost unconscious.” (2016)

The transphobic element to these crimes was often evidenced in the language used by the perpetrator during the course of the offence. Forty of the 50 reports detailing hate crimes identified language or words used as evidence of the anti-transgender motivation of the offender (38 out of 46 in the Republic and two of four in Northern Ireland).

²Four reports narrate both crime and non-crime incidents.

"Is it a boy or a girl?" "We'll find out if it has dick or tits." (2014)

"Because they kept calling me a 'tranny', a 'faggot', and a 'dyke bitch' as they beat me up". (2016)

A number of accounts spoke to the manner in which offenders seek to police binary gender norms:

"... most insults and slurs have concentrated on the fact that I am Transgender, that I don't have a penis or that my gender doesn't match my genitals." (2014)

"The person perceived me as male initially but then identified me as someone who was assigned female at birth, holding hands with a woman. When the man realised we were "fucking lesbians" he proceeded to threaten violence and spew abusive and offensive language at us. He was irate because of the referendum the next day. He felt I had lied to him by presenting as male (I hadn't spoken or acknowledged him until he started shouting at my girlfriend and I)." (2015)

A number of individuals reported physical injuries following the attack. Thirty-six of 50 reports identifying hate crimes cite impacts on the emotional and/or psychological well-being of the respondent (33 of 46 in the Republic of Ireland and three of four in Northern Ireland). Respondents most commonly talked about being afraid, scared, or anxious in the aftermath of their victimisation.

"The incidents float around in my head all the time, causing anxiety and panic attacks, I wake up at night and this is going around in my head, I should be able to go about my day to day business in peace." (2014)

"I am also more afraid to go outside as I have been threatened to be beat up - not to my face..." (2015)

"I was very shaken up. My anxiety to be myself out in public has risen significantly because I'm afraid it will happen again." (2016)

Respondents also reported that the criminal activity provoked behavioural effects, with people altering their routines in order to enhance their sense of security and reduce the risk of repeat victimisation. For some the experience of transphobic hate crime victimisation restricted their movements, social interactions and life chances in very meaningful ways:

"I have had to postpone my education, go to a regular therapist, and have trouble going outside or even leaving my bedroom/bed. I am getting better, but apparently I am suffering from PTSD as told by my therapist. I feel like I live under a constant threat, and I have trouble sexually or intimately engaging with a potential partner." (2015)

"The amount of name calling, verbal abuse and insulting comments caused me to relapse and become unwell. I was hospitalised due to intense stress and isolation." (2015)

REPORTING TO THE POLICE

Of the 57 anti-transgender crimes in the Republic of Ireland logged to STAD, only six were identified as having been reported to An Garda Síochána. In contrast, three of four of those logging hate crimes occurring in Northern Ireland reported the crime to the police. The most common reasons for not reporting were that the individual did not think that it would be taken seriously, or that they did not think that the police could or would do anything.

"I didn't think they'd care." (2016)

"Nothing could be done, I've reported a lot in the past and one gets tired of it." (2015)

"A previous report was not taken seriously. They said 'just shrug it off'". (2016)

Of those that did report to An Garda Síochána, three classified the experience as positive, and three stated that the Gardaí were dismissive. Five of these six respondents stated that the crime was not recorded by the Gardaí as a hate crime (though at that time it was not possible for a transphobic motivation to be recorded), with one individual unsure if it was recorded as a hate crime. Since November 2015, it has been possible for An Garda Síochána to specifically record a transphobic motivation. Two issues arise here: first, it is important that trans people have sufficient trust in An Garda Síochána to report their experiences as victims of crime; second, it is also vitally important that members of An Garda Síochána are trained to both recognise and record transphobic hate crime.

The apparent declining trend in reporting to An Garda Síochána is a matter for concern. The STAD Report published in 2014 found that 44 per cent of individuals had reported their experiences to An Garda Síochána: in the years covered by this report, this has fallen to 10 per cent in 2015 with no respondent reporting to An Garda Síochána in 2016.

TRANSPHOBIC DISCRIMINATION AND EVERYDAY MANIFESTATIONS OF HOSTILITY

In addition to recording hate crime, STAD also records non-crime manifestations of transphobia. In total, 32 reports related a total of 34 non-crime hostile actions occurring in the Republic of Ireland in the period 2014-16. The 34 hostile actions included 14 instances of discrimination in accessing services, and two instances of discrimination in employment (both in 2016), two instances of harmful digital communications and 16 encounters with everyday microaggressions. One further experience of workplace discrimination was logged in relation to Northern Ireland.

Respondents reported experiencing discrimination in the provision of services, in the workplace, and in accessing medical treatment. Discrimination,

although a breach of the civil rather than the criminal law, can have serious negative impacts on its victims, particularly where it impedes access to essential services. According to Irish Human Rights and Equality Commission (IHREC), both the Employment Equality Act and the Equality Act apply to trans and intersex people, as they apply to all other named protected grounds.

Microaggressions, or everyday manifestations of transphobia manifest most commonly as expressions of transphobia and rejections of non-binary conceptions of gender. While not criminal manifestations of transphobia, or ones which would come under the protection of the Equality Acts, their emotional and psychological impact makes them part of a continuum of hostility, which includes discrimination and hate crime. They both reflect and contribute to a culture within which some people may feel emboldened to make manifest their prejudices against the trans community. As one respondent said:

"The point is that a lot of the time it isn't direct insults, abuse or attacks, it's people ... behaving, acting strangely, with very strange facial expressions, frequently they say inappropriate things in public places, such as asking me what I have below ... all these things make one feel different and cumulatively make one feel less and less comfort and eventual social retreat and introversion." (2015)

Particularly as part of a continuum of experiences, the emotional, psychological, and behavioural impacts of discrimination and microaggressions could be significant:

"Severe depression and anxiety, suicidal thoughts." (2016)

Where people are subjected to verbal abuse on a regular basis, with their gender identity being questioned or ridiculed, it can have a profound impact.

"These incidents are ongoing and it impacts me on my transition. I've been left feeling isolated as a result." (2016)

For one individual, who had been repeatedly discriminated against by employees of the HSE, and who had experienced a number of transphobic incidents, none of which were hate crimes, the cumulative impact of the events was enormous:

"Stopped transition, attempted suicide, killed my self-confidence." (2014)

SINGLE GENDER FACILITIES

The use of sex-segregated toilet and changing facilities by members of the trans community is something which has attracted significant attention internationally, and particularly in the United States in recent years. For some people, using a public bathroom involves taking a calculated risk:

"I am always wary of having to use public restrooms in general and sometimes the experience can be quite hostile." (2014)

Nine reports submitted to STAD from 2014-2016 related to experiences of hostility in respect of the use of bathroom or changing facilities. Five of these had the characteristics of criminal offences, and four were non-crime incidents. Two concerned changing facilities, and the remaining seven concerned toilet use. All five criminal offences took place in the context of bathroom usage.

"As I closed the door, I heard one of the men shout the word "Faggot!" ... a few moments later: the sound of an attempted kicking-in of the locked door of the cubicle I was occupying, which was quickly followed by the sound of two laughing neanderthals as they fled the scene." (2014)

"Went into the bathroom in a pub, someone must have seen me go in and started yelling about a "girl in here". They started to shout and tried to unlock the stall door from the outside. I had to brace myself against it to stop them getting in while screaming to leave me alone. They left after a few long minutes and I locked the stall door again." (2015)

"I am afraid to use that bathroom for fear of that bathroom attendant harming me." (2014)

The impact of this risk on trans people's exclusion from public and commercial facilities and services enjoyed by others is of concern.

INTRODUCTION



INTRODUCTION

There is much to celebrate about transgender lives and much that is positive about trans identities.³ TENI actively highlights these affirming aspects of trans self-identification, and promotes the positive visibility of trans people in Ireland. The organisation also recognises, however, that trans people encounter opposition in living authentic lives. Through their being, trans people defy the exclusivity of cisgender identities, and problematize the automatic advantage which the latter attract in our society. Embodying gender non-conformity, trans people are all too commonly made subject to a continuum of hostility and violence. Transphobia, i.e. the “fear, dislike or hatred of people who are trans or are perceived to challenge conventional gender categories or ‘norms’ of male or female”⁴ manifests in numerous ways, from workplace discrimination to serious assaults and even murder. Transphobia operates when a trans person is chased down the street and subjected to transphobic slurs, and when they are fired from their job when they “come out”. It is enacted on the streets, in the workplace, at school, and in the home. Its effects are wide-ranging, resulting variously in emotional, psychological, physical and financial costs to the victim. Through the STAD reporting system, TENI seeks to record the various manifestations of transphobia, give voice to the experiences of trans people, and provide an evidence base for policy and legislative change for trans rights in Ireland.

This report documents the findings of the STAD campaign from 2014 to 2016 and highlights transphobic and anti-transgender crimes and incidents that were reported across these three years. The report has been written for TENI by Dr Amanda Haynes and Jennifer Schweppe from the Hate and Hostility Research Group (HHRG) at the University of Limerick.

THE ORIGINS OF STAD

In February 2013, TENI launched the STAD campaign. This was initially conceived as an outcome of *Step up reporting on homophobic and transphobic violence*, a project supported by ILGA-Europe. The objective of the project was to empower European LGBTI civil society organisations to monitor and report homophobic and transphobic hate crimes and incidents.

STAD aimed to enable the trans community in Ireland to report experiences of transphobic hostility in a confidential and safe environment and without fear of ridicule or discrimination. STAD is an abbreviation for Stop Transphobia and Discrimination and is also the word for ‘stop’ in the Irish language. This project further sought to address the lack of legislation and policy aimed at protecting trans people by providing a robust evidence base to support the call for hate crime legislation, increased trans awareness on the part of An Garda Síochána, and a broader interpretation of the term “gender” in the Equality Acts.

The first reporting period began on 1st March 2013 and closed on 31st October 2013. The experiences reported in that period were published in the first STAD Report launched at the University of Limerick on June 18th 2014.⁵ This Report covers the period from January 2014 up to and including December 2016.

THE IMPORTANCE OF CIVIL SOCIETY MONITORING

States have international obligations to officially record hate crimes. In 2003, Member States of the Organisation for Security and Co-operation in Europe (OSCE) made a commitment to collect and keep records of reliable information and statistics on hate crimes.⁶ It is important to accurately record the prevalence of hate crime for four main reasons: first, to develop policy to challenge hate crime; second, to create more awareness of hate

³ See for example Ellen DB Riggle, Sharon Scales Rostosky, LaWanda E McCants and David Pascale-Hague, ‘The positive aspects of a transgender self-identification’ (2011) 2(2) *Psychology & Sexuality* 147.

⁴ Transgender Equality Network Ireland, *STAD: Stop Transphobia and Discrimination Report* (2014) available at www.teni.ie/attachments/95628615-9aea-4abb-86f4-5687da0e7335.PDF, 6

⁵ Transgender Equality Network Ireland, *STAD: Stop Transphobia and Discrimination Report* (2014) available at www.teni.ie/attachments/95628615-9aea-4abb-86f4-5687da0e7335.PDF.

⁶ Ministerial Council Decision (Organisation for Security and Co-Operation in Europe) No. 4/03 (2003) available at http://www.osce.org/mc/19382_2

crime in society; third to promote the investigation of hate crimes by officials; and finally as a process to help the victim overcome their trauma.⁷

The OSCE has stated, “(i)f crimes are not recorded it allows state authorities to believe or assert that there are no hate crimes occurring”⁸, and until November 2015, anti-transgender hate crime did not officially happen in Ireland. While An Garda Síochána recorded homophobic hate crime, transphobic incidents were not given separate attention. While some police officers recorded anti-transgender hate crime as homophobic hate crime, with the aim of ensuring that the bias motivation was recognised officially in some way, this served to mask the specific problem of transphobia.⁹

Civil society organisations (CSOs) like TENI improve the collection of hate crime data in several ways. They are generally closer to victims than police or the state and may therefore have a better understanding of victims’ needs and requirements.¹⁰ Further, CSO reporting mechanisms are vital for assessing both the efficiency of hate crime laws, and victims’ attitude towards the criminal justice system. CSOs highlight incidents of hate crime not reported to the police where victims lacking confidence in law enforcement are not willing to report to the police.¹¹ In Ireland, TENI gathered data on transphobic hate crimes and incidents prior to the introduction of a flag for anti-transgender motivations by An Garda Síochána and for this reason, TENI’s work is the only evidence of the manifestations of anti-transgender hate crime in Ireland for the period which this report addresses.¹²

WHAT IS ANTI-TRANSGENDER HATE CRIME

The OSCE defines hate crime as:

“... criminal acts committed with a bias motive. It is this motive that makes hate crimes different from other crimes. A hate crime is not one particular offence. It could be an act of intimidation, threats, property damage, assault, murder or any other criminal offence. The term “hate crime” or “bias crime”, therefore, describes a type of crime, rather than a specific offence within a penal code. A person may commit a hate crime in a country where there is no specific criminal sanction on account of bias or prejudice. The term describes a concept, rather than a legal definition.”¹³

In plain terms, what this means is that a hate crime is an ordinary criminal offence which is accompanied by a prejudice – in this case, anti-transgender bias:

Criminal Offence + Anti-Transgender Motivation = Hate Crime

Incitement to hatred, a second type of crime associated with a hate element, involves the use of words or images to stir up hatred against a group of people and is provided for under the Prohibition of Incitement to Hatred Act 1989 in Ireland.¹⁴ Neither gender identity nor gender expression are named in the 1989 Act, but given the fact that the Act has been shown to be largely ineffective¹⁵, this is as much a symbolic absence as one which excludes trans people from actual protection. Nonetheless, the Act should be amended to include gender identity and gender expression as protected groups.

NON-CRIME HATE INCIDENTS

Expressions of transphobia are significant even where they do not meet the criteria for a criminal

⁷ See, for example, Jennifer Scheppe and Amanda Haynes, *Monitoring Hate Crime in Ireland: Towards a Uniform Reporting Mechanism* (HHRG); Michael Whine ‘National Monitoring of Hate Crime in Europe: The Case for a European Level Policy’ in Jennifer Scheppe and Mark A Walters (eds) *The Globalisation of Hate: Internationalising Hate Crime* (Oxford University Press 2015).

⁸ OSCE/ODIHR, *Preventing and responding to hate crimes: A resource guide for NGOs in the OSCE region* (ODIHR 2009).

⁹ See, Amanda Haynes, Jennifer Scheppe, James Carr, Niamh Carmody and Shannen Enright, *Out of the Shadows: Legislating for Hate Crime in Ireland – Preliminary Findings* (HHRG, 2015).

¹⁰ Jennifer Scheppe and Amanda Haynes, *Monitoring Hate Crime in Ireland: Towards a Uniform Reporting Mechanism* (HHRG 2017)

¹¹ OSCE/ODIHR, *Preventing and responding to hate crimes: A resource guide for NGOs in the OSCE region* (ODIHR 2009).

¹² Amanda Haynes and Jennifer Scheppe, ‘LGB and T? The Specificity of Anti-Transgender Hate Crime’ in Amanda Haynes, Jennifer Scheppe and Seamus Taylor, *Critical Perspectives on Hate Crime: Contributions from the Island of Ireland* (Palgrave Macmillan 2017).

¹³ OSCE/ODIHR, *Hate Crime Laws: A Practical Guide* (OSCE/ODIHR 2009) 16.

¹⁴ Prohibition of Incitement to Hatred Act 1989

¹⁵ Jennifer Scheppe and Dermot Walsh, *Combating racism and xenophobia through the criminal law* (NCCRI 2008).

offence. Hate incidents, or “microaggressions”¹⁶ as they are known, speak to the existence of a continuum between criminalised and non-criminalised hate incidents, both of which contribute to the exclusion of marginalised communities.¹⁷ Sometimes these incidents will fall under the protections afforded by the Equality Acts or the Employment Equality Act. Whether or not they can be addressed through the law, they are a manifestation of the structural hostilities that trans people face on a daily basis. They speak to the pervasiveness of cissexism and cismativity, and the obstacles these present to the full inclusion of trans people in Irish society. For the victim, “... they do constitute serious social harms, regardless of their legal standing. By their very frequency and ubiquity, some of the most minor types of victimization – such as name calling and verbal harassment – can have the most damaging effects ...”¹⁸ Bowling¹⁹ reminds us that victims are more likely to experience hate crimes and incidents as part of a continuum, not as a series of discrete events.

TRANSPHOBIA INTERNATIONALLY: POLICY, LITERATURE AND OTHER DEVELOPMENTS

All forms of transphobia are relatively neglected in scholarly hate crime research. Studies have shown that trans people are at particular risk of hate crime, repeat victimisation, and psychologically damaging long-term effects. There have been calls in recent times for greater attention to the issue of safety in the trans community. Most prominent among these has been the declaration in 2015 of a “state of emergency” by the well-known trans actress, Laverne Cox, in response to the increasing number of murders of trans women in America. Research shows that transphobic violence is ubiquitous and experienced across the

globe by trans people, particularly trans women of colour and trans sex workers, who are expressly targeted.²⁰

In 2014, the European Union Agency for Fundamental Rights (FRA) reported that Ireland held the ignoble distinction of having the second highest prevalence rate for hate motivated violence against trans people among the EU Member States, with 13 per cent of respondents reporting that they had been physically attacked, sexually attacked, or threatened with violence in the preceding 12 months. It is noteworthy that this figure was significantly higher than the EU average of 8 per cent. The report also found Ireland to be among the five EU Member States in which trans people were most likely to have experienced hate-motivated harassment in the preceding 12 months. In fact, 31 per cent of Irish respondents reported being subject to hate-motivated harassment, in comparison to the EU average of 22 per cent. In order to explore the impact that these experiences had on the way in which they lived their lives, respondents were asked if they avoided expressing their gender or avoided certain places for fear of assault, threat or harassment. Of the Irish respondents, 43 per cent said that they avoided expressing their gender, and 66 per cent stated that they avoided certain places. Again, Ireland compares poorly to the EU averages of 32 per cent and 52 per cent respectively.

POLICY DEVELOPMENTS

Ireland’s Gender Recognition Act 2015 provides a process for enabling trans people to achieve full legal recognition of their gender identity, and allows for the acquisition of a new birth certificate that reflects this change. The introduction of

¹⁶ Nadal et al define microaggressions as, “brief and commonplace daily verbal, behavioral, or environmental indignities, whether intentional or unintentional, which communicate hostile, derogatory, or negative slights and insults toward members of oppressed groups”. Kevin L Nadal and RJ Mendoza ‘Internalised Oppression and the Lesbian, Gay, Bisexual, and Transgender Community’ in EJRDavid (ed) *Internalized Oppression: The Psychology of Marginalised Groups* (Springer 2014).

¹⁷ Amanda Haynes, Jennifer Schweppe, James Carr, Niamh Carmody and Shannen Enright, *Out of the Shadows: Legislating for Hate Crime in Ireland – Preliminary Findings* (HHRG, 2015).

¹⁸ Barbara Perry, ‘Hate crime: Contexts and consequences’ in Peter Grant (ed) *State of the World’s Minorities and Indigenous Peoples 2014: Events of 2013* (Minority Rights Group International 2014).

¹⁹ Ben Bowling, *Violent racism: Victimization, policing and social context*. (Oxford University Press 1999).

²⁰ Transgender Europe *Trans murder monitoring* (2015) available at <http://tgeu.org/tmm-idahot-update-2015/>

this Act was a watershed moment for the trans community in Ireland, as it allows all individuals over the age of 18 years to self-declare their own gender identity. For the first time, trans people exist in the eyes of the State and the Act was welcomed by TENI for its progressive approach. However, the Act fails to provide young trans people, intersex people, and non-binary people with a meaningful pathway to legal recognition. The two-year review of the GRA2015 is due to commence in December 2017. TENI has previously called for meaningful inclusion of under 16s, self-declaration for 16 and 17 year olds, and a commitment for non-binary inclusion.

The Gender Recognition Act 2015 came into effect in September 2015 and over 250 people have used the legislation to have their gender legally recognised, including eight people under the age of 18. Beyond this data, the size of the Irish trans community is unenumerated, although internationally it is estimated that up to 1 per cent of the population experience some degree of gender variance.²¹

In relation to policy developments of relevance to addressing transphobia, the period since the publication of the last STAD report has been positively punctuated by the introduction of a flag for transphobic motivations on PULSE, but is also notable for the ongoing failure to introduce hate crime legislation.

ANTI-TRANSGENDER FLAG ON PULSE

Until November 2015, members of An Garda Síochána, the Irish police service, had no way of recording an anti-transgender motivation on the Garda national crime database, PULSE. In November 2015, TENI was informed that a marker for transphobic motivations had been introduced to PULSE. This means that when a trans person reports that they have been a victim of a hate crime to An Garda Síochána, the transphobic element can be recorded by An Garda Síochána. Consistency of application across the service

will, however, require investment in training and awareness raising.²²

If you are reporting a transphobic hate crime, tell the Garda that you believe you were the victim of a hate crime, and ask the Garda to whom you are reporting to flag a transphobic motive when the report is being entered onto PULSE.

From a policy perspective, STAD remains an important resource for TENI in seeking to prevent and address transphobic hate crime. Internationally, third party reporting systems such as STAD provide an important means of interrogating the robustness of police recorded data, and of estimating levels of underreporting.²³ STAD further provides TENI with an evidentiary basis to inform its work with An Garda Síochána to ensure that members are trained in recognising and recording anti-transgender hate crime.

HATE CRIME LEGISLATION

TENI was a member of the Working Group on Hate Crime which commissioned the Hate and Hostility Research Group to investigate the need for, and potential form of, hate crime legislation in Ireland. This culminated in the publication and launch of the *Report Out of the Shadows: Legislating for Hate Crime – Preliminary Findings*²⁴ in 2015 which included a draft Bill on hate crime. TENI is a member of the newly constituted National Steering Group Against Hate Crime (formerly the Working Group), which is working to ensure that hate crime legislation is introduced in Ireland which is fit for purpose and ensures that members of the trans community are appropriately protected. In March 2017, on the invitation of Deputy Fiona O'Loughlin, Fianna Fáil Junior Spokesperson on Equality, Immigration and Integration, the National Steering Group Against Hate Crime presented to politicians in the Houses of the Oireachtas on the need for, and form of, hate crime legislation in Ireland.

²¹ Bernard Reed, *The Number of Gender Variant People in the UK - Update 2011* (GIRES 2011).

²² Amanda Haynes and Jennifer Schweppe, 'LGB and T? The Specificity of Anti-Transgender Hate Crime' in Amanda Haynes, Jennifer Schweppe and Seamus Taylor, *Critical Perspectives on Hate Crime: Contributions from the Island of Ireland* (Palgrave Macmillan 2017).

²³ Jennifer Schweppe and Amanda Haynes, *Monitoring Hate Crime in Ireland: Towards a Uniform Reporting Mechanism* (HHRG 2017)

²⁴ Amanda Haynes, Jennifer Schweppe, James Carr, Niamh Carmody and Shannen Enright, *Out of the Shadows: Legislating for Hate Crime in Ireland – Preliminary Findings* (HHRG, 2015).



METHODOLOGY

DATA COLLECTION

Through STAD, TENI seeks to capture the spectrum of hostility experienced by trans people across their daily lives because of their gender identity or gender expression. The mechanism therefore encourages people to report, not just hate crimes, but also non-criminal hate incidents or microaggressions, and instances of discrimination.

Data is gathered through an online self-reporting form. Individuals can report by phone or by completing a hard copy of the report; the data are then included in the database by TENI staff. The questions were informed by a set of survey questions, originally designed in collaboration with ILGA-Europe to facilitate comparable data across national specific projects. The form is hosted by Wufoo, a web-based platform which allows for the anonymous collection and categorisation of data.

OUTREACH

TENI works directly with trans people and their families at local and national levels. Through this work, TENI has built extensive links with individuals and organisations which facilitates the reporting of incidents. Reporting was also encouraged through actions designed to raise awareness among the trans community of the STAD campaign. To effectively reach out to diverse members of the trans community, TENI created a Communications Strategy. This was developed by TENI staff during a brainstorming session in January 2013 and was used as a framework for all outreach. A key element to this strategy was clear communication in relation to the confidentiality of reporting, and also in relation to how collected data would be used.

TENI launched the STAD campaign in late February 2013 and unveiled the logo - a red stop sign with the word STAD, the word for STOP in the Irish language. This was used to signify the campaign's ultimate goal of ending transphobic

violence. TENI also developed a postcard advertisement that was distributed at trans peer support groups, LGBT community centres, LGBT organisations including student societies, and among select health services. The STAD postcards were also distributed at TENI events and trainings throughout the year. TENI's 2013 publication *Equality & Identity: Trans and Intersex Experience in Ireland*, which had a print run of 500 copies, was also used as a platform to publicise the STAD campaign and provided a forum for articles about hate crime against trans people.

TENI also used a variety of internet-based strategies to ensure that the campaign was widely disseminated. The campaign was announced through TENI's e-newsletter list which has a subscription level of 1,000 people. The campaign was shared widely on social media, including through TENI's twitter account which has over 7,000 "followers", and TENI's Facebook page which has over 10,000 "likes" and over 10,000 "followers".

To raise awareness about the campaign, TENI set up a project-specific Facebook page called STAD-Stop Transphobia and Discrimination, which was specifically used to deliver information about the project and make regular calls for individuals to report their experiences. The STAD Facebook page has accumulated over 550 "likes" since March 2013.

DEVELOPMENTS TO THE INSTRUMENT BETWEEN 2014 AND 2015

The STAD reporting mechanism is reviewed each year and the form is revised as necessary. Throughout the project there has been an impetus to ensure that the online form is short and accessible, reducing the burden on those submitting reports. The first year of STAD yielded important information and was crucial in understanding the breadth and scope of transphobic or anti-transgender incidents that were occurring across Ireland. However, after the

first annual review several changes were made. For instance, the online reporting mechanism was shortened and superfluous questions that did not contribute to the greater understanding of these incidents were removed (e.g. the victim's involvement in the LGBT community).²⁵ The facility for individuals to report transphobic hate crimes and incidents as witnesses through a separate reporting form was also discontinued because it required the witness to speculate regarding the victims' gender identity or expression as well as the motive of the perpetrator. In the first year of STAD, the online reporting mechanism provided the possibility for people to submit their contact information when they had finished completing the form. The intent was to allow TENI staff to follow-up on the reports and provide support to victims. However, the lack of resources available to support this project made outreach to victims challenging and unsustainable. Currently, at the end of the form, TENI provides information referring respondents requiring support to the LGBT Helpline and notes that if an individual would like to report a crime to An Garda Síochána, they can contact TENI directly for assistance.

LIMITATIONS

Despite a communications strategy and extensive outreach, TENI has received less reports than expected across all years. This is likely due to a variety of factors. As in many countries in Europe²⁶, there does not appear to be a culture of reporting transphobic or homophobic crimes in Ireland. While this relates in particular to police reporting, there are ramifications for this project as trans people will often choose not to log the incident and instead seek support from friends or family. Despite STAD being a third party reporting mechanism, which is clearly separate from the police or legal process, it may be that trans people are still uncomfortable sharing experiences of victimisation even when assured of their anonymity. Furthermore, they may feel shame

and stigma related to their identities and/or the incident that prevents them from reporting. Finally, TENI asserts that trans community members may lack confidence that the information would be utilised effectively to make positive change related to hate crimes.

In the first iteration of STAD, TENI found that the profile of respondents was skewed towards younger age groups. This may be due to the fact that younger people are more likely to utilise the internet and social media, and may be more connected to trans or LGB communities and therefore aware of the STAD campaign. The geographical limitations of the project are also worth noting. Dublin is by far the most commonly identified county with respect to the location of incidents reported. These patterns raise questions as to whether the STAD campaign is equally accessible to trans or gender variant people who live in rural areas, who are isolated from the community, who are unable to access a computer, who lack literacy skills or who are not out. The data presented here represent individual reports from a relatively small number of people. Each report of a hate incident is nonetheless politically and socially meaningful and contributes to our understanding of hate crimes and transphobia.

DATA ANALYSIS: CRIME AND INCIDENT CLASSIFICATION

The Hate and Hostility Research Group (HHRG) at the University of Limerick is the only research group in Ireland dedicated to the study of hate crime. Conducting translational research on hostility towards difference, it is an interdisciplinary group led by Dr Amanda Haynes of the Department of Sociology and Jennifer Schweppe from the School of Law. They work closely with a number of NGO partners to progress policy and legislative change in hate crime in Ireland. The HHRG has worked with TENI over the past number of years

²⁵ Other changes were made to the Reports over the three years under consideration. This Report largely restricts analysis to comparable data.

²⁶ Lewis Turner, Stephen Whittle, and Ryan Combs, *Transphobic hate crime in the European Union* (Press for Change 2009).

on the issue of hate crime and have authored this report with TENI.

In compiling this Report, the HHRG engaged in an original analysis of the data gathered by TENI for the periods 2014 to 2016. The respondent's narrative description of the incident was the primary determinant of their classification, both as crimes/non-crime incidents and by offence type. The strict legal definition of the crime was relied upon as the most objective means of crime classification.

The analysis of reports submitted in each year identified that in some cases respondents reported incidents which occurred in other calendar years, and in some cases, incidents which occurred many years, even decades, previously. The reports of these historical incidents speak in particular to the need for an outlet by which victims can have their experiences of hate crime heard, even where a criminal justice response is unlikely. As far as possible, incidents are reported for the year in which they occurred. In the small number of cases in which an incident is reported as having spanned a number of years, the data is presented for the most recent year of occurrence. In cases where the respondent has failed to identify the year in which the crime(s) occurred, the events are presented as occurring in the year in which the report was made, unless there is evidence to the contrary within the narrative.

Non-crime transphobic incidents reported fell into one of three categories: discrimination, harmful communications, and microaggressions. Importantly, these categories do not reflect whether the actions of the individual(s) involved are actionable under legislation. Given the attention internationally to the issue of trans people's access to bathrooms and changing rooms correlating to their gender identity, this Report also highlights experiences of Irish trans people in this context.



ANTI-TRANSGENDER HATE CRIME

ANTI-TRANSGENDER HATE CRIME

Anti-transgender hate crime, or transphobic hate crime, refers to criminal offences in which a person is targeted because of their actual or perceived gender identity or gender expression.²⁷ In this context, Turner et al observe that anti-transgender hate crime can be understood as the violent enforcement of societal gender norms.²⁸ While academic scholarship in the field is still in its infancy, what we know about anti-transgender hate crime provides cause for significant concern: as Haynes and Scheppe observe:

*“The growing body of research in this area finds that trans people are among those identity groups at most risk of hate crime, repeat victimisation, and damaging long-term effects.”*²⁹

The Fundamental Rights Agency report that, internationally, trans people are at particular risk of victimisation.³⁰ This research found that Ireland had the second highest prevalence of hate-motivated violence against trans people among EU member states, with “13 per cent of respondents reporting that they had been physically attacked, sexually attacked or threatened with violence in the preceding twelve months”³¹, a figure significantly higher than the EU average of eight per cent. In that same report, 31 per cent of Irish respondents reported being subject to hate-motivated harassment, in comparison to the EU average of 22 per cent.³² Giambrone observes that, dismal as the findings are, they came as no surprise to the trans community in Ireland.³³ In TENI’s own report *Speaking from the Margins: Trans Mental Health and Well-being in Ireland*, 21 per cent of trans respondents reported having

experienced physical violence, 44 per cent reported experiencing physical intimidation and threats, 13 per cent reported sexual assault, and seven per cent reported being raped, all as a direct result of being trans.³⁴

In an Irish context, it is only relatively recently that the police – and thus the State – has officially recognised anti-transgender hate crime, through the introduction of a discriminatory marker on the PULSE national crime database in November 2015. Writing just after the introduction of this marker, Giambrone noted that many trans people in Ireland do not report their experience to An Garda Síochána because they do not think that anything can, or will, be done to help or support them.³⁵

DISCRIMINATION TYPE ³⁶	2016
Ageism	38
Anti -Semitism	*
Anti-Muslim	13
Anti-Roma	*
Anti-Traveller	25
Gender related	31
Homophobia	28
Transphobia	*
Anti-disability	12
Racism	152
Sectarianism	*
Total	308
* between 1-3	

Table 1: Police recorded crimes with a discriminatory motive 2016 (Central Statistics Office)

²⁷ Jordan Blair Woods and Jody Herman, *Anti-transgender hate crime* in Nathan Hall, Abbee Corb, Paul Giannasi and John GD Grieve (eds) *The Routledge international handbook on hate crime* (Routledge 2015)

²⁸ Lewis Turner, Stephen Whittle, and Ryan Combs, *Transphobic hate crime in the European Union* (Press for Change 2009).

²⁹ Amanda Haynes and Jennifer Scheppe, ‘LGB and T? The Specificity of Anti-Transgender Hate Crime’ in Amanda Haynes, Jennifer Scheppe and Seamus Taylor, *Critical Perspectives on Hate Crime: Contributions from the Island of Ireland* (Palgrave Macmillan 2017) 111.

³⁰ European Agency for Fundamental Rights, *Being Trans in the EU – Comparative Analysis of the EU LGBT survey data* (EU FRA 2014).

³¹ Broden Giambrone, ‘Transphobic Hate Crime: Making the Invisible Visible’, in Amanda Haynes, Jennifer Scheppe and Seamus Taylor, *Critical Perspectives on Hate Crime: Contributions from the Island of Ireland* (Palgrave Macmillan 2017) 138-139.

³² European Agency for Fundamental Rights, *Being Trans in the EU – Comparative Analysis of the EU LGBT survey data* (EU FRA 2014).

³³ Broden Giambrone, ‘Transphobic Hate Crime: Making the Invisible Visible’, in Amanda Haynes, Jennifer Scheppe and Seamus Taylor, *Critical Perspectives on Hate Crime: Contributions from the Island of Ireland* (Palgrave Macmillan 2017)

³⁴ Transgender Equality Network Ireland *Speaking from the Margins: Trans Mental Health and Well-being in Ireland* (TENI 2013).

³⁵ Broden Giambrone, ‘Transphobic Hate Crime: Making the Invisible Visible’, in Amanda Haynes, Jennifer Scheppe and Seamus Taylor, *Critical Perspectives on Hate Crime: Contributions from the Island of Ireland* (Palgrave Macmillan 2017)

³⁶ Figures provided by the Central Statistics Office, 2017. The CSO emphasise that “... when interpreting crime statistics based on PULSE data it is important to take the findings of the CSO Review of the quality of crime statistics 2016 into consideration.”

This observation is reflected in official figures made available by the Central Statistics Office: despite the introduction of the marker, there were only between 1-3 such crimes reported to the Gardaí for the entire of 2016.

Haynes and Schweppe assert that the validity of these figures will be impacted by garda training and observe that, at present, garda knowledge of anti-transgender hate crime, and of the trans community more generally, mirrors low³⁷ (if increasing) levels of trans awareness in Irish society as a whole. One garda argued that:

*“Guards don’t know what anti-transgender is, they don’t know what transgender is, they haven’t had any training in it – they don’t even understand the concept. Most people don’t!”*³⁸

In the absence of specific training, it is questionable whether most gardaí will recognise, and thus accurately record, anti-transgender hate crime. More generally, in the absence of hate crime legislation, which is inclusive of trans and intersex persons, it is unlikely that hate crime will be addressed in any meaningful way.

REPORTS TO STAD

In logging their experiences with STAD, some individuals described more than one crime in a single report. In some cases, multiple crimes were committed against a victim or victims during a single event. In other cases, respondents reported multiple crimes - to which they had been subjected over an extended period - in a single report.

In total 46 reports identifying transphobic hate crimes occurring in the Republic of Ireland were

made for the years 2014-2016. These 46 reports logged a total of 57 distinct criminal offences.³⁹

CRIME CLASSIFICATIONS

The following table provides a breakdown of the specific criminal offences reported as having occurred in this period.

CRIME CLASSIFICATION	2014	2015	2016
Total reports to STAD	(20)	(19)	(7)
Aggravated sexual assault	1	0	0
Assault	5	6	7
Assault Causing Harm	1	0	1
Harassment	3	5	1
Possession of a Knife	0	1	0
Production of an Article Capable of Inflicting Serious Injury	0	0	1
Public Order	8	6	3
Rape	0	0	1
Sexual Assault	3	1	1
Threat to Kill or Cause Serious Harm	1	1	0
Total Crimes	22	20	15

Table 2: STAD Criminal Offences 2014-2016

The seriousness of some of these incidents is illustrated in the narratives provided by victims:

“...called me names and threatened my life several times...” (2014)

³⁷ In Mullen and Moane’s 2013 research trans participants characterised Irish society’s attitudes towards trans people as “largely negative”. Georgina Mullen and Geraldine Moane ‘A Qualitative Exploration of Transgender Identity Affirmation at the Personal, Interpersonal, and Sociocultural Levels’ 14(3) International Journal of Transgenderism’ 140, 152.

³⁸ Amanda Haynes and Jennifer Schweppe, ‘LGB and T? The Specificity of Anti-Transgender Hate Crime’ in Amanda Haynes, Jennifer Schweppe and Seamus Taylor, *Critical Perspectives on Hate Crime: Contributions from the Island of Ireland* (Palgrave Macmillan 2017) 127

³⁹ Twenty reports associated with 2014 logged 22 hate crimes. Similarly, 19 reports relating to 2015 recorded 20 crimes. Seven reports in relation to 2016 logged a total of 15 crimes.

"The two with knives came at me and the others were cheering them on. ... They made swipes at me with the knives but missed me on purpose ... I ran home and they followed me half way and stopped when they saw me put a key in the door." (2014)

"... chanted it at me while they blocked my path to stop me getting away from them ..." (2014)

"We were followed for the length of [the street] and subjected to him saying horrible things - that he would rape us and 'set us right'; that we should be hung to save children from seeing us; that we were sick and would die from AIDS soon anyway." (2015)

"I was walking to town ... and three lads grabbed me, beat me up, hit me with hurls, screamed abuse at me, and then ran off and left me on the path, bleeding and almost unconscious." (2016)

POLICE REPORTING

Of the 46 reports identifying hate crimes for the period 2014-2016, in only six cases does the respondent state that they also made a report to An Garda Síochána.

Of the 20 reports for 2014, in only five cases was the incident positively identified as having been reported to the Gardaí.⁴⁰ In 2015, only one of 19 reports states that the crime or crimes had been reported to An Garda Síochána. One respondent, who had been subject to harassment in person and online, selected the option "not applicable" when asked if they had reported the crime(s) to the police; this response may speak to the need for awareness raising among trans people to denormalise hate crime. In relation to all seven reports and 15 crimes associated with 2016, the respondent definitively stated that they had not made a report to the police.

CRIME CLASSIFICATION	NUMBER REPORTED TO AGS 2014	NUMBER REPORTED TO AGS 2015	NUMBER REPORTED TO AGS 2016
Total reports to STAD	(20)	(19)	(7)
Aggravated sexual assault	0 (of 1)	-	-
Assault	0 (of 5)	0 (of 6)	0 (of 7)
Assault Causing Harm	0 (of 1)	-	0 (of 1)
Harassment	1 (of 3)	0 (of 5)	0 (of 1)
Possession of a Knife	-	0 (of 1)	-
Production of an Article Capable of Inflicting Serious Injury	-	-	0 (of 1)
Public Order	3 (of 8)	0 (of 6)	0 (of 3)
Rape	-	-	0 (of 1)
Sexual Assault	0 (of 3)	1 (of 1)	0 (of 1)
Threat to Kill or Injure	1 (of 1)	0 (of 1)	-
Total Crimes Reported	5 (of 22)	1 (of 20)	0 (of 15)

Table 3: STAD Reporting of Criminal Offences 2014-2016

⁴⁰ Seven respondents did not answer the question probing whether or not they had reported their experience to the police.

Respondents were asked to provide details of their reasons for not reporting, which were in turn categorised by the HHRG as follows:

TOTAL REPORTS TO STAD	2014	2015	2016	TOTAL
I did not think the police could or would do anything	5	3	0	8
I did not think it would be taken seriously	1	6	0	7
I didn't think it was serious enough to report	1	2	1	4
I thought it would be too much trouble to report	1	1	1	3
I have reported incidents previously to the police in Ireland and have had negative experiences	1	1	1	3
Fear	2	0	0	2
Perceived as too emotionally demanding	1	0	1	2
Victim was not 'out'/feared 'outing' themselves	0	1	1	2

Table 4: STAD Reasons for Not Reporting

The most common reason provided for not reporting was the belief that An Garda Síochána could or would not do anything, followed closely by a belief that members of the service would not take the complaint seriously. In some cases, these statements spoke to a lack of confidence in the ability of gardaí to detect the crime. In other cases, they related to a perception that gardaí would be unwilling to aid a trans victim.

"I didn't think they'd care." (2016)

In one case, this belief that police are unwilling to aid trans victims' experience was propagated by security staff:

"... they [security staff] asked me politely to call it a night and go home and not call the guards as 'the guards wouldn't help a genderbender such as myself'." (2014)

In a minority of cases, the victim's sense of futility was based not in perception, but on past experience:

"Nothing could be done, I've reported a lot in the past and one gets tired of it." (2015)

"A previous report was not taken seriously. They said 'just shrug it off.'" (2016)

Of the six people who reported their experiences to An Garda Síochána, three classified the response of the Gardaí as supportive:

"The gardaí were supportive and logged it as an incident and sent out a patrol car, but not sure if the perpetrators were found and challenged." (2014)

The remaining three people stated that the Gardaí were dismissive, with one of these further characterising members as mocking and insulting.

"... there was zero empathy, he didn't even record it as a case, because he said that I didn't know the perpetrators name. He said, 'If he knows your name, you must know his', which is ridiculous ... his attitude was more distressing than the crime." (2014)

Williams and Tregida⁴¹ found that, in a Welsh context, the likelihood that a trans person will advise others to report their experiences to the police is primarily contingent on their own past experiences of reporting. Although the All Wales Hate Crime Project found that "transgender hate

⁴¹ Matthew L Williams and Jasmin Tregidga, 'All Wales hate crime research project: final report' (Race Equality First 2013) 221.

crime victims were more satisfied with police contact than any other protected characteristic⁴², trans people participating in Nadal et al's US-based study were more likely to find that reporting hate crime crimes opened them up to police mistreatment.⁴³

Respondents were specifically asked whether the incident they reported was recorded by the police as a hate crime. Haynes and Schweppe note that prior to the introduction of a marker for transphobic discriminatory motives in November 2015, some gardaí

"... spoke of 'workarounds' for recording anti-transgender motivations. Interviewees suggested that they could note the motivation in the narrative section of the report, and/or using the menu entry for homophobia."⁴⁴

Of the five people who reported experiences for 2014 to An Garda Síochána, four stated that the incident was not recorded as a hate crime, while the remaining victim was unsure. The single individual who made a report to the police about an experience relating to 2015 said that it was not recorded as a hate crime. Not one respondent reported to the police about incidents logged as occurring in 2016.

One individual, making a report to the Gardaí in 2014 was told that hate crime does not exist in Irish law:

"The garda said hate crime as a category does not exist..." (2014)

This is correct, as the jurisdiction has no specific hate crime offences or laws.⁴⁵ The 2014 Garda Inspectorate report *Crime Investigation*⁴⁶ confirms that the term "hate crime is not used by the Garda Síochána"⁴⁷ and found that of the approximately 1,000 police officers and staff with whom they engaged, not one garda of any rank reported that they had ever either recorded or investigated a hate crime.⁴⁸ Nonetheless, the State has been submitting hate crime data to the OSCE Office for Democratic Institutions and Human Rights since 2009.⁴⁹ Since 2003, it has been possible to select racist, xenophobic, homophobic, antisemitic and sectarian motivations on the national crime computer database (PULSE) and since 2015 it has been possible to flag transphobic motivations specifically.

In both 2014 and 2015, a very small number of respondents stated that they were still in the process of deciding whether to report or not. Research has found that when accompanied by an independent advocate, survivors of rape, for example, were more likely to have reports taken, and were less likely to have been treated negatively by the police.⁵⁰ This highlights the importance of the availability of advocates who will accompany victims to report, a need that was referenced by respondents to STAD:

"Will go to the gardaí but too drained right now, someone to go with me would be great..." (2014)

Fear of future victimisation also influenced respondents' decisions not to report. Two individuals reporting in 2014 stated that they felt

⁴² Matthew L Williams and Jasmin Tregidga, 'All Wales hate crime research project: final report' (Race Equality First 2013) 221.

⁴³ Kevin L Nadal, Avy Skolnik and Yinglee Wong, 'Interpersonal and systemic microaggressions toward transgender people: Implications for counseling' (2012) 6(1) Journal of LGBT Issues in Counseling 55.

⁴⁴ Amanda Haynes and Jennifer Schweppe, 'LGB and T? The Specificity of Anti-Transgender Hate Crime' in Amanda Haynes, Jennifer Schweppe and Seamus Taylor, *Critical Perspectives on Hate Crime: Contributions from the Island of Ireland* (Palgrave Macmillan 2017).

⁴⁵ Amanda Haynes and Jennifer Schweppe, 'Internationalising Hate Crime and the Problem of the Intractable State: The Case of Ireland' (Oxford University Press 2016)

⁴⁶ Garda Inspectorate, *Crime Investigation* (Garda Inspectorate, 2014)

⁴⁷ Garda Inspectorate, *Crime Investigation* (Garda Inspectorate, 2014), part 6, page 45.

⁴⁸ Garda Inspectorate, *Crime Investigation* (Garda Inspectorate, 2014), part 6, page 45.

⁴⁹ Barbara Perry, 'Legislating Hate in Ireland: The View from Here' in Amanda Haynes, Jennifer Schweppe and Seamus Taylor, *Critical Perspectives on Hate Crime: Contributions from the Island of Ireland* (Palgrave Macmillan 2017).

⁵⁰ Oona Brooks and Michele Burman, 'Reporting rape: Victim perspectives on advocacy support in the criminal justice process' (2017) 17(2) Criminology and Criminal Justice 209.

reporting might impact further on their personal safety:

"I feel too intimidated by the person and worry for my safety." (2014)

The normalisation of hate crime, associated with frequent victimisation and an absence of supports, also informed decisions not to report:

"My girlfriend was happier to forget it happened, in past lesbian relationships, she said that street harassment happens a lot and nothing can be done about it." (2015)

"... This wasn't the only incident in the last 12 months. I have more wonderful tales ... if one prefers I could recall the time I was used as a human spit bucket by a bunch of schoolkids on the ... bus home, while all other passengers just sat in silence - leaving me no option but to get off at an early stop. Yeah, fun times..." (2014)

This theme reflects the findings of Browne et al's UK-based research⁵¹, which links normalisation to non-reporting:

If an incident is not considered 'serious' by those who experience it and is considered to be just part of the fabric of everyday life, reporting and recourse to legal intervention may be seen as not worth the effort.

TARGETED CHARACTERISTICS AND COMMUNITIES

Hate crime reports for 2014-2016 were more likely to be logged by people identifying as trans women/women with a trans history, although reports were made by respondents with a wide range of gender identities.

Of the 20 hate crime reports for 2014, ten identified the respondent as trans women (including as women with a trans history), five identified the respondent as trans men, two people identified as genderqueer or gender variant, two of the respondents identified themselves as transgender only; and one person identified as androgynous.

Of the 19 respondents who logged reports for 2015, one identified themselves as a cisgender target of transphobia. The remaining 17 respondents identified themselves as trans, non-binary or agender. Six identified as trans women; five as men with trans histories/trans masculine; and four as non-binary/genderqueer/genderfluid. Three respondents identified themselves as trans only.

Of the seven reports for 2016, three respondents identified as non-binary/genderqueer/genderfluid (with two of the three also identifying as agender or transgender), two identified as men with trans histories/trans men; one identified as a trans woman/woman with a trans history; and one identified only as transgender.

Although respondents reporting hate crimes were more likely to identify as trans women or women with a trans history, it is not possible to conclude whether this reflects gender differences in rates of victimisation or reporting patterns. However, some international research indicates that women with a trans identity may be at particular risk of violence. The 2014 EU FRA LGBT survey⁵² found that among trans respondents, women (closely followed by cross dressers) were most likely to have experienced hate-motivated violence in the 12 months prior to completing the survey. Stotzer found that almost all of the anti-transgender hate crimes recorded for Los Angeles County between 2002 and 2006 were committed against trans women. She asserts that trans women, along with trans people from racialized minorities, are at particular risk of transphobic violence.⁵³ It is

⁵¹ Kath Browne, Leela Bakshi and Jason Lim, "It's Something You Just Have to Ignore": Understanding and Addressing Contemporary Lesbian, Gay, Bisexual and Trans Safety Beyond Hate Crime Paradigms' (2011) 40(4) Journal of Social Policy 739, 749.

⁵² European Agency for Fundamental Rights, *Being Trans in the EU – Comparative Analysis of the EU LGBT survey data* (EU FRA 2014) 55.

⁵³ Rebecca L Stotzer, 'Gender Identity and hate crimes: violence against transgender people in Los Angeles County (2008) 5(43) Sexuality Research and Social Policy 43.

noteworthy however, that the 2015 Transequality survey found that US-based trans men and non-binary people with female on their original birth certificate were more likely to have been the victim of a sexual assault, with prevalence increasing among people in these identity groups who are also members of racialized minorities.⁵⁴

MOTIVATIONS AND BIAS INDICATORS

Respondents logging hate crimes to STAD were most likely to identify gender identity and gender expression as the characteristics targeted by offenders. Respondents were invited to select multiple options from a predefined set of responses or to provide details of an “other” motivation.

PERCEIVED MOTIVATION	2014	2015	2016
Total reports to STAD	(20)	(19)	(7)
Gender identity	20	15	6
Gender expression	15	14	6
Gender	10	6	2
Sexual Orientation	7	11	3
Race or ethnicity	1	1	0
Age	1	1	0
Religion	0	1	0
Disability	2	0	0
Nationality	1	0	0

Table 5: STAD Perceived Bias Motivations 2014-2016

Herek argues, “... the importance of gender nonconformity remains relatively unchanged: People who transgress gender roles remain at the low end of the hierarchy of acceptability...”⁵⁵ Those logging experiences of criminal behaviour with STAD clearly identify the offender’s response to their transgressing of gender norms as central

to their victimisation. Respondents who perceived sexual orientation to be a factor identified variously as gay, bisexual, straight, queer and asexual. Bias indicators are:

“... objective facts, circumstances or patterns connected to a criminal act that, alone or in conjunction with other indicators, suggest that the offender’s actions were motivated in whole or in part by bias, prejudice or hostility. For example, if a perpetrator uses racial slurs while attacking a member of a racial minority, this could indicate a bias motive and be sufficient for the responding officer to classify a crime as a likely hate crime. By the same token, the desecration of a cemetery or an attack on a gay pride parade may be bias indicators of anti-religious or anti-LGBT motivation.”⁵⁶

In investigating a case, bias indicators are key to police and prosecutors’ determinations as to whether an offence constitutes a hate crime.⁵⁷ Where organisations seek to lobby for change on the basis of anonymous reports, bias indicators provide useful objective support for the classification of offences as hate crimes. Civil society organisations and policy makers may also find such information useful in developing preventative measures and educative responses.

STAD probes the indicators of a hate element with its respondents. The options provided include language and in 2016 was extended to include location, signs, symbols, gestures or significant date.

Transphobic language, one of the clearest proofs of a hate motivation, was a feature of 38 out of 46 hate crime reports. Most respondents referred to the perpetrator’s use, during the course of the attack, of words like “tranny”, “faggot” or other pejorative terms such as “heshe”, “shemale” and “it”.

⁵⁴ James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M. *The Report of the 2015 U.S. Transgender Survey* (National Center for Transgender Equality 2016), 205.

⁵⁵ Herek, ‘The context of anti-gay violence: Notes on cultural and psychological heterosexism’ (1990) 5(3) *Journal of Interpersonal Violence* 316, 328.

⁵⁶ OSCE/ODHIR, *Hate Crime Data-Collection and Monitoring Mechanisms* (OSCE/ODIHR 2014), 15.

⁵⁷ In both Ireland and England and Wales, police policy dictates that, at the point of reporting, the *perception* of the victim, police, or other interested party that the crime was motivated by hate is the determining factor in whether or not to record a crime as a hate crime, or a crime with a discriminatory motive.

INDICATOR	2014	2015	2016	TOTAL
Total reports to STAD	(20)	(19)	(7)	(46)
Language and words used	17	16	5	38
The perpetrator knew (or thought) I was trans or had a trans history	18	7	4	29
Previous threats made or other incidents	7	1	1	3
	4	1	12	3
Place of the attack	NA	NA	1	1

Table 6: STAD Bias Indicators 2014-2016

“it’s self evident by the words ‘my previous name’, man, faggot, weirdo, and just generally following me and making a spectacle of me.” (2014)

“Dyke”/“Is it a boy or a girl”/“We’ll find out if it has a dick or tits.” (2014)

“Use of slurs, e.g. Faggot, tranny, queer, homo.” (2016)

“Because they kept calling me a ‘tranny’, a ‘faggot’, and a ‘dyke bitch’ as they beat me up.” (2016)

In some cases, the offender had a history of subjecting the victim to transphobic slurs:

“This incident came after months of other comments from the same person, most insults and slurs have concentrated on the fact that I am Transgender, that I don’t have a penis or that my gender doesn’t match my genitals.” (2014)

A number of respondents spoke to the offender’s motivation to “police” binary gender norms:

“I was told that transgender people are ‘crazy and unpredictable’ and that’s why he wanted to hurt me and why he was unhappy to live with ‘someone like me who is a girl one day and a boy the next’.” (2015)

“Man was angry, demanded I “explain” my gender, gender presentation. ... Visibly disquieted by his inability to categorise me.” (2015)

“The person perceived me as male initially but then identified me as someone who was assigned female at birth, holding hands with a woman. When the man realised we were “fucking lesbians” he proceeded to threaten violence and spew abusive and offensive language at us. He was irate because of the referendum the next day. He felt I had lied to him by presenting as male (I hadn’t spoken or acknowledged him until he started shouting at my girlfriend and I).” (2015)

“... most insults and slurs have concentrated on the fact that I am Transgender, that I don’t have a penis or that my gender doesn’t match my genitals.” (2014)

“Terms like ‘Tranny’ and ‘Ladyboy’. Inappropriate touching, groping of my breasts (I’m a transman) Questions about my sex life, orientation and genitals. Questions like ‘do you have a hole or a pole’ and ‘have you had the surgery’.” (2014)

“I was approached by two men, both in their late 20’s, they asked me ‘are you a boy or a girl’ and before I could answer him, he proceeded to grope my chest and say ‘definitely a girl’, I wear a binder every day, to hide my chest and pass as male, but this incident has made me extremely dysphoric, if I wasn’t dysphoric enough already.” (2014)

As we have noted previously, the language used by offenders in the course of transphobic crimes often communicates their “intention to verbally and physically interrogate the victim’s gender identity to figure out where they fit into the offender’s binary understanding of gender”.⁵⁸ We argue that

⁵⁸ Amanda Haynes and Jennifer Schweppe, ‘LGB and T? The Specificity of Anti-Transgender Hate Crime’ in Amanda Haynes, Jennifer Schweppe and Seamus Taylor, *Critical Perspectives on Hate Crime: Contributions from the Island of Ireland* (Palgrave Macmillan 2017) 117.

the offender's aggressive rejection of the trans person's outward expression of their gender is also inherently a demand to conform to essentialist and binary understandings of gender. The narratives of people who have experienced transphobic hate crimes often uncover the offender's belief in their right to police, violently if they so choose, gender norms.

IMPACT

It is internationally accepted that hate crime has a more significant impact on its victims than ordinary crime.⁵⁹ Direct impacts can range from physical injury to emotional and psychological harm: both are typically more pronounced among trans victims of hate crime than their non-trans counterparts.⁶⁰ Hate crime not only impacts on its direct victims: as Haynes and Schweppe observe, the targeting of victims on the basis of their membership of a particular community “communicates to all members of that group that they are equally at risk and do not belong.”⁶¹

Three respondents logging reports for 2014 cited physical injury, including being bruised or cut, with one stating that their eye was so swollen they could not see out of it for a day. Of those logging reports relating to 2015, one person reported that they had received a physical injury as a consequence of an attack. Two of the respondents logging reports relating to 2016, one of whom was raped, recorded that they sustained physical injuries.

Across commonly targeted groups, victims of hate crime report higher levels of emotional distress and a wider range of negative psychological impacts which last longer than victims of equivalent offences which were not motivated

by hate.⁶² In the context of victims of anti-transgender hate crime particularly, the All Wales Hate Crime Project conducted by Race Equality First and Cardiff University, found that among the various categories of hate crime victim, trans persons described the most severe impacts.⁶³ For example, they found that trans persons were ten times more likely to have suicidal thoughts compared to other victims of hate crime.⁶⁴ Such figures should be placed in the context of their finding that people who had experienced transphobic hate crime were also more likely to have experienced repeat victimisation than any other group.

The negative emotional effects of hate crime underlined by Williams and Tregidga⁶⁵ are also apparent in STAD. Thirty-three of 46 respondents specifically cite emotional and psychological consequences of hate crime (14 of 20 in 2014, 13 of 19 in 2015, and six of seven in 2016). Respondents most commonly talked about being afraid, scared, or anxious in the aftermath of their victimisation.

“The incidents float around in my head all the time, causing anxiety and panic attacks, I wake up at night and this is going around in my head, I should be able to go about my day to day business in peace.” (2014)

“I am also more afraid to go outside as I have been threatened to be beat up - not to my face...” (2015)

“I was very shaken up. My anxiety to be myself out in public has risen significantly because I’m afraid it will happen again.” (2016)

⁵⁹ Paul Iganski *Hate Crime and the City* (Policy Press 2008).

⁶⁰ Mark A Walters and Jenny Patterson, *Transphobic Hate Crime and Perceptions of the Criminal Justice System* (University of Sussex 2015).

⁶¹ Amanda Haynes and Jennifer Schweppe, ‘LGB and T? The Specificity of Anti-Transgender Hate Crime’ in Amanda Haynes, Jennifer Schweppe and Seamus Taylor, *Critical Perspectives on Hate Crime: Contributions from the Island of Ireland* (Palgrave Macmillan 2017), 130.

⁶² BCS 2009 onwards

⁶³ Matthew L Williams and Jasmin Tregidga, ‘All Wales hate crime research project: final report’ (Race Equality First 2013)

⁶⁴ Matthew L Williams and Jasmin Tregidga, ‘All Wales hate crime research project: final report’ (Race Equality First 2013), 223.

⁶⁵ Matthew L Williams and Jasmin Tregidga, ‘All Wales hate crime research project: final report’ (Race Equality First 2013).

The experience of hate crime victimisation can also produce behavioural effects, with participants altering their routines in order to enhance their sense of security and reduce the risk of repeat victimisation. Walters and Paterson's Sussex Hate Crime Project⁶⁶ found that trans persons were more likely to engage in every form of behavioural response identified, including avoidance behaviours such as 'seeing friends less often and changing their appearance'.

Those reporting to STAD cited many of the behavioural changes noted by both Williams and Tregidga⁶⁷ and Walters and Paterson.⁶⁸ For some the experience of transphobic hate crime victimisation significantly altered how they live their lives restricting their movements, their social interactions and their life chances in very meaningful ways:

"I have had to postpone my education, go to a regular therapist, and have trouble going outside or even leaving my bedroom/bed. I am getting better, but apparently I am suffering from PTSD as told by my therapist. I feel like I live under a constant threat, and I have trouble sexually or intimately engaging with a potential partner." (2015)

"The amount of name calling, verbal abuse and insulting comments caused me to relapse and become unwell. I was hospitalised due to intense stress and isolation." (2015)

Williams and Tregidga⁶⁹ found that among all the categories of commonly targeted persons they surveyed, trans respondents were most likely to say that they had tried to conceal their trans/gender identity to reduce the risk of becoming victims of hate crime. Respondents reporting to STAD also report impacts on their feelings about,

and their confidence in expressing, their gender identity:

"I felt ... ashamed of myself ... My sense of identity has been hugely affected. I was deeply distressed and desperately wanted to somehow not be transgender anymore as it brought so much daily criticism." (2014)

"This incident had little effect at the time, but simply reinforces negative thoughts I have about how people will treat me or how my safety will be impacted if I express myself in public." (2015)

"I feel self-conscious now knowing that some people don't see me as male when I am trying my best." (2015)

A number of respondents specifically cited feeling more dysphoric as a result of the attack:

"It made me even more dysphoric about my body." (2014)

"It made me feel angry and dysphoric." (2015)

"I started to fall back into bad eating habits again (after years of trying to recover) in an attempt to change my physical appearance subtly." (2016)

A sizable minority of people spoke to the fact that they have come to normalise experiences of hate crime.

"At this stage I have grown numb to verbal attacks of narrowminded bigots." (2014)

SEEKING SUPPORT

Across the three years to which this report relates 16 of 46 respondents who experienced

⁶⁶ Mark A Walters and Jenny Patterson, *Transphobic Hate Crime and Perceptions of the Criminal Justice System* (University of Sussex 2015).

⁶⁷ Matthew L Williams and Jasmin Tregidga, 'All Wales hate crime research project: final report' (Race Equality First 2013).

⁶⁸ Mark A Walters and Jenny Patterson, *Transphobic Hate Crime and Perceptions of the Criminal Justice System* (University of Sussex 2015).

⁶⁹ Matthew L Williams and Jasmin Tregidga 'All Wales hate crime research project: final report' (Race Equality First 2013), 205.

hate crime, state that they sought support from a psychologist, a trans peer group or a trans or LGBT NGO in the aftermath of their victimisation (eight of 20 in 2014, 5 of 19 in 2015, and three of seven in 2016). Respondents also reported drawing on family and friends for support in the aftermath of an experience of hate crime victimisation. However, one person reported hiding their experience from their family to protect them from the indirect psychological impacts of hate crime:

"I lied to my friends and family as to how I got a huge black eye because I didn't want them to be worried for my safety or calling the guards."
(2014)

In spite of the clear need for support as victims of crime, and as victims of transphobic hate crime, it seems that the majority of those reporting to STAD are not accessing appropriate services. Under the Victims' Directive, the State is under an obligation to provide for a number of supports and services to victims of crime. These services, under Article 9 are to provide for, *inter alia*, emotional and, where available, psychological support; and advice in relation to the risk and prevention of secondary and repeat victimization. Hate crime is not specifically mentioned in Article 9, though it does require Member States to provide targeted and integrated support for victims with specific needs, "such as" victims of gender-based violence. Thus, at a minimum, specific support should be provided for members of the trans community as victims of gender-based violence. Member States are under an obligation to ensure that victims are referred to these support services, which are to be free of charge. Crucially, under Article 8(5), access to victim support services is in no way dependent upon the victim making a formal complaint in relation to a criminal offence to a competent authority.

Jewish Contribution to an Inclusive Europe (CEJI)⁷⁰ and Organisation for Security and Co-operation in Europe (OSCE) reports on hate crime monitoring include a presumption that monitoring systems will be associated with a support function, whereby victims can access supports from the civil society organisation. TENI is not currently resourced to provide support services to victims of hate crime. As a result, it has developed "signposting" processes which direct the individual reporting to appropriate services, as well as engaging in training with victim support services.

From a rights based perspective, TENI argues that a trans person should be able to access services in the same way that any other person can. Being trans should not send an individual into a support vacuum:

"... the fact that somebody is trans should not be ... should not inhibit their ability to access those services. Those individuals should be able to deal with that person – they don't have to have expert level knowledge, but with some acknowledgement of what that might mean for that individual and then ... they can get the service they need."⁷¹

In the absence of appropriate provision, trans people are vulnerable to secondary victimisation where support providers lack training, awareness and understanding.⁷²

VICTIM AND OFFENDER CHARACTERISTICS

STAD does not probe the number of victims involved in an incident. The narratives indicate that in only one case was more than one victim involved (a couple) in a hate crime. In a second case the victim was accompanied by another person during the incident.

⁷⁰ CEJI, *Facing facts: guidelines for monitoring of hate crimes and hate motivated incidents* (CEJI 2012).

⁷¹ Jennifer Schweppe and Amanda Haynes, *Monitoring Hate Crime in Ireland: Towards a Uniform Reporting Mechanism* (HHRG 2017)

⁷² Rylan Testa, Laura M Sciacca, Florence Wang, Michael L Hendricks, Peter Goldblum, Judith Bradford and Bruce Bongar, 'Effects of violence on transgender people' (2012) 43(5) *Professional Psychology: Research and Practice* 452.

Victims reporting hate crimes to TENI are often young.⁷³ Of the 46 hate crime reports submitted between 2014 and 2016, 23 were submitted by respondents under the age of 25, nine by respondents aged 25-34, nine by respondents aged 35-44, and three by respondents aged 45 or older. Two reports relating to hate crimes were submitted by respondents who did not provide their age or year of birth.

Reports to STAD are more likely to log incidents involving multiple than single offenders. 42 of the 46 hate crime reports made to STAD from 2014-2016 identified the number of offenders involved in the crimes logged. Of these 42 reports, 15 cited the involvement of a single offender, 20 cited the involvement of two or four offenders and seven reports cited the involvement of five or more offenders.⁷⁴

Of the 19 reports for 2015, in only five cases did the respondent have any familiarity with the person victimising them. In 2016, only one of seven reports stated that the respondents knew the offender.⁷⁵ This conforms to the pattern in Wales where Williams and Tregidga found that over two thirds of victims of transphobic hate crime did not know the offender.⁷⁶ This issue was not probed in 2014.

LOCATION AND REGION

In 2014, victims were most likely to cite the location of hate crimes as a health or educational institution. One respondent cited a school as the location of the crimes committed; two cited third level educational institutions; and one cited a HSE service. In terms of other locations, three identified the location of their experiences as a shop/shopping centre, three referred to a club/

pub, two referred to a street or other public place, two stated that the crimes had occurred near their home, one said that the crime had occurred at a friend's home, and one stated that they had been targeted on public transport.

With respect to hate crime reports relating to 2015, respondents most often identified a public street as the site of their targeting. Of 19 respondents, six identified the crimes they experienced as having occurred on a public street, while home, school, work, shop or shopping centres, and clubs or pubs were each identified with two reports.

Reports relating to 2016 overwhelmingly identified the incidents logged as having occurred on the street or in a public space (five respondents of seven). One respondent reporting a range of incidents also cited multiple locations including a school, a commercial venue, and public transport. One respondent reported that they had been victimised at home.

In 2015 and 2016, the region in which the incident(s) occurred was probed. In 2015, eight (of 19) reports identified Dublin as the location of the crime(s) reported. Only seven counties are mentioned in total. In 2016, of six (of total of 7) reports that identify the county in which the incidents occurred, half name Dublin. This data arguably speaks most meaningfully to the geographical reach of the STAD campaign.

NORTHERN IRELAND

Hate crime reports relating to crimes occurring in Northern Ireland are addressed in this Report separately given the differences in jurisdiction, and specifically between the treatment of hate crime in Ireland and Northern Ireland. While Ireland lacks

⁷³ In 2014 and 2016, STAD asked for the respondent's year of birth. In 2015 the respondent was asked for their age.

⁷⁴ One of the reports citing 5+ offenders logs multiple incidents.

⁷⁵ In both 2015 and 2016 all respondents reporting hate crimes answered this question.

⁷⁶ Matthew L Williams and Jasmin Tregidga, 'All Wales hate crime research project: final report' (Race Equality First 2013).

hate crime legislation, Northern Ireland operates a system of enhanced sentencing for hate crimes under the Criminal Justice (No 2) (Northern Ireland) Order 2004. While sexual orientation is listed among the protected categories in that jurisdiction, gender identity and expression are not. Nonetheless the PSNI have formally recorded transphobic crimes as a category of hate incident since 2006/7 and the police force and prosecution services as whole have a more developed body of policy and procedure upon which to draw in processing hate crimes.⁷⁷

Four reports were made to STAD relating to incidents occurring in Northern Ireland in 2014 only. These related to a total of five crimes – one sexual assault, two assaults, one case of harassment and one public order offence. Only one of the crimes reported to STAD involved more than one assailant. This crime involved more than five offenders who threw projectiles at the victim while shouting both homophobic and transphobic slurs. Victims affirm a range of gender variant identities. The majority were over the age of 35 at the time of the incident.

In terms of bias indicators, victims of transphobic crimes in Northern Ireland report being referred to as “abomination”, “heshe”, “faggot”, “shemale” and “tranny”. The impacts of the crimes were significant, reflecting the experiences of those reporting in Ireland. Three of the four respondents report that the crime had sustained impacts on their well-being. Two report psychological impacts, while a third found it necessary to seek support from their trans peer support group. Three found their personal or social lives impacted, and in two cases the victims’ family suffered negative consequences.

In contrast to rates of reporting in the Republic of Ireland, three of four of those logging hate crimes occurring in Northern Ireland also reported the crime to the police. Two of the three victims who reported their experience to the police were able to state definitively that the PSNI treated their case as a hate crime: both of these victims evaluated the response of the PSNI positively, although one criticised their treatment by the Crown Prosecution Service. The third individual found the police to be dismissive. The final individual, who chose not to report their experience of two quite significant crimes, stated that they had felt the incident was not serious enough. There was one case of workplace discrimination reported to STAD as occurring in Northern Ireland. This case is not presented here in any further detail for reasons of identifiability.

⁷⁷ Neil Jarman, ‘Acknowledgement, Recognition and Response: The Criminal Justice System and Hate Crime in Northern Ireland’ in Amanda Haynes, Jennifer Schwegge and Seamus Taylor, *Critical Perspectives on Hate Crime: Contributions from the Island of Ireland* (Palgrave Macmillan 2017).



*DISCRIMINATION, HARMFUL
COMMUNICATIONS AND MICROAGGRESSIONS*

In addition to recording hate crime, STAD also records other manifestations of transphobia including microaggressions, discrimination, and harmful digital communications. Thirty-two reports relating to such non-crime acts of hostility in the Republic of Ireland were logged for the years 2014-2016. Some of these are actionable in law through the Equality Acts.

INTRODUCTION

Discrimination, sometimes involving a breach of the civil rather than criminal law, can have seriously negative impacts on its victims, particularly where it results in impediments to accessing essential services. In one case, a person reporting discrimination in accessing medical treatments stated that the experience had very serious impacts:

“Stopped transition, attempted suicide, killed my self-confidence.” (2014)

Ryan observes that in the context of workplace discrimination, international research shows that trans people experience disproportionately high levels of unemployment and underemployment, with significant numbers of trans people not transitioning due to concerns around employment.⁷⁸

Although gender identity is not expressly mentioned in either the Employment Equality Act or the Equal Status Act, the Equality Authority is clear that the Acts apply to trans and intersex people, just as they apply to all other named protected grounds.⁷⁹ If trans people are discriminated against during the course of their employment, or in the context of the provision of

services, they may be able to bring a complaint to the Workplace Relations Commission, or in some cases involving a bar or nightclub, to the District Court. “Services”, according to IHREC, covers the provision of both goods and services, and includes:

- public services, such as the health service or local authorities;
- commercial services, such as shops, gyms, banks or cinemas;
- transport and travel services;
- housing services, such as renting from a landlord or local authority, or using an estate agent;
- educational services;
- services provided by an individual, such as plumbers or financial advisors.

The time limits for making a complaint are very strict: in the context of goods and services, it is two months, and in the context of employment-related issues, it is six months, dating from the last act of discrimination, though these timeframes can be extended in exceptional circumstances.⁸⁰

There have been a number of cases taken successfully against organisations for discrimination against trans people. Leane and Frawley refer to a case taken against the Mater Hospital in Dublin relating to an incident in which a trans person was mocked by staff in the Outpatients Department, who refused to address her by her correct gender.⁸¹ The case was settled, and following the case, the hospital states that they now train all registration staff in trans awareness. Leane and Frawley also refer to other cases including “a trans woman being ridiculed by a hospital consultant and a trans

⁷⁸ Fergus Ryan, ‘Equality in the Workplace’ in Orlaith O’Sullivan, *Equality and Identity: Transgender and Intersex Experience in Ireland* (TENI 2013), 69.

⁷⁹ Irish Human Rights and Equality Commission, ‘What categories of people are covered by the employment equality acts’ available at <https://www.ihrec.ie/your-rights/i-have-an-issue-at-work/what-categories-of-people-are-covered-by-the-employment-equality-acts/>

⁸⁰ Irish Human Rights and Equality Commission, *Before you make a complaint under the Employment Equality Acts* available at <https://www.ihrec.ie/your-rights/i-have-an-issue-at-work/making-a-complaint-under-the-employment-equality-acts/before-you-make-a-complaint-under-the-employment-equality-acts>; and Irish Human Rights and Equality Commission, *Making a complaint under the Equal Status Acts* available at <https://www.ihrec.ie/your-rights/i-have-an-issue-with-a-service/making-a-complaint-under-the-equal-status-acts>.

⁸¹ Eleanor Leane and Leanora Frawley, ‘Human Rights and the Law’ in Orlaith O’Sullivan, *Equality and Identity: Transgender and Intersex Experience in Ireland* (TENI 2013).

woman being told that she must close down her bank account and re-open another following her change of forename by deed poll.”⁸² In the context of workplace discrimination, in the case of *Hannon v First Direct Logistics* the Equality Tribunal found that the applicant was entitled to “a workplace that recognised her right to dress and be identified as a female.”⁸³

All that said, the absence of explicit protection in the body of the Acts is deeply problematic. In another context, Perry and Dyck observe that legislation such as this which omits to name groups requiring protection ‘raises questions about the particular group’s legitimacy and place in society; in some cases they explicitly define their “outsider” status’.⁸⁴ The Equality Authority further notes that the exclusion of trans people from legislation has a policy implication, leading to a risk that the current limited protections afforded to the community “will be consigned to a footnote in discussions of gender equality.” We would endorse Ryan’s recommendation that “equality legislation be amended to embrace comprehensively the full scope of gender identity and gender expression”: the explicit naming of trans people in legislation is vital, serving as it would as a “powerful signal to employers, fellow employees and providers of goods and services that trans people are to be treated with dignity, collegiality and respect in the workplace and in society generally.”⁸⁵

With respect to harmful communications, the use of the internet as a weapon against trans people featured in STAD reports. In its 2016 *Report Harmful Communications and Digital Safety*, the Law Reform Commission highlighted the fact

that existing legislation does not cover cases where “new forms of communication are have been used in harmful ways that could not have been anticipated previously”.⁸⁶ It recommended amending the existing offences of harassment and of sending threatening and intimidating messages, to ensure that they cover online manifestations of these existing offences. It also recommends the introduction of new offences which cover the intentional victim-shaming behaviour of posting intimate images without consent,⁸⁷ and a new offence which addresses the posting of intimate photos or videos without consent.⁸⁸ In 2017, the Labour Party introduced a Bill based on the Law Reform Commission recommendations, the Harassment, Harmful Communications and Related Offences Bill 2017.

Nadal et al define microaggressions as, “brief and commonplace daily verbal, behavioral, or environmental indignities, whether intentional or unintentional, which communicate hostile, derogatory, or negative slights and insults toward members of oppressed groups”.⁸⁹ In this study we apply this concept to non-criminal acts of hostility which do not meet the criteria for criminal or civil law, or communications violations. The OSCE highlights the importance of recording non-crime hate incidents, observing that such acts of hostility may precede, accompany or provide the context for hate crimes.⁹⁰ It observes:

“Since hate-motivated incidents can be precursors to more serious crimes, records of such incidents can be useful to demonstrate not only a context of harassment, but also evidence of escalating patterns of violence.”⁹¹

⁸² Eleanor Leane and Leanora Frawley, ‘Human Rights and the Law’ in Orlaith O’Sullivan, *Equality and Identity: Transgender and Intersex Experience in Ireland* (TENI 2013) 63-64.

⁸³ DEC-E2011-066 as reported in Equality Authority, *Observations on the Revised General Scheme of the Gender Recognition Bill 2014* (Equality Authority 2014).

⁸⁴ Barbara Perry and Ryan Dyck, ‘“I Don’t Know Where it is Safe”: Trans Women’s Experiences of Violence’ (2014) 21(4) *Critical Criminology* 49.

⁸⁵ Fergus Ryan, ‘Employment’ in Orlaith O’Sullivan, *Equality and Identity: Transgender and Intersex Experience in Ireland* (TENI 2013) 71.

⁸⁶ Law Reform Commission, *Report on Harmful Communications and Digital Safety* (LRC 2016: 1)

⁸⁷ This is also known as ‘revenge porn’.

⁸⁸ This is also known as ‘upskirting’ or ‘down-blousing’.

⁸⁹ Kevin L Nadal and RJ Mendoza, ‘Internalised Oppression and the Lesbian, Gay, Bisexual, and Transgender Community’ in EJR David (ed) *Internalized Oppression: The Psychology of Marginalised Groups* (Springer 2014).

⁹⁰ OSCE/ODIHR, *Hate Crimes in the OSCE Region: Incidents and Responses – Annual Report for 2012* (OSCE/ODIHR 2013).

⁹¹ OSCE/ODIHR, *Hate Crimes in the OSCE Region: Incidents and Responses – Annual Report for 2012* (OSCE/ODIHR 2013) 14.

Research suggests that these microaggressions, as we conceive of them, impact negatively on mental well-being.⁹²

Recognising and recording everyday acts of hostility is vitally important, speaking as they do to the existence of a continuum of criminalised and non-criminalised hate incidents, both of which contribute to the exclusion of marginalised communities.⁹³ Perry and Dyck observe that when people use transphobic language against trans people, the victim is left wondering whether perpetrators will cross the line into violent acts: “a very fine line indeed.”⁹⁴ Living in this almost perpetual state of fear, as we will see, can have significant psychological impacts.

Respondents to STAD reported experiencing a range of microaggressions: including “the use of transphobic and/or incorrectly gendered terminology”, “endorsement of gender normative and binary culture or behaviors”, and disrespect.⁹⁵ While not criminal manifestations of transphobia, nor ones which would come under the protection of the Equality or Employment Equality Acts, their emotional and psychological impact makes them part of a continuum of hostility, which includes discrimination and hate crime. They both reflect and contribute to a culture within which some people may feel emboldened to make manifest their prejudices against the trans community. As one respondent said:

“The point is that a lot of the time it isn’t direct insults, abuse or attacks, it’s people ... behaving, acting strangely, with very strange facial expressions, frequently they say inappropriate things in public places, such as asking me what I have below ... all these things make one feel different and cumulatively make one feel less and less comfort and eventual social retreat and introversion.” (2015)

NON-CRIME HOSTILE ACTIONS

Of the 79 reports logged for the years 2014-2016, 32 identify acts of discrimination, microaggression, and/or harmful communications occurring in the Republic of Ireland. Across the three years a total of 34 such non-crime hostile actions were identified for this jurisdiction.⁹⁶ These included two experiences of harmful communications, 14 experiences of discrimination in accessing services, two experiences of discrimination in employment and 16 acts of everyday hostility or non-crime microaggressions.

	2014	2015	2016	TOTAL
Harmful Communications	1	0	1	2
Discrimination (services)	9	3	2	14
Discrimination (employment)	0	1	1	2
Microaggressions	7	4	5	16
Total	17	8	9	-

Table 7: STAD Non-crime Hostile Actions 2014-2016

POWER INEQUALITIES

In 2014 only, STAD allowed respondents to categorise the identity of the “perpetrator” according to a number of pre-determined descriptors. This question identified that of the 17 reports for 2014 relating non-crime incidents, eight involved individuals in an unequal position of power relative to the victim.

The responsible parties identified by respondents included doctors, nurses, people in commercial service provision, a post office worker and a

⁹² Kevin L Nadal, Avy Skolnik, and Yinglee Wong, ‘Interpersonal and systemic microaggressions toward transgender people: Implications for counseling’ (2012) *Journal of LGBT Issues in Counseling* 6(1) 55.

⁹³ Amanda Haynes, Jennifer Schweppe, James Carr, Niamh Carmody and Shannen Enright, *Out of the Shadows: Legislating for Hate Crime in Ireland – Preliminary Findings* (HHRG, 2015).

⁹⁴ Barbara Pery and Ryan Dyck, ‘“I Don’t Know Where it is Safe”: Trans Women’s Experiences of Violence’ (2014) 21(4) *Critical Criminology* 49.

⁹⁵ Nadal, Kevin L., Avy Skolnik, and Yinglee Wong. “Interpersonal and systemic microaggressions toward transgender people: Implications for counseling.” *Journal of LGBT Issues in Counseling* 6.1 (2012): 55-82.

⁹⁶ 2 reports for 2014, 1 report for 2015 and 1 report for 2016 included reference to criminal offences analysed in the section on hate crimes.

public official. The public roles and positions of authority which many of these individuals occupy is notable.

“I was sitting in the waiting room, ... and another barrister at the top of her voice pointed me out and turned to the solicitor beside her and very loudly said ‘Is that a man or a woman?’ She then continued saying ‘What is ‘that’?’ and they both proceeded to stare and continued in this vain until they left the building.” (2014)

Internationally, trans people’s pervasive experiences of discrimination and stigma in accessing health care is well documented⁹⁷ and experiences of hostility in the criminal justice system are increasingly recognised as a community issue⁹⁸, although discrimination in other areas of public service, such as social assistance and social housing, is arguably under-researched.

BIAS MOTIVATIONS

Respondents detailing experiences of harmful communications, discrimination, and non-crime microaggressions were prompted to identify the characteristics they perceived to have been targeted in the course of the hostile action experienced. As was the case in respect to criminal offences, respondents were definitive regarding the relationship between the hostile action and their gender identity and expression.

Language and words used was, as with criminal offences, to the forefront of the bias indicators identified by respondents reporting non-crime hostile actions.

	2014	2015	2016
Total reports	(17)	(8)	(7)
Gender identity	13	6	6
Gender expressions	12	4	5
Sexual orientation	5	1	2
Gender	7	3	6
Disability	1	0	0
Age	0	0	1
Race/Ethnicity	0	1	0
Other characteristics	3	1	1

Table 8: STAD Non-crime Bias Motivations 2014-2016

Respondents’ elaboration of the bias indicators involved in the encounter describes a different quality of language to that employed in the course of transphobic crimes. While transphobic slurs were prevalent among the words cited by respondents detailing hate crimes, accounts of non-crime hostile actions are more likely to cite the pointed use of and emphasis upon cisnormative terminology.

“Due to the language used it was obvious she was jeering my gender expression.” (2014)
“The word “mens” and “womens” were emphasized by the store worker.” (2014)

“Even after I asked the perpetrator to refer to me as Mrs he continued to address me as Mr. His tone of voice, and his demanding to know if I was male or female.” (2015)

⁹⁷ Judith Bradford, Sari L Reisner, Julie A Honnold and Jessica Xavier, ‘Experiences of transgender-related discrimination and implications for health: results from the Virginia Transgender Health Initiative Study’ (2013) 103(10) American Journal of Public Health 1820; Joshua D Safer, Eli Coleman, Jamie Feldman, Robert Garofalo, Wylie Hembree, Asa Radix and Jae Sevelius, ‘Barriers to healthcare for transgender individuals’ (2016) 23(2) Current Opinion in Endocrinology, Diabetes and Obesity 168; Tonia Poteat, Danielle German and Deanna Kerrigan ‘Managing uncertainty: a grounded theory of stigma in transgender health care encounters’ (2013) 84 Social Science & Medicine 22.

⁹⁸ Jordan Blair Woods, Frank H Galvan, Mohsen Bazargan, Jody L Herman and Ying-Tung Chen, ‘Latina transgender women’s interactions with law enforcement in Los Angeles County’ (2013) 7(4) Policing 379; Tara Lyons, Andrea Krüsi, Leslie Pierre, Will Small and Kate Shannon, ‘The impact of construction and gentrification on an outdoor trans sex work environment: Violence, displacement and policing’ (2017) Sexualities.

	2014	2015	2016
Total reports	(17)	(8)	(7)
Language and words used	14	7	6
The perpetrator knew (or thought) I was trans or had a trans history	9	4	6
Place of the attack	2	0	1
I don't know	1	0	0
Other	0	1	1

Table 9: STAD Non-crime Bias Indicators 2014-2016

IMPACT OF THE INCIDENT

Mizock and Mueser⁹⁹ document the relationship between encounters with transphobia and poor mental health. Even where they do not meet the characteristics of a criminal offence, the psychological effects of transphobic incidents can be pronounced. Of the 32 respondents reporting non-crime hostile actions for 2014-2016, 23 state that the experience had a negative impact on their well-being. For some the detrimental effects of the hostile action were temporary:

“Upset for 2 days at least, felt bullied and violated.” (2014)

“I was really upset. upset the entire day, affected my mood.” (2014)

For other respondents the event had a longer lasting effect on their psychological or emotional well-being. For two individuals who experienced discrimination in the context of the provision of services, the impact was significant:

“Shame and embarrassment at the time of the incident. Sadness and disappointment having failed to pass as female. Negative impact on my self esteem and confidence.” (2015)

Some respondents reported feeling angry following the event:

“Anger because of the ignorance and bigotry of a Government employee.” (2015)

“At the time I felt really angry...” (2014)

“Immediate and persistent anger...” (2015)

The relationship between the ongoing and regular nature of non-criminal hate incidents and their impact cannot be underestimated. Speaking about racist hostility, Chakraborti and Garland highlight:

“experiences that in themselves may not appear especially serious but that cumulatively, and when considered in the context of repeat victimisation and broader patterns of ‘othering’, can impact upon the victim (and their community) in a variety of corrosive ways.”¹⁰⁰

This is illustrated by this respondent, for whom the cumulative impact of having been repeatedly discriminated against by employees of the HSE and experiencing a number of transphobic incidents, none of which constituted hate crimes, was enormous:

“Stopped transition, attempted suicide, killed my self-confidence.” (2014)

⁹⁹ Lauren Mizock and Kim T. Mueser, ‘Employment, mental health, internalized stigma, and coping with transphobia among transgender individuals’ (2014) 1(2) Psychology of sexual orientation and gender diversity 146.

¹⁰⁰ Neil Chakraborti and Jon Garland, *Hate Crime: Impact, Causes and Responses* (2nd edn, Sage 2015), 28.

It is important to recognise that in impacting the victim's well-being, the emotional and psychological consequences of anti-transgender hostility can also impact their life chances¹⁰¹:

"It upset me quite much, as it is not the first time I am refused an apartment because of my gender identity and am becoming more and more at risk of homelessness." (2015)

"I became extremely uncomfortable in the college and had to drop out." (2016)

SUPPORTS

In addition to the formal supports discussed in the section on hate crimes, informal social support can be an important resource for people coping with stigma, hostility and discrimination.¹⁰² For trans people, the significance of peer support within the community is increasingly recognised¹⁰³ and is reflected in reports to STAD:

"It knocked my confidence for a few minutes but thankfully I was with some amazing Trans friends who really gave my confidence. Were I on my own I would not have been able to continue my evening as planned." (2014)*

It is particularly noteworthy therefore that two individuals reported experiencing transphobia in the context of LGBT events, which left them feeling isolated from a community in which they should feel supported:

"There seems to be a lot of total ignorance and transphobia within the LGB community towards the trans community, things so need to change."

I feel they just wanted their own little inner circle involved which are LGB and leave the transsexual community out in the dark." (2015)

Connections to family can also serve as an important coping resource. Singh and McKleroy note that acceptance by one's family is a process for many trans people, but they found that:

"As family members began to accept the transgender identity of participants, participants described feeling a sense of protection related to their family's acceptance of them that helped them heal during hard times."¹⁰⁴

It is worth noting therefore that while one person cited their family as a resource, other respondents identified their families as fellow (indirect) victims of the hostility they encountered:

"had an affect on my mother who was there, when I'm upset... it affects her too...." (2014)

"I cried myself to sleep and couldn't focus on studying after the incident. I felt a feeling that I haven't felt since I came out to my parents in March 2015, I wanted to relapse into self harm, but didn't because I have such amazing parents here to support me and the trans community. Not only has this impacted me but also my parents and I find this hard to deal with." (2016)*

¹⁰¹ Basia Spalek-Communities, Identities and Crime (The Policy Press 2006).

¹⁰² Walter O Bockting, Michael H Miner, Rebecca E Swinburne Romine, Autumn Hamilton and Eli Coleman, 'Stigma, mental health, and resilience in an online sample of the US transgender population' (2013) 103(5) American Journal of Public Health 943.

¹⁰³ Anneliese Singh, Danica G Hays and Laurel S Watson, 'Strength in the face of adversity: Resilience strategies of transgender individuals' (2011) 89(1) Journal of Counseling & Development 20.

¹⁰⁴ Anneliese Singh and Vel S McKleroy, "'Just Getting Out of Bed Is a Revolutionary Act' The Resilience of Transgender People of Color Who Have Survived Traumatic Life Events' (2011) 17(2) Traumatology 34, 38.

SINGLE-GENDER FACILITIES



SINGLE-GENDER FACILITIES

Single-gender toilet and changing facilities continue to require an individual to positively and explicitly select a gender with which they identify: Perry and Dyck observe that they are few other places where people are “forced to choose to which gender they belong.”¹⁰⁵ Perhaps for this reason, the use of toilet and changing facilities by members of the trans community is something which has attracted significant attention internationally, and particularly in the United States in recent years, where Dunne observes that access to single-gender bathrooms has “long been a source of legal, political and academic concern.”¹⁰⁶ Halberstam notes that changing facilities are a crucial site for the social policing of gender identity, and that using toilets is a central concern for trans people.¹⁰⁷

Ireland’s Equality Authority recommends that trans people should be allowed full access to the facilities and services available exclusively to persons of their gender identity.¹⁰⁸ However, while the Equality Acts do apply to trans people generally, as in the United Kingdom there is no explicit requirement in the Acts that trans people have, what Dunne refers to as, “unfettered access to their preferred single-gender services or communal accommodations.”¹⁰⁹ That said, it is certainly arguable that a bathroom or changing facility is a service, which therefore comes within the definition of the Acts. However, in the context of the Equal Status Acts, there is an exception for difference in treatment of persons on the gender ground “where embarrassment or infringement of privacy can reasonably be expected to result from the presence of a person of another gender.”

Where an individual has a gender recognition certificate, this exception will clearly not apply as they will not be a person “of another gender”. If they do not have a gender recognition certificate, changes in treatment might be made without there being an infringement of the Acts. However, short of policing the gender of everyone at the entry point to facilities, it is practically impossible to justify differentiating treatment on the basis of the appearance of an individual. Nadal et al specifically categorise the “denial of personal bodily privacy” which characterises these types of cisnormative interrogations, as a form of microaggression.¹¹⁰

In the context of schools, Ireland’s Department of Education has published guidelines for supporting LGBT students, *Being LGBT in School*, which state that trans students “should be able to access toilet and changing facilities that correspond with their gender identity.”¹¹¹ Further, it recommends that where students are not comfortable with this arrangement, they should be provided “with a safe and adequate alternative, such as a single ‘unisex’ toilet facility where this is possible”, which should not be a staff toilet facility.

Across the three years of this Report, nine reports submitted to STAD included reference to people being challenged about their use of bathroom or changing facilities. Five of these incidents bore the characteristics of criminal offences, and four were non-crime incidents. Two concerned access to changing facilities, and the remaining seven concerned toilet use. All five criminal offences took place in the context of bathroom usage. The incidents cited here are included as appropriate in the preceding analyses of hate crimes and discrimination, but given the international context

¹⁰⁵ Barbara Perry and Ryan Dyck, “‘I Don’t Know Where it is Safe’: Trans Women’s Experiences of Violence’ 21(4) *Critical Criminology* 49.

¹⁰⁶ Peter Dunne, ‘(Trans)Forming Single-Gender Services and Communal Accommodations’ (2017) *Social and Legal Studies* 1, 2. See also, Terry S Kogan, ‘Public Restrooms and the Distorting of Transgender Identity’ (2017) 95 *North Carolina Law Review* 1205.

¹⁰⁷ Judith Halberstam, *Female Masculinity* (Duke University Press 1998).

¹⁰⁸ Equality Authority, *Observations on the Revised General Scheme of the Gender Recognition Bill 2014* (Equality Authority 2014).

¹⁰⁹ Peter Dunne, ‘(Trans)Forming Single-Gender Services and Communal Accommodations’ (2017) *Social and Legal Studies* 1, 4.

¹¹⁰ Kevin L Nadal, Avy Skolnik and Yinglee Wong, ‘Interpersonal and systemic microaggressions toward transgender people: Implications for counseling’ (2012) 6(1) *Journal of LGBT Issues in Counseling* 55.

¹¹¹ GLEN: Gay and Lesbian Equality Network *Being LGBT in School: A Resource for Post-Primary Schools to Prevent Homophobic and Transphobic Bullying and Support LGBT Students* (Department of Education and Skills 2016); see also, Aoife Neary, Sandra Irwin-Gowran and Eileen McEvoy, *Exploring Homophobia and Transphobia in Primary Schools* (University of Limerick 2017).

to this issue, they are also explored separately here to illustrate the type of attitudes and behaviours encountered by trans people in these contexts.

Two incidents occurring in the changing facilities of clothing stores were reported to STAD. In both cases the respondent reported being denied access to all changing facilities offered by the outlet:

"Upon being rejected entry to the women's changing room (I assumed I would be read as female) I was also refused entry to the men's/family changing room." (2014)

Seven reports cited experiences of hostility in the context of accessing toilets. Challenges to the person's right to be present in or access a sex-segregated facility were a feature of six of the seven reports. The seventh individual reported being denied access to what was assigned as a gender neutral bathroom at Pink Training:

"I felt like I couldn't express myself even in a supposedly safe space that Pink Training is." (2015)

Another individual at a skills training course was told that their use of their preferred bathroom depended on whether they had surgery, contrary to the Employment Equality Acts:

"I requested to be referred to by male pronouns. I was asked if I had had any surgery. When I said no, I was told that as I am marked as female on the paperwork, that they have to have me down as female and that I am expected to use the female bathrooms." (2014)

Five of the seven respondents experiencing hostility in accessing toilet facilities were subject to criminal offences during the course of the incident. Three of the respondents were subject to criminal offences in or just outside the facility, and in another two instances, respondents reported having been trapped inside a toilet cubicle by an assailant who rejected the legitimacy of their presence in a sex-

segregated facility. Four of the five respondents who were victims of crimes in toilet facilities specified the gender of the facility they used; two used the facility which correlated to the gender they were assigned at birth, two used the facility which correlated to their gender identity.

"As I closed the door, I heard one of the men shout the word "Faggot!" ... a few moments later: the sound of an attempted kicking-in of the locked door of the cubicle I was occupying, which was quickly followed by the sound of two laughing neanderthals as they fled the scene." (2014)

"Went into the bathroom in a pub, someone must have seen me go in and started yelling about a "girl in here". They started to shout and tried to unlock the stall door from the outside. I had to brace myself against it to stop them getting in while screaming to leave me alone. They left after a few long minutes and I locked the stall door again." (2015)

The staff of venues in which these crimes and acts of discrimination occur are sometimes the source of the hostility rather than a source of protection. For example, one respondent who experienced discrimination in accessing a changing room related that in seeking help from the staff of the retail outlet:

"They just said the women's changing rooms were downstairs. I said I'm not a woman and they laughed in my face." (2014)

In another account, venue staff compounded the denial of access to sex-segregated toilet facilities, with a threatening and aggressive expulsion from those facilities, and by outing the respondent to other staff members: the trans person was viewed as a problem to be solved rather than an individual whose rights and dignity deserved respect:

"[They] had the bathroom attendant throw me out of the bathroom whilst I was still using the toilet. The bathroom attendant called me names and

threatened my life several times before I vacated the bathrooms. The event security was notified and their solution was that I refrained from using the male bathrooms and instead use the disabled neutral toilet inside the coat room section, which meant me being outed to the staff at the coat room.” (2014)

In conclusion, it is worth noting that reports to STAD make it clear that for some people, using gendered facilities involves taking a calculated risk:

“I am always wary of having to use public restrooms in general and sometimes the experience can be quite hostile.” (2014)

“I am afraid to use that bathroom for fear of that bathroom attendant harming me.” (2014)

The impact of this risk on trans people’s exclusion from public and commercial facilities and services enjoyed by others is of concern. Kogan¹¹² asserts that gender-neutral facilities are the only solution to protect the dignity and privacy of all: simply protecting trans people’s right to access to the facilities of their gender identity perpetuates the assumption that such spaces should be sex-segregated. Nonetheless, the accounts of respondents to STAD make it clear that if these facilities are the exception rather than the standard, their use involves a risk of being outed.

¹¹² Terry S Kogan, ‘Public Restrooms and the Distorting of Transgender Identity’ (2017) 95 North Carolina Law Review 1205.

RECOMMENDATIONS



Transphobia must be challenged. This research illustrates that transphobia is widespread in Irish society and impacts on the lives of trans people on a daily basis.

Legislation: In the Republic of Ireland there are clear legislative gaps which need to be addressed by the legislature: the Equal Status Acts, the Employment Equality Act, and the Prohibition of Incitement to Hatred Act 1989 all require amending to ensure that trans people are explicitly afforded the same protection as other minority communities in Ireland. In addition, unnecessary gendered language should be removed from the constitution and other legislation, to be replaced with phrasing such as ‘they’ instead of ‘he/she’.

The Gender Recognition Act 2015 should be amended to make provision for children and young people by removing the criterion relating to minimum age that prevents them from being able to obtain legal recognition of their preferred gender; ensuring parents or guardians are enabled to make an application for a Gender Recognition Certificate on behalf of their children at any age; enabling, in accordance with international standards of best practice, persons aged 16 and 17 years to self-determine their legal gender with no requirement for medical certification and no court order; to ensure young people who have reached the age of 16 are enabled to apply for legal recognition of their preferred gender on their own initiative; allowing for the recognition of a gender other than male or female.

The Passport Act 2008 should be amended to allow an ‘X’ marker for gender on passports.

In the Republic of Ireland the legislative recommendations contained in the Law Reform Commission’s Report on *Harmful Communications* should be introduced as a matter of urgency.

The absence of hate crime legislation is something which has been long identified as a legislative lacuna in Ireland, while in Northern Ireland trans people are not protected under enhanced sentencing provisions. TENI is a member of the National Steering Group Against Hate Crime (formerly the Working Group), which is working to ensure that hate crime legislation is introduced in Ireland which is fit for purpose and ensures that members of the trans community are appropriately protected.

Visibility Matters: There is a need to increase positive representation of trans experiences and visibility of trans lives. Trans voices should be included in discussions and depictions of, and decisions about, our lives.

Policing: Delivery of training to police services is of utmost importance. This will enable members of An Garda Síochána and the PSNI to deal appropriately and sensitively with transphobic incidents. Transphobic hate crime has been recorded by the police in Northern Ireland, since 2006/7, but this facility was not introduced in the Republic until November 2015. Training which ensures gardaí understand the nature of anti-transgender hate crime, how to recognise it, and how to appropriately record it, is necessary. Awareness raising among the trans community in the Republic regarding the existence of a marker for transphobic discriminatory motives is necessary. Further, there is a need to build trust between the police services and the trans community. A significant number of respondents did not report crimes to police, as they did not believe that anything would be done. This lack of trust excludes members of the community from access to justice. Police services must take responsibility for building trust with the trans community. In addition to training, trust building would be facilitated through the provision of a dedicated outreach service for the trans community in each region, and an up to date list of TENI-trained LGBT liaison officers.

Resources: TENI runs the STAD reporting mechanism with no dedicated budget. Particularly given the findings of this report regarding declining levels of police reporting among respondents to STAD and the low levels of crimes with a transphobic discriminatory marker recorded by members of An Garda Síochána in 2016, the continued availability of STAD as a third party reporting mechanism is essential.

Further, an appropriately resourced monitoring and support service would allow TENI to better serve its community by, for example, facilitating pathways to appropriate counselling and care, providing advocates who will accompany victims of hate crime to Garda stations to report their experiences, to provide outreach to hard to access communities, and to accompany victims in court proceedings.

Trans Awareness: It is unacceptable that individuals employed by the State in any context act in a transphobic manner. Trans training should be provided to all state actors – including the Health Services Executive, across the criminal justice system, in social services and social housing, and in education. All governmental (including civil and public service) documents should include the salutation ‘Mx’ as an option.

Awareness of Rights under the Equality Acts: An awareness raising campaign should be held in the trans community which highlights the rights of trans people under the Equality Acts, and the manner in which complaints can be made about state employees who act in a transphobic manner. This should include details of the short timeframes available in which complaints can be made under the Acts.

Psychological and Emotional Support: In both the Republic of Ireland and Northern Ireland Trans victims of hate crime should be provided with dedicated victim support services free of charge, whether they report their crime to the police or

not, as part of the State’s obligations under the Victims Directive.

Toilets and Changing Facilities: TENI echoes the Equality Authority’s recommendation that trans people should be allowed full access to facilities and services that correspond with their gender identity. Wide-spread availability of gender-neutral facilities is however the preferred option. Public buildings should be required to convert facilities and commercial outlets encouraged to do so.

Research: Further research is needed in many areas, but of particular urgency are the areas of sexual health, homelessness, the experiences of young trans people in education, the ageing trans population and the participation of trans people in sport.



APPENDIX 1:

SUPPORT SERVICES

APPENDIX 2:

HOW TO REPORT A HATE CRIME TO AN GARDA SÍOCHÁNA

APPENDIX 1: SUPPORT SERVICES

TRANS SUPPORT SERVICES

Local peer support groups – Belfast, Clonmel, Cork, Derry, Dublin, Galway, Gorey, Greystones, Letterkenny, Limerick, Newry, Tralee, Waterford [<http://www.teni.ie/page.aspx?contentid=771>]

GenderJam – N.I. - <http://www.genderjam.org.uk/>

Turn2Me Online Support - <http://turn2me.org/group-support>

Irish Trans Girls - <http://www.irishtransgirls.weebly.com/>

ITSA – Irish Trans Student Alliance - www.transstudentsalliance.ie

Trans Guys Ireland - <http://www.facebook.com/tg.eireann>

INQ (Ireland's Non-Binary & Genderqueer Community) - irelandnbgc@gmail.com

GOSHH (Gender Orientation Sexual Health HIV) - <http://www.gossh.ie/>

Outhouse LGBT Community Centre - <http://www.outhouse.ie/>

LGBT Helpline - 1890929539 - <http://www.lgbt.ie/>

Gay Switchboard Ireland - (01) 872 1055 - <http://www.gayswitchboard.ie/>

TENI –(01 873 3575) - office@teni.ie - <http://www.teni.ie/>

Dublin Lesbian Line - (01) 872 9911 - <http://www.dublinlesbianline.ie/>

Samaritans Ireland - 1850609090 - <http://www.samaritans.org/>

BeLonG To Youth Services - (01) 670 6223 - <http://www.belongto.org/>

Belfast Trans Resource Centre - 0289 5320 023

FAMILY SUPPORT

TransParenCI & Transformers (Dublin, Limerick, Tralee, Waterford) - transparencigroup@gmail.com

Look – Loving Our Out Kids - 0872537699 - <http://www.lovingouroutkids.org/>

SAIL (Support, Acceptance, Information and Learning) - sail@transgenderni.com

GARDA CONTACTS

The Garda Racial, Intercultural & Diversity Office (GRIDO) - 016663150

Garda Victim Service Offices: <http://www.garda.ie/Controller.aspx?Page=3430&Lang=1>

CRIME VICTIM SUPPORTS

Crime Victims Helpline - info@crimevictimshelpline.ie

Crime Victims Helpline - 116006 - Text: 0851337711 <http://www.crimevictimshelpline.ie/>

Free Legal Advice Centre (FLAC) - <http://www.flac.ie/>

Court Support Services - <http://www.vsac.ie/>

SUPPORT SERVICES FOR VICTIMS OF CRIME

Support After Crime: <http://www.supportaftercrimeservices.ie/>

Support After Homicide: <http://www.supportafterhomicide.ie/>

GENERAL SUPPORT SERVICES

Dublin Rape Crisis Centre: <http://www.drcc.ie/>

Rape Crisis Network Ireland: <http://www.rcni.ie/>

Rape Crisis Help - <http://www.rapecrisishelp.ie/>

One in Four: <http://www.oneinfour.ie/> [victims of sexual abuse]

Pieta House - <http://www.pieta.ie/>

SWAI (Sex Workers Alliance Ireland) - <http://www.sexworkersallianceireland.org/>

APPENDIX 2: HOW TO REPORT A HATE CRIME TO AN GARDA SÍOCHÁNA

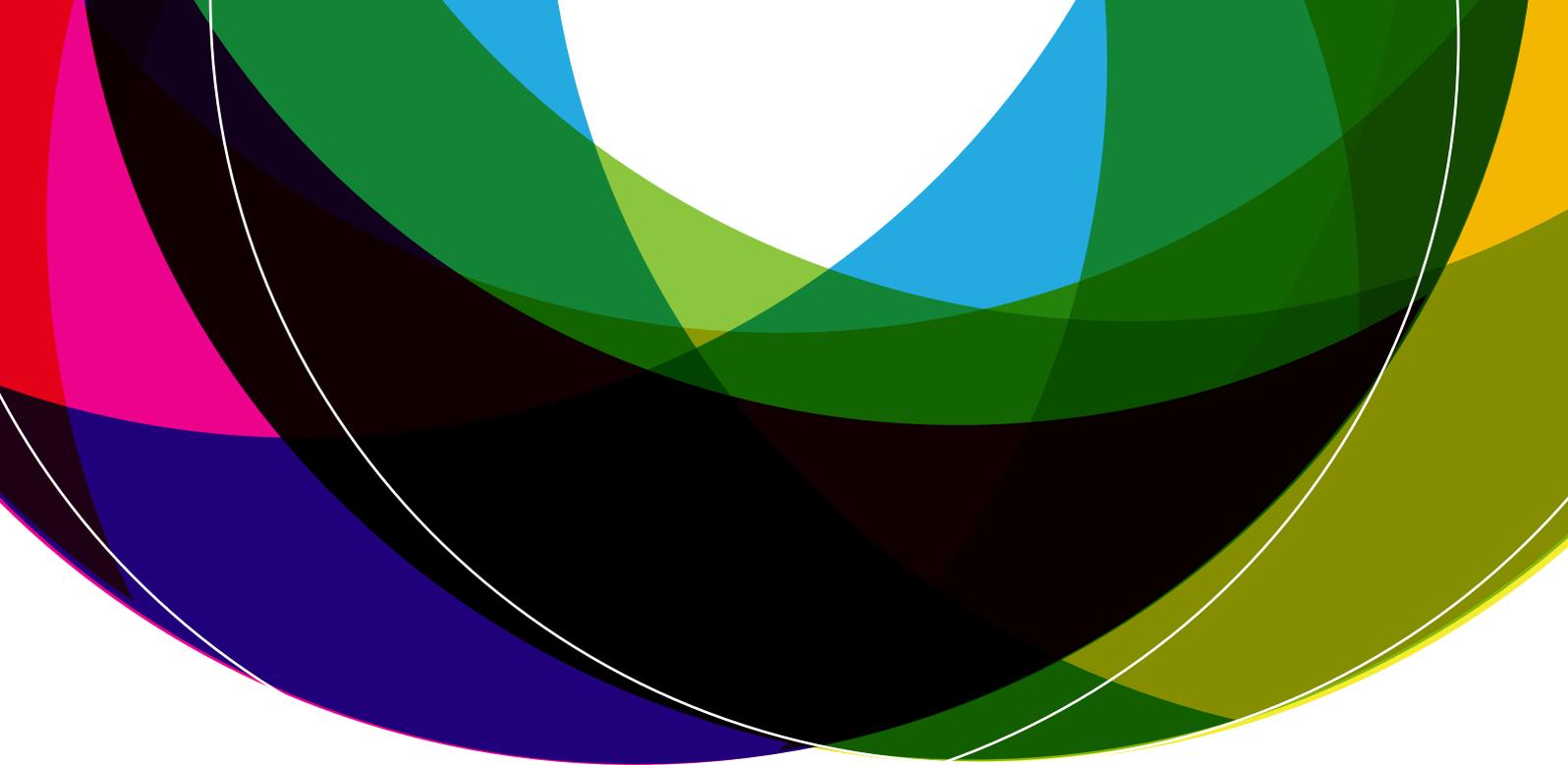
If you feel that there is any immediate threat to your safety or that of another person dial 999 immediately. You should tell the call taker that you are being subjected to a transphobic hate crime and require immediate assistance.

If there is no immediate threat to your safety or that of another person, you can report the crime at your local police station.

- Ring the station in advance, explain that you want to report a transphobic hate crime and ask if you can meet a suitably trained garda/police officer. You can also call the Garda Racial and Intercultural and Diversity Office, on (01) 6663150 and speak with the trained staff there.
- If you can, bring someone with you to support you in making the report. If you would like someone from TENI to accompany you in reporting the crime please contact TENI at (01) 873 3575 or office@teni.ie.
- In making a report, clearly state that this was a transphobic crime and ask for it to be recorded as such.
- When you have made your report, ask for a PULSE/crime number. This is a reference number that you can use in following up on the progress of the case.
- Before you leave the station, ensure that you have, at a minimum, the contact details for the station and the name of the investigating garda/police officer.
- The garda/police officer should provide you with details of a victims support services, but you can also contact the LGBT helpline on 1890 929 539.

If you are not satisfied with your treatment by the police you can ask to speak to a supervisor in the first instance or contact:

The Garda Síochán Ombudsman Commission (01) 871 67 27
The Police Ombudsman for Northern Ireland (028) 9082 8600



TENI, Unit 2, 4 Ellis Quay. Dublin 7, Ireland

www.teni.ie | info@teni.ie | (01) 873 3575



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