


Gendered Policing and Policing Gender: The Trans Community and An Garda Síochána

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Foreword

In 2006, the UN adopted the Yogyakarta Principles, a guide for States on the application of international human rights law in relation to gender identity and sexual orientation. Principle 5 sets out a State's obligations in relation to the right of every person, regardless of gender identity or sexual orientation, to security of the person and to protection against violence or bodily harm.

Recent studies suggest that the trans and gender variant community in Ireland are at heightened risk of experiencing such crimes. This, coupled with frequent experiences of prejudice and discrimination in other areas of civic life, including access to employment, goods and services, can have a devastating impact on a person's sense of self worth and on their willingness to openly participate in society.

The relationship between a marginalised community and the State, its servants and agents is, therefore, of paramount importance. This is rarely more evident than in the relationship between a community and those charged with responsibility for ensuring its very safety and security, the police.

The findings of this publication highlight, for the first time, the fraught and often dysfunctional relationship between the trans community in Ireland and An Garda Síochána (Irish Police Force). It is a unique and enlightening work, drawing directly on the voices and experiences of the trans community and bringing into sharp relief the difficulties faced by the community when attempting to meaningfully interact with members of the service – whether reporting a crime, seeking access to justice or simply engaging in the myriad of public administrative tasks with which the Gardaí are responsible, applications for passports, etc.

Transgender Equality Network Ireland (TENI) supports the recommendations of this report including the need for specific trans-awareness training for Gardaí and the need for specialist policing roles to liaise effectively with community members. We endorse wholeheartedly the calls to adopt trans inclusive policies on policing practices including detention, to enhance public oversight and accountability and, critically, to consult directly with the community on new legislative and policy measures to promote cooperation, dignity, and inclusion.

We are very grateful to the authors, Jennifer Scheppe and Dr Amanda Haynes, and to the University of Limerick - Hate and Hostility Research Group for their continued commitment to highlighting the issues faced by trans and gender variant communities in Ireland in relation to policing and criminal justice matters. We look forward to continued fruitful collaboration on these topics and more.

Stephen O'Hare

Chief Executive - TENI



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We would also like to acknowledge the Irish Research Council who supported this research through the New Foundations Scheme.

We would finally like to thank our indefatigable research assistant, Niamh Dillon, whose attention to detail was invaluable in preparing this report.



Glossary

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 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 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 (GRC): Under the Gender Recognition Act 2015, a person can apply for a Gender Recognition Certificate in order to have their preferred gender recognised by the State. This allows someone over 18 (over 16 with the consent of the court) to change the gender mark on their birth certificate to either male or female.

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 or assigned female at birth.

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.

About the Partners

Hate and Hostility Research Group

The Hate and Hostility Research Group 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. It works closely with a number of NGO partners to progress policy and legislative change in relation to hate crime in Ireland as well as being affiliated with the International Network for Hate Studies.

Transgender Equality Network Ireland (TENI)

TENI is a non-profit member-driven organisation, founded in 2006. TENI seeks to improve conditions and advance the rights and equality of trans people and their families. TENI's vision is an Ireland where trans people are understood, accepted and respected, and can participate fully in all aspects of Irish society. Ireland remains a place where it can be difficult for trans people to lead safe, healthy and full lives. TENI is dedicated to ending transphobia, including stigma, discrimination and inequality and continues in the struggle for social, political and legal recognition of trans people in Ireland. TENI works nationally in four main areas: healthcare, employment, education and legislative reform.



Executive Summary

The relationship between the police service and the communities it serves is vital to an open and functioning democracy. While Ireland's police force, An Garda Síochána, enjoy very high levels of public confidence overall, these levels of trust are not replicated across all communities within the State. This research, which involved a survey of 61 members of the trans community, as well as three focus groups and four one-on-one interviews with a further 19 trans people, sought to explore and understand the relationship between the trans community and the police in Ireland. It explored both attitudinal and experiential perspectives, and finds that the high levels of public confidence enjoyed by An Garda Síochána generally are not replicated in the trans community.

The findings of the research show that when we compare findings of Quarter 3 of the Garda Public Attitudes Survey 2017 against those of the Trans Policing Survey 2017 (carried out for the purposes of this research in the same timeframe), there are clear attitudinal differences between the general and trans populations in respect to An Garda Síochána:

- 43 per cent of the general population categorise themselves as having 'high trust' in An Garda Síochána as compared to 8 per cent of respondents to the Trans Policing Survey 2017;
- 69 per cent of the general population categorise themselves as being 'very satisfied' or 'quite satisfied' with An Garda Síochána as compared to 34 per cent of respondents to the Trans Policing Survey 2017;
- 84 per cent of the general population agree that An Garda Síochána are 'friendly and helpful' as compared with 44 per cent of respondents to the Trans Policing Survey 2017;
- 55 per cent of the general population agree that An Garda Síochána are 'effective in tackling crime' as compared with 36 per cent of respondents to the Trans Policing Survey 2017;
- 58 per cent of the general population agree that An Garda Síochána are 'modern and progressive' as compared with 20 per cent of respondents to the Trans Policing Survey 2017;
- 36 per cent of the general population agree that An Garda Síochána are 'well managed' as compared with 11 per cent of respondents to the Trans Policing Survey 2017;
- 35 per cent of the general population agree that An Garda Síochána 'provide a world class service' as compared with 44 per cent of respondents to the Trans Policing Survey 2017;
- Only 8 per cent of respondents to the Trans Policing Survey 2017 were of the view that An Garda Síochána are trans aware.

As well as exploring the attitudes of members of the trans community to An Garda Síochána, the research also investigated community members' experiences of engaging with the service, particularly as victims of crime, in securing official documents, attending public events, and, less commonly, in such contexts as police stops and searches, arrest and detention. Experiences with airport security were also raised by members of the trans community.

Ultimately, the research found that the relationship is often a problematic one, characterised by fear of revictimisation on the part of the community, and, in the community's experience, ignorance on the part of An Garda Síochána. Members of An Garda Síochána, either ignorantly or wilfully, misgender members of the community and generally fail to appreciate the needs of community members. It is important to highlight that not all experiences were negative, indeed participants spoke to us about some very positive experiences they had with members of the service. However, in order for positive interactions to become the rule, rather than the exception, we make a number of recommendations in this report which we see as vital to ensuring that good experiences become the norm. These recommendations include:

- Development of trans positive policies in An Garda Síochána, particularly in the areas of:
 - Police detention.
 - Victim support.
 - Search, arrest and detention.
- Development of specialist officers and victim advocates;
- Mainstreaming of trans awareness training.

The introduction of these measures would foster awareness and sensitise members of An Garda Síochána to the needs of the trans community, as well as providing policy frameworks which would ensure that trans people are respected, and treated as equals by the police service which is supposed to protect them.



Introduction

The Transgender Equality Network Ireland has, for a number of years, collected data from its community members on the prevalence and impact of transphobic hate crime and discrimination in Ireland via its monitoring system, *STAD: Stop Transphobia and Discrimination*. Over the past number of years, TENI noticed that members of the community were reporting their experiences of criminal victimisation to the police in increasingly smaller numbers. TENI has been concerned that this evidenced a growing trend towards underreporting, rather than an improvement in the relationship between trans people and the police, or a reduction in hate crime more generally. For this reason, the Transgender Equality Network Ireland, and the Hate and Hostility Research Group at the University of Limerick sought funding from the Irish Research Council to explore the relationship between the trans community and the police, with a view to understanding and optimising the access of trans people to the police.

The relationship between the police and minoritised communities is vitally important for a functioning democracy. A healthy, respectful and trusting relationship between An Garda Síochána and the trans community is vital to ensuring that members of the community feel safe in society. In order to ensure the right of access to justice for trans people is protected, activated, and fulfilled, trans people must believe that they will be supported and protected by the police when necessary. To date, little or no research has been undertaken in Ireland to examine the relationship between the trans community and the police, which makes this study important in this context.

Public attitudes towards An Garda Síochána

Conway has noted that, since independence, the police in Ireland have enjoyed 'unusually high levels of public confidence.'¹ This, she argues, may be a result of the country's colonial history. Indeed, Manning has previously suggested, 'the Garda are both sacred and legitimate as a result of their connections to the origin of the state'.² Perhaps because of these high levels of public confidence, Conway also notes that An Garda Síochána had been somewhat insulated from criticism. Writing in 2012, Manning maintained that such insulation had undermined accountability and suggested that efforts to increase accountability had, to that point, had very little impact on the structure and function of the Gardaí.³ In 2015, the Policing Authority was established as an independent body to oversee the performance of An Garda Síochána in relation to policing services in Ireland, with a stated aim of promoting 'trust and confidence in policing' and to assist in the shaping of policing services in Ireland for the future.⁴ In May 2017, the Commission on the Future of Policing in Ireland was established by the Government, with expansive terms of reference for determining how An Garda Síochána should be structured and focused in future.⁵ Throughout this time the Garda Public Attitudes Surveys continue to show that the general public have very high levels of trust in An Garda Síochána.

These high levels of trust are not, however, replicated across all communities in the State. Mulcahy and O'Mahony observe that the high levels of confidence enjoyed by the police nationally are not found consistently across Ireland; they assert stark variations across police divisions, and far lower confidence in the service among young men from working-class backgrounds. Their research, found that, policing practice was more 'confrontational' and 'belligerent' among socially-excluded and marginalised communities.⁶ A decade later, O'Brien Olinger's study with

1 Vicky Conway, *Policing Twentieth Century Ireland: A History of An Garda Síochána* (Routledge 2014) 5.

2 *ibid*, Peter K Manning, 'Trust and accountability in Ireland: the case of An Garda Síochána' (2012) 22(3) *Policing and Society* 346.

3 Peter K Manning, 'Trust and accountability in Ireland: the case of An Garda Síochána' (2012) 22(3) *Policing and Society* 346.

4 The Policing Authority, 'About the policing authority' (The Policing Authority) <<http://www.policingauthority.ie/website/PA/PolicingAuthorityWeb.nsf/page/About-en>> accessed 28 September 2017.

5 The full terms of reference are available on the Commission's website at http://policeform.ie/en/polref/pages/terms_of_reference

6 Aogán Mulcahy and Eoin O'Mahony, *Policing and Social Marginalisation in Ireland* Working Paper 05/02 Dublin: (Combat Poverty Agency 2005) 5.

Gardaí of their experiences in the 'new', more ethnically diverse Ireland, found that officers felt themselves to have a knowledge deficit, no longer able to rely on their own local knowledge to develop trust and rapport when working with minorities.⁷ The study concluded that research from minority perspectives could help bridge this knowledge gap within the police service.

Research aims and objectives

This research sought to illuminate the relevance to the Irish context of growing international evidence of difficulties which trans persons experience in accessing justice, and of the potential for direct victimisation and revictimisation by police officers. The research explored questions relating to trust, satisfaction, and perceptions of capability and effectiveness, asked in the Garda Public Attitudes Survey (GPAS), in order to compare attitudes to the police among the trans community to those among the wider population in Ireland.

The research then sought to explore trans persons' experiences of policing, specifically addressing rates and experiences of, and obstacles to, reporting crime victimisation to An Garda Síochána. Recognising that An Garda Síochána provide a diverse range of services and that there are a multiplicity of contexts in which members of the public interact with the police, the research also addresses everyday interactions in the context of the role of An Garda Síochána in policing public events and processing official documents. Finally, the research explores the experiences of trans persons who are stopped, detained or arrested by An Garda Síochána.

The research ultimately seeks to provide an evidentiary base for inclusive policing for trans persons in Ireland. We hope that this research will be useful both to organisations advocating for trans persons and to An Garda Síochána.

Methodology

We employed a mixed methods approach in conducting the research. The primary data for this research were gathered by means of an online survey (referred to in this report as Trans Policing 2017 or TP 2017) regarding respondents' experiences with and perceptions of An Garda Síochána, and qualitative focus groups and interviews on the same topics.

Sampling strategy


Focus group participants and survey respondents were recruited using a volunteer sampling strategy.⁸ The research was advertised extensively by TENI via email distribution lists, closed and publicly accessible social media, via its website, and directly to peer support group members. We completed three focus groups and four one to one interviews, across three cities. A total of 19 individuals participated in the focus groups, with a further 4 individuals who were interviewed one to one. The survey garnered a total of 61 responses.

Focus groups and interviews

The qualitative phase of the project took the form of three focus groups and four one to one interviews across three cities. The interviews permitted the inclusion of additional participants who could not be facilitated within a scheduled focus group or who did not wish to participate in a group interview. The individual interviews were

7 Sam O'Brien-Olinger, *Police, Race, and Culture in the 'New Ireland': An Ethnography* (Palgrave MacMillan 2016)

8 Victor Jupp, *The Sage Dictionary of Social Research Methods*, (Sage 2006).



guided in format and adapted the focus group questions to a one to one scenario. Data collected from both the focus group discussions and one to one interviews were subject to thematic analysis.

Survey

The survey probed the wider relevance of themes arising in the qualitative phase of the research, and in the secondary analysis of third party data collected by TENI on crime victimisation and reporting published in *STAD 2014-2016*. The Garda Public Attitudes Survey 2017 was also consulted to develop questions about policing practices and experiences which would not only document trans peoples' experiences, but also provide for comparisons between the trans community's and the majority population's engagements with the police in Ireland.

The survey was disseminated online to maximise the opportunity for trans community members across Ireland to participate. The survey was distributed via EU Survey, and was therefore hosted within the European Union and subject to EU data protection laws.⁹ The survey remained live for exactly two calendar months during the summer of 2017. It garnered a total of 61 responses, which given the size of the trans community in Ireland is a satisfactory result. A strength of the sample is its inclusion of men/ men with a trans history (50 per cent, 30 people), women/women with a trans history (18.3 per cent, 11 people) and non-binary/gender fluid/gender queer /androgynous persons (23.3 per cent, 14 people).¹⁰ Survey responses were analysed using SPSS with a particular focus, given the sample size, on descriptive statistics.

Ethical approval

This research study received ethical approval from the Arts, Humanities and Social Sciences Research Ethics Committee at the University of Limerick (approval number 2016-06-04-AHSS). The sensitive nature of the topic, engaging as it does with a marginalised community on the topics of victimisation and encounters with the state, required that the research met the highest ethical standards.

A note on language

Throughout this report, participants to the research referred to An Garda Síochána as 'the guards', 'the police' and 'the Gardaí', and we replicate these terms where they were used by our research participants in either focus groups or in the survey. When recounting their experiences, some participants rehearsed the transphobic language that was used against them. In reporting this material, we have chosen to asterisk slurs recounted by our research participants to limit the potential for revictimisation among readers. We have published expletives in full.

⁹ European Commission, About EU Survey (*EU Survey*, 26 July 2017) <<https://ec.europa.eu/eusurvey/home/about>> accessed 11 September 2017.

¹⁰ 1 person declined to provide their gender identity while the remaining five participants chose the option of 'other' (8.3 per cent)

The Relationship Between An Garda Síochána and the Trans Community: Key Findings

The relationship between the police and the communities it is charged with protecting is vital to ensuring that all members of society feel safe, have access to justice, and trust the system to protect them. We sought to explore the relationship between the trans community and the police by mapping the perceptions and experiences of that community in our survey (TP 2017), and by contrasting them to those of the majority community as evidenced through the Garda Public Attitudes Survey (GPAS) carried out in the same time period, and published in the Report for Quarter 3 of 2017 (GPAS 2017).¹¹ This section of the Report presents our statistical findings, contextualising narratives drawn from the survey and focus groups which develop upon the themes arising. At this point, it is important to note that in the five years before the survey took place, (that is, since 2013), 86.9 per cent of the survey sample had contact with An Garda Síochána. Thus, the vast majority of the participants to the survey were in a position to base their assessments of the police on their experiences of engaging with An Garda Síochána, rather than their perceptions of the service alone.

Trust in An Garda Síochána

The majority population report high levels of trust in An Garda Síochána. Trans community members responding to TP 2017 reported considerably lower levels of trust in An Garda Síochána than respondents to the Garda Attitudes Survey. More than half of respondents (55.7 per cent) described their trust in An Garda Síochána as 'low', in contrast to 11 per cent of the wider population responding to GPAS 2017.

'How would you describe your level of trust in An Garda Síochána?'


TABLE 1: Comparison of GPAS 2017 and TP 2017: Trust in An Garda Síochána

GPAS	2017	TP 2017
High Trust	43%	8% ^{11b} (5)
Mid Trust	46%	31% (19)
Low Trust	12%	56% (34)
Don't know	0%	5% (3)

A focus group participant summed up their trust issues with respect to of the organisation. In addressing the question of whether they would report a transphobic crime to An Garda Síochána they said:

11 An Garda Síochána, Public Attitude Survey Q3 2017 (*An Garda Síochána*, 2017) <<https://www.garda.ie/en/About-Us/Publications/Research-Publications/An-Garda-Siochana-Public-Attitude-Q3-2017.pdf>> accessed 12 June 2018.

11b "Figures have been rounded. As is the case with the Garda Public Attitudes Survey, not all columns where percentages are used will add up to 100 percent due to rounding."



'I would find it difficult because of my experiences with the guards over ... I guess over the last 20 years, even when I was in school. So I just don't really trust them. I feel I have had problems with the guards before. I have been verbally abused by the guards before. And I think there are quite a number of people in the trans community in Ireland who would feel that way. You know ... I'd rather have the least interaction with the guards as possible to be blunt.' (Focus group participant)

A second participant to the focus groups conducted for this research also spoke eloquently regarding the manner in which perceptions rooted in the past continue to colour their responses to An Garda Síochána today:

'... when I was first sort of experimenting I was of the firm belief that what I was doing was against the law and if I bumped into guards I'd be pulled. And even something like three years ago, ... I still had that sense of "shit there's guards in that shop I'm not going in there". That's something I'm bringing, it's nothing they did. ... So if I go back to 1980 ... early 90s ... I'd go out in trans gear and scared out of my wits that I'd be pulled by guards because I knew that it was ... there was a legal problem. And I wasn't quite sure what it was but ... it was still seen as a crime ... having grown up in a world where any deviances, expressing sexual deviancy or in terms of marital status, anything different ... as just taboo And there was certainly a threat of violence which I was well aware of. And some of my friends had experienced violence, victim violence growing up So it was just a general fear – look, I'm breaking the rules at every level. Culturally and ... morally ... and legally d'you know? So yeah, and even though you can tell me it's ok, it's legal, I'm within the law, there's an emotional experience there I need to work with myself.' (Focus group participant)

For others, their experiences with other organs of the state made them deeply suspicious of any person acting on behalf of the state, or purporting to do so:

'It's Catholic Ireland, doctors that look after us are barely aware.' (Survey respondent)

For a minority of individuals, intersectional identities and experiences played a role in shaping their relationship with An Garda Síochána:

'I only had one experience with the Gardaí while out as trans. It was a positive one, but it's hard to say if it was a well-meaning individual or a systemic situation. I also had bad experiences with the Gardaí regarding immigration.' (Focus group participant)

Levels of satisfaction with An Garda Síochána

While members of the majority population expressed high levels of satisfaction with An Garda Síochána, members of the trans community responding to TP 2017 were more likely to be dissatisfied than satisfied with An Garda Síochána (48 per cent of respondents compared to 34 per cent). This is a reversal of the pattern of attitudes expressed by the general population in the Garda Public Attitudes Survey of Q3 2017, where 69 per cent of respondents expressed satisfaction with the organisation.

The survey question asked of participants in our research was, 'What is your overall level of satisfaction with An Garda Síochána?'

The findings from both surveys are set out below:

INDICATORS	GPAS 2017 - Agree	TP 2017 - Agree
Very satisfied	9%	3% (2)
Quite satisfied	60%	31% (19)
Quite dissatisfied	20%	30% (18)
Very dissatisfied	4%	18% (11)
Don't know	7%	18% (11)

Effectiveness and capability

The Garda Public Attitudes Survey asks members of the population to assess their perceptions of An Garda Síochána across six indicators of effectiveness and capability. In our survey, we asked members of the trans community to report their perceptions across five of these six indicators.¹² In every case, a far lower proportion of trans community members reported a positive perception of An Garda Síochána than did members of the wider population responding to the Garda Public Attitudes Survey.^{12b}

INDICATORS	GPAS 2017 - Agree	TP 2017 - Agree
Friendly and helpful	84%	44% (27)
Effective in tackling crime	55%	36% (22)
Modern and progressive	58%	20% (12)
Well managed	36%	11% (7)
Provide a world class service	35%	20% (12)

Trans awareness and LGBT Liaison Officers

The Garda Public Attitudes Survey asks whether the public perceive the organisation to be community focused. Rather than ask this question about the community generally, we thought it more appropriate to ask the participants to this survey about their perceptions of the particular relationship between the trans community and the service. For this reason, we asked two questions: first, we asked how 'trans aware' the service is; and second, we asked participants the counterpoint question, as to whether they were of the view that the organisation as a whole is transphobic.

Respondents were quite definitive on the question as to whether the organisation is trans aware. Less than ten per cent of respondents to TP 2017 held that An Garda Síochána is trans aware, while 69 per cent responded in the negative.

¹² We did not include the community focused indicator instead opting to add two further indicators relating specifically to the trans community, these were transphobia and trans awareness.

^{12b} As GPAS 2017 does not include 'disagree' or 'don't know' in its report, we have replicated this process here for the purposes of clarity

TABLE 2: **Trans Policing 2017: Is An Garda Síochána trans aware?**¹³

TP 2017		
Yes	8%	(5)
No	69%	(42)
Don't know	23%	(14)

Participants were more equivocal on the question of whether or not An Garda Síochána could actually be described as transphobic, with more than 50% answering 'don't know' to this question. 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.' It is noteworthy that while almost 70% of the respondents were of the view that An Garda Síochána is not trans aware, in a question which directly asked whether the force was transphobic, only about half that number (36%) were of the view that the force was transphobic.

Survey respondents were offered an opportunity to explain their perception of the level of trans awareness in An Garda Síochána. The majority of those who asserted that An Garda Síochána is trans aware, based their response on experiences with Gardaí:

'At Pride they were very good at talking with trans people needing to be searched and my local station is very good about it too.' (Survey respondent)

Individuals who responded, 'Don't Know', offered three reasons for their uncertainty. First, where the respondent had little contact with An Garda Síochána; second, where the respondent had had both positive and negative experiences with particular members of the service, but was unsure whether these reflected the culture of the entire force; and third, some individuals selected 'don't know' based on a lack of familiarity with An Garda Síochána policies regarding the trans or non-binary community.

The absence of formal policies was given as a reason by some participants who viewed An Garda Síochána as lacking trans awareness:

'As far as I'm aware the level of training the Gardaí have had on LGBTQ issues generally is limited at best, so pre-existing transphobic attitudes which they will have had entering the force are likely to remain intact.' (Survey respondent)

A larger number of individuals based negative assessments of An Garda Síochána's trans awareness on direct experience with members of the force.

'They laughed when I reported.' (Survey respondent)

Notably one focus group participant, who had once aspired to join An Garda Síochána, said that having come out:

'... I don't see any way I could join the guards, and I don't see a career progression with the guards, and part of that is the gender thing.' (Focus group participant)

¹³ We asked 'As an organisation, do you think that An Garda Síochána is trans aware?'

LGBT Liaison Officers

An Garda Síochána created LGBT Liaison Officer roles with the intention of providing specialist support to members of the community who require the assistance of the organisation, particularly in relation to the reporting of crimes with a discriminatory motive.¹⁴ Of those individuals who responded to our survey, 65 per cent of the sample were unaware of the existence of the role of LGBT Liaison Officer/Diversity Officer within An Garda Síochána.

TABLE 3: **Trans Policing 2017: Were you aware that An Garda Síochána has LGBT liaison /diversity officers?**

	TP 2017	
Yes (Aware, but no contact)	20%	(12)
Not aware	65%	(39)
Yes (Aware, has had contact)	15%	(9)

Although almost 87 per cent of respondents to TP 2017 had contact with An Garda Síochána over the course of the last 5 years, more than 83 per cent had never had any contact with an LGBT/diversity officer.

The majority of focus group participants were equally unaware of the existence of the position:

'I didn't know I could ask for someone like that. Like I would have thought there would be officers there who had some experience, but not specifically trained ones'. (Focus group participant)

The small minority who were aware of the existence of the role, lacked detailed knowledge regarding its function or associated training:

'I was aware that they existed, but I didn't know to what extent or how much training they have, so I wouldn't have any more real confidence in them than any other guard.' (Focus group participant)

Most of those with experience of LGBT Liaison/Diversity Officers found them to be trans aware in contrast to the majority perception of An Garda Síochána as lacking trans awareness.

TABLE 4: **Trans Policing 2017: Have you ever had any contact (in person or otherwise) with a Garda LGBT Liaison Officer/Diversity Officer?**

	TP 2017	
Yes	15%	(9)
No	84%	(51)
Don't know	2%	(1)

14 LGBT Ireland, About Harassment and Violence: Garda Gay Liaison Officers (*LGBT.ie*, 2017) <<http://lgbt.ie/get-information/harassment-and-violence>> accessed 28 September 2017.



The nine survey respondents who had prior experience of LBGT/Diversity Liaison Officers were asked for feedback on that interaction. Seven of these nine respondents stated that they considered the LGBT Liaison/Diversity Officer they encountered to be trans aware. One respondent related that subsequent attempts to access someone in this role had been met with confusion or derision:

'When I do, I am told "We don't have one"; or one time it was said out loud and there was laughter in the back ground. Once I called and asked to speak to one and got through to them and was told that they would be available only after I had had an unsatisfactory experience with the regular Gardaí.' (Survey respondent)

One focus group participant made a distinction between specialist officers' awareness of LGB and trans issues.

'I would be sceptical at best about an LGBT garda officer... readiness for role or ability to deal with trans issues because often the training people get is very [lesbian and gay] focused. ... do they understand the needs, wants and issues of trans people? Will they be sensitive to peoples' gender identity?' (Focus group participant)

Engagement with Members of An Garda Síochána

Asides from engaging with members of An Garda Síochána as a victim of crime, members of the public engage with An Garda Síochána in a multiplicity of contexts and circumstances. In our research, we sought to understand how members of the trans community experienced this interaction. These engagements were broken down in our research into: (1) Processing Official Documents; (2) Policing Public Events; and (3) Stop and Search. More broadly, we asked our research participants if members of An Garda Síochána had respected their gender identity and this analysis follows the more particularised experiences above.

Misgendering

Misgendering occurs when a person is assigned to a gender that they do not identify with¹⁵, for example by referring to them using inappropriate pronouns. Misgendering by members of the police may induce distress during what should have been a mundane professional interaction – as in the processing of passport documentation – or increase the distress experienced by an already traumatised victim of crime. As Walters et al note,¹⁶ ‘Failure to address (crime) victims’ gender accurately is likely to result in secondary victimization’.

Given the significance of misgendering and its documentation in policing research internationally, we asked respondents to TP 2017: ‘Have you been misgendered by a Garda since the start of 2013?’ 38 per cent (20) of those respondents who had contact with members of An Garda Síochána since the start of 2013 (53 persons) stated that they had been misgendered by a Garda during this period. Of these, more than half (13) did not correct the Garda.

TABLE 5: **Trans Policing 2017: Did you correct the Garda as to your gender identity?**

	TP 2017	
Yes	20%	(4)
No	65%	(13)
I don't recall	15%	(3)

In explaining why they did not correct police misgendering, respondents most commonly cited a fear that ‘*correcting them would have negative consequences for me*’ (9 respondents), followed by the belief that the Garda would not take the correction on board (8 respondents). Importantly, while it can sometimes be accidental, some individuals perceived that misgendering was used as a tool against them by An Garda Síochána against them. A focus group participant, who had experienced detention in the period since 2010, asserts that members of An Garda Síochána, who knew the person’s trans history, made a point of using their dead name during the period of arrest and detention:

‘They were misgendering me, refused to use my legal name - that was the name on my passport, driving license – name on all my legal documentation at the time.’ (Focus group participant)

15 Y Gavriel Ansara and Peter Hegarty, ‘Cisgenderism in psychology: Pathologising and misgendering children from 1999 to 2008’ (2012) 3(2) *Psychology and Sexuality* 137-160.

16 Mark A Walters, Jennifer L Paterson, Rupert Brown and Liz McDonnell, ‘Hate crimes against trans people: assessing emotions, behaviors and attitudes towards criminal justice agencies’ (2017) 1 *Journal of Interpersonal Violence* 20.

Processing official documents

Of the 53 respondents who had contact with An Garda Síochána since 2013, 44 had interactions with the organisation in the context of processing official documents. Despite the particular risk of misgendering associated with contexts in which officials process or request identity documents, five of six respondents to TP 2017 expressed satisfaction with interactions in relation to driver's licenses while 24 of 34 respondents expressed satisfaction with interactions in relation to passports. Focus group participants were similarly likely to recount satisfactory treatment:

'I've had good experiences so I think that's worth noting. I went into my local garda station ... I just explained to them – I had my deed poll and my [Gender Recognition Certificate] – and they were just like 'perfect', do this and that and they just talked me through the process. Not a whiff of judgement or unprofessionalism. So that went perfectly fine'. (Focus group participant)

While a majority of respondents expressing satisfaction described uncomplicated professional interactions, two people perceived a lack of awareness from the Garda assisting them.¹⁷

'Everything went smoothly and there were no issues but the Garda seemed somewhat confused.' (Survey respondent)

Policing public events

Everyday interactions between police and trans people can act as a subtle constraint on gender diversity. In recognition of the significance of everyday disciplining practices in, and equal access to, public space, we asked trans respondents to this research about their encounters with members of An Garda Síochána in the course of attending public events.

In the period since 2013, 51 per cent (31) had interacted with Gardaí occupying a security role at Pride, 30 per cent (18) at concerts, 26 per cent (16) at protests, 15 per cent (9) at sporting events and 7 per cent (4) at TRANS-FUSION.¹⁸

TABLE 6: TP 2017. Interaction with AGS at a Public Event

Pride	51%	(31)
Concerts	30%	(18)
Protests	26%	(16)
Sporting Events	15%	(9)
TRANS - FUSION	7%	(4)

Nearly 87 per cent of respondents stated that they were satisfied with their treatment by members of An Garda Síochána in this context. One person who had contact with Gardaí at multiple such events stated:

'I have been treated as professionally and efficiently as anyone else.' (Survey respondent)

¹⁷ There was no clear relationship between levels of satisfaction and whether supporting documents (e.g. official identification) stated the respondent's preferred name and gender.

¹⁸ TRANS-FUSION is a trans pride festival organised by TENI celebrating the awakening of the trans community in Ireland.

Almost 12 per cent (7) stated that they were quite dissatisfied. One person stated:

'Armed Gardaí at Pride made me uncomfortable.' (Survey respondent)

Another respondent who had interacted with Gardaí at Pride was equivocal in rating their satisfaction with the interaction, but clarified:

'(I) was crossing a metal barrier to leave, garda was present, I explained why I wanted to leave, and they let me through, however I was misgendered, but didn't correct them because didn't want to risk it. It wasn't out of malice but still disappointing. But such is life.' (Survey respondent)

A focus group participant, who perceived a need for a police presence at LGBT events, agreed that misgendering is the main source of anxiety associated with event security, including where it is provided by An Garda Síochána:

'The major concern is like, if you're going in to an event that guards or security are manning ... and they're searching before you go in, I mean there's that choice you know, if you're assumed to be supposed to be at a different line, where you identify as male or female or masculine or feminine and you want to be searched by a particular line, that you have to make that choice to (out yourself).' (Focus group participant)

Stop and search, arrest and detention

Almost 12 per cent of the respondents to our survey stated that they had been stopped by Gardaí since the start of 2013. Less than half stated that Gardaí had explained to them why they had been stopped. Five individuals responding to TP 2017 stated that they or their belongings had been searched by Gardaí since the start of 2013. Two of the five respondents who had been subject to a search stated that the action was not carried out by a person of the appropriate gender and both expressed dissatisfaction with their treatment by Gardaí. In one case the respondent was definitive that the reasons for the search had not been explained:

'They were very rough and inconsiderate.' (Survey respondent)

Two respondents to TP 2017 reported that they had interacted with An Garda Síochána as crime suspects in the period since 2013. One of these two individuals experienced arrest and detention. Their official identification did not state their preferred name and identity and Gardaí failed to use the respondent's preferred name during their arrest. They were subject to a search, which was not conducted by someone of the appropriate gender and they were detained with people of another gender identity.

A focus group participant, who was arrested for a minor infringement a number of years ago, had an entirely different experience:

'Interviewer: Without mentioning the details, can I ask you were they respectful when, you know, they charged you or arrested you?

Participant: Yeah they were really nice, they drove me home! ... Yeah they were really, really nice. ... Yeah they were respectful throughout the whole process. There was no hassle with them whatsoever.' (Focus group participant)



Airports, border frontiers and security

The scope of this study was restricted to policing practices and, as such, civilian security agents were excluded from consideration. However, the focus groups conducted for this study raised, in particular, concerns regarding the scrutiny of their passports and bodies at airport, where contact with aviation security is necessary.

'I only own one bra, and it is for when I am in the airport. Because I am terrified of going with a binder. I dress more effeminately when I am going to the airport and now that my name has changed but I can't get it changed on the passport... I am terrified of going travelling because I have two different names, my IDs are everywhere and I don't feel safe in airports.' (Focus group participant)

'I am terrified going through [the full body scanning machine] because regardless of what I'm wearing – like, so there's no way I would ever ... wear a pack going through airport security just in case I end up ... having a body check because it's just not worth trying to explain what on earth that is.' (Focus group participant)

'The lengths you have to plan – like what am I willing to sacrifice here.' (Focus group participant)

Given the extent of the powers delegated by the state to civilian security officers, and the risks to the dignity of trans travellers associated with requirements to produce official identity documents, and body searches, we strongly recommend further research on the rights and experiences of trans community members with respect to the Airport Police Service and Customs and Excise officers in Ireland.

Victims of Crime

While individuals engage with An Garda Síochána for a multiplicity of reasons, when someone is a victim of a crime, the experience that individual has with the first responder, or the individual that they report the crime to, is particularly significant. This section of the Report addresses the experiences of reporting a crime. It should be noted that the STAD Report 2014-2016 also details the experiences of trans people as victims of crime, and more particularly victims of hate crime.

Recording transphobic crime

The necessity of raising awareness among members of the trans community of the crime reporting process and their rights as victims of crime is supported by data. Although the organisation had the capacity to record homophobic crime for a number of years, An Garda Síochána did not introduce a flag for transphobic discriminatory motives to the computer database used in recording crime until 2015. More than a year following its introduction, over three quarters of respondents to our survey were not aware of the existence this flag. This pattern was replicated in the focus group data where the majority of participants were unfamiliar with its existence. Of the minority of survey respondents (25 per cent) who had been made aware of the marker, most had been alerted to its existence by TENI rather than by An Garda Síochána.

TABLE 7: **Trans Policing 2017: Were you aware that it is possible for a transphobic motive to be flagged on the Garda computer system?**

	TP 2017	
Yes	25%	(15)
No	75%	(46)

TABLE 8: **Trans Policing 2017: Who made you aware of this?**

	TP 2017	
A Member of An Garda Síochána	13%	(2)
TENI	60%	(9)
Other	27%	(4)



Reporting crime

The underreporting of crime, and hate crime within the trans community has been clearly documented, for example, in the recent STAD 2014-2016 Report, 15 respondents to TP 2017 had reported a crime, in which they had been the victim, to An Garda Síochána in the period since the start of 2013. One young person noted one additional failed attempt to report an assault stating:

'They would not let me officially report it.' (Survey respondent)

One participant explained, particularly where their official identity documents do not match their preferred gender and name, a trans person is repeatedly faced with the question of whether or not to out themselves, and has to weigh up the potential costs and benefits of each decision to interact with authorities, including the decision to seek access to justice. The perception of some focus group respondents was that the likely benefits of reporting a crime to An Garda Síochána simply do not outweigh the perceived costs:

'... you've just been sexually assaulted and you have to be examined and someone has now just completely either outed you to a waiting room or has misgendered you. You already have that level of mistrust and that fits back into the guards. Cos the guards will often go with whatever your legal name is in most cases. And that may not necessarily be your preferred name. So then you have to deal with that, and it's a lot of there's a lot of layers to you contacting the guards in the first place.' (Focus group participant)

In just one of the focus groups conducted for this research, seven participants stated that they would be reluctant to call An Garda Síochána if they were the victim of a trans-related crime:

'I wouldn't feel comfortable calling the guards for something because I don't want to have to go through the rigmarole of explaining I'm a trans-man who came out. Because I just don't feel there's a lot of education in the guards around trans people and the issues that that community faces.' (Focus group participant)

STAD data highlights the gap between police recorded and third party hate crime data and underscores the fact that developments in An Garda Síochána's capacity to record transphobic crime will have little impact if they are not matched by attention to obstacles to reporting.

Experiences of reporting crime

Crime victims participating in TP 2017 were asked to report their overall level of satisfaction with An Garda Síochána's response to their police report and then to assess that response on a number of specified criteria. 53 per cent of crime victims expressed overall satisfaction with the garda response to their report. This finding is similar to the levels of satisfaction reported by members of the wider population in the Garda Attitudes Survey for 2017, where 58 per cent of crime victims expressed satisfaction with the manner in which the garda handled their case. The general population was, however, more likely to say that they were very satisfied with the response (22 per cent compared to seven per cent).

TABLE 9: Trans Policing 2017: How satisfied were you with the service provided by An Garda Síochána in response to your report?

	TP 2017	
Very Satisfied	7%	(1)
Quite Satisfied	47%	(7)
Quite Dissatisfied	27%	(4)
Very Dissatisfied	20%	(3)

Breaking down the nature of the police response to crime victims, 60 per cent of trans respondents stated that Gardaí responded quickly, 67 per cent stated that they were given the name of the investigating Gardaí and the same number were given the contact details of the garda station.

TABLE 10: Trans Policing 2017: How much information were you given on the progress of the investigation?

	TP 2017	
Too little	20%	(3)
About right	47%	(7)
Too much	7%	(1)
I was not given any	27%	(4)

Community experiences of reporting experiences and the 'ripple effect'

Although respondents to the survey conducted for this research had mixed experiences with and perceptions of An Garda Síochána, they evidenced a commitment to working with the police. More than 70 per cent of trans crime victims stated that they would make a police report if they were again a victim of crime. The same proportion of crime victims also stated that they would encourage other trans people to report crimes to An Garda Síochána.

TABLE 11: Trans Policing 2017: Would you encourage other trans and gender variant people to report crimes to An Garda Síochána?

	TP 2017	
Yes	71%	(12)
No	11%	(2)
Don't know	18%	(3)



TABLE 12: Trans Policing 2017: If you are a victim of crime in the future, will you report your experience to An Garda Síochána?

	TP 2017	
Yes	71%	(12)
No	6%	(1)
Don't Know	24%	(4)

These encouraging responses from individual survey respondents must be weighted against the community impacts of individual negative experiences with members of An Garda Síochána, which we witnessed first hand in one of the focus groups conducted for this study. A participant, responding to a group members' recounting of a particularly stark experience of misgendering by An Garda Síochána, stated:

'It's those kinds of instances, you just never quite stop ... it never stops making you angry, the bile never stops rising when you actually think about it. And, like, your story is genuinely one of the worst stories I've ever heard and it is one of those stories that makes people just say ... fuck cops.' (Focus group participant)

The focus group was not the first occasion on which the speaker had heard of this experience, but they experienced even its re-telling as impactful. The potential for discrete negative experiences to be shared amongst community members and to impact the groups' perceptions of the police is documented in literature, and speaks to the wider significance of each and every encounter between a member of a minoritised community, and individual responses of the police service.

Conclusions and recommendations

The findings of this research have highlighted inconsistencies in trans community members' experiences with An Garda Síochána, ranging from the reporting and recording of crime, to access to specialist officers, to provision of information on support services, and – most fundamentally – respectful treatment. The findings have identified examples of good practice, in which values of inclusivity and respect are made manifest in the policing practices of individual officers. However, the findings have also illuminated less positive experiences, with some participants to the research recounting challenging, upsetting, and sometimes revictimising experiences with members of the service. Most fundamentally, the research points to a gap in trust between members of the trans community and the police in Ireland. The trans persons who participated in our study have lower levels of trust and satisfaction in the police than the general population, which impacts on their capacity to activate their right of access to justice: where an individual does not feel assured that the police service will invariably treat them with dignity and respect, they will not report their experiences of victimisation to that service.

That said, relationships between police and marginalised communities can change and improve. Some recent studies in the US have found widespread reports of good practice, and one project (focused on LGBT persons rather than trans persons) found a 30 per cent increase in positive experiences over a nine-year period.¹⁹ In the final section of this report we present our recommendations, which are largely directed to An Garda Síochána, and which if implemented would, we believe enhance the relationship of the organisation with members of the trans community. Indeed, we believe that some of these recommendations could usefully be adopted and adapted to foster better relations with a range of marginalised communities.

Trans positive policies

We recommend the introduction of a range of trans-specific policies within An Garda Síochána, to be developed in association with and on the advice of members of the community. We believe that the development of such policies would address the perception of members of the community that the service as a whole is not 'trans aware', as well as providing a framework to ensure that trans members of society are treated with respect when engaging with An Garda Síochána. Such policies should include:

- dignity and respect in interactions with trans members of the public, including forms of address;
- supporting trans victims of crime,
- supporting victims of transphobic hate crime,
- eliminating gender profiling
- and addressing the respectful treatment and safety of trans persons in respect to search, arrest and detention.

Many police departments and services²⁰ internationally have established such guidelines for officers.

¹⁹ Rebecca L Stotzer, 'Law enforcement and criminal justice personnel interactions with transgender people in the United States: A literature review' (2014) 19 *Aggression and Violent Behavior* 275.

²⁰ See for example Jan S. Redfern, 'Best practices to improve police relations with transgender individuals', (2013), *Journal of Law Enforcement*, 3(4).



Victim support

Under the Victims' Directive, the State is under an obligation to provide for a number of supports and services to victims of crime. Article 8 of the Directive requires Member States to provide for a right of access to victim support services before, during and for an appropriate time after criminal proceedings. Member States are under an obligation to ensure that victims are referred to these support services, which are to be free of charge. Specialist support services should also be available. Crucially, under Article 8(5), access to victim support services is in no way to be made dependent upon the victim making a formal complaint in relation to a criminal offence to a competent authority. 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 victimisation. Article 9 requires Member States to provide targeted and integrated support for victims with specific needs, 'such as' victims of gender-based violence including, we argue trans victims. We recommend that any review or monitoring of the operationalisation of the Victims' Directive include specific consideration of the needs of transgender victims of crime.

Echoing the recommendations that we made in our report, *Lifecycle of a Hate Crime: Country Report for Ireland*, we advocate a full scale review of the role of the ELO/LGBT Officer. Following such a review, we recommend an expansion of the number of specialist liaison officers available nationwide, a programme of continuous professional development for officers occupying this role and the incorporation of specialist officer roles into rostering arrangements, such that at least one specialist officer will be available 24/7 in each of the 109 Garda districts.

In line with the recommendations of that earlier report, we call for specialist hate crime units and hate crime officers to be introduced country-wide. Such officers should be specially trained, not only in the investigation and prosecution of hate crime, but also on the impacts of hate crime on direct victims and their communities.

We advocate for investment in the training and resourcing of civilian victims' advocates within the trans community who can accompany victims to make crime reports.

Trans-inclusive police training

McIlroy's 2009 report on Transphobia in Ireland²¹, argued the need to:

'...implement effective information and training strategies on trans/gender diversity to educate all members of the force about trans people and the specific issues they face'.

In order to address trans community members' perceptions' of a shortfall in trans awareness on the part of the police service, we recommend the inclusion of specific trans awareness training within the foundational 'Diversity' programme delivered to trainees at Templemore Garda College. Moreover, we recommend that this training be provided by educators with specialist knowledge and experience of trans issues. All specialist officers should have additional extensive, bespoke, training both in trans awareness generally and trans-inclusive policing practices specifically.

21 Cat McIlroy, *Transphobia in Ireland* (TENI, 2009) <http://www.teni.ie/attachments/32be2895-2307-4bf5-9b90-5ffceb9f62be.PDF>, accessed 28 September 2017.

The Commission on the Future of Policing

In light of the findings of this research, we welcome the Report of the Commission on the Future of Policing, which highlights the importance of the professionalism and consistency of service shown to minority communities, and asserts:

‘The exercise of police powers in relation to minorities, and the priority given to protecting minorities from harm and investigating crimes motivated by hate and prejudice, should be closely monitored.’²²

We welcome in particular the recommendations in the Report that police officers receive training which sensitises them to the experiences of minorities, and that the system by which complaints against the police by members of the public are addressed is revised.

Recommendations for further research

This research has provided original insights into the character of the relationship between the police service and members of Ireland’s trans community, shining a light on some of the issues which impact trust in, and access to, justice. In the course of the study participants raised other concerns, beyond the limitations of this research, but which they perceived as significant to understanding the relationship between gender diversity and feelings of personal safety. Specifically participants perceived a particular need for dedicated research in three additional areas:

- Trans persons’ experiences of civilian security services, including private security firms and security provided by civilians as ‘authorised officers’ of the state, as in the case of airport security.
- Trans ethnic and racialized minorities’ experiences of crime and policing.
- Trans sex workers’ experiences of crime and policing.

22 Commission on the Future of Policing, Report of the commission on the future of policing (2018), 11.





Transgender
Equality
Network
Ireland

HHRG
HATE & HOSTILITY RESEARCH GROUP



IRISH RESEARCH COUNCIL
An Chomhairle um Thaighde in Éirinn