

A hand holding a rainbow ribbon against a dark wood background. The ribbon is looped and extends across the frame.

Policing Hate Crime against LGBTI persons:

Training for a Professional Police Response

Written by
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Introduction and overview

■ The police are at the frontline of the criminal justice system and the first point of contact for many victims of hate crime.¹ Without the essential skills to identify and investigate hate crimes against LGBTI persons, the police cannot ensure justice and protection for victims, gain the confidence of communities or contribute to the fair and transparent application of national hate crime laws.

■ The Council of Europe has long worked to raise awareness of targeted violence including racist, religious, gender based, homophobic and transphobic crime. Key Council of Europe resolutions and recommendations by the Committee of Ministers, as well as the Parliamentary Assembly, recognise the specific harm and impact of discrimination and crimes against LGBTI persons, as well as the importance of supporting victims, cooperating with civil society and training law enforcement and other criminal justice practitioners.² Case law of the European Court of Human Rights is unequivocal about the importance of ‘unmasking’ hate motivation and homophobic motivation and warns of the consequences of failing to do so: “prejudice-motivated crimes would unavoidably be treated on an equal footing with ordinary cases without such overtones, and the resultant indifference would be tantamount to official acquiescence to or even connivance with hate crimes.”³

■ This manual is designed for police trainers, investigators, managers, hate crime officers and frontline police officers working in countries across the Council of Europe region. Its purpose is to provide assistance, information and the appropriate tools for conducting trainings on hate crime against LGBTI persons. It builds on Council of Europe standards, especially on the European Convention on Human Rights and the relevant case law from the European Court of Human Rights, as well as other international human rights standards and already existing training materials for law enforcement officials.

■ This manual is based on a human rights approach and informed by expert input. Above all it is victim and community-focused, in recognition that their confidence in law enforcement and cooperation is key to the success of investigations of these crimes.

■ Police training is only one element in a comprehensive approach to tackling hate crime. Police recording systems should allow all aspects of hate crime against LGBTI persons to be recorded, and good investigative practice should be supported by official protocols and guidelines. As a key partner of the police, the prosecution service should also undergo training so that successful and fair hate crime prosecutions can be prepared and brought. Finally, political leadership that recognises the specific harm caused by hate crimes against LGBTI persons and that commits itself to resourcing the full implementation of this training must also be in place.

■ This manual builds on the standards of the Council of Europe on combating hate crime and discrimination, as well as on the work and expertise of the Sexual Orientation and Gender Identity Unit in assisting member states with the implementation of effective policies, legislation and practical measures to identify, investigate and prosecute hate crime against LGBTI persons and protecting the victims of such crimes.

1. The Council of Europe recognises that the term ‘victim’ is not accepted by many people who have been the target of hate crime. We acknowledge that in many instances people prefer the term ‘survivor’ as it better reflects their lived experience. The term ‘victim’ is used in this manual because it best fits the legal and technical status of a person targeted by hate crime who is in contact with the police and broader criminal justice agencies. As emphasised throughout this manual, the police should take a victim-centred approach and ask the targeted person how they would like to be addressed, and where possible, to follow their wishes.
2. See in particular Recommendation [CM/Rec\(2010\)5](#) of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity; and Resolution 2048 (2015) of the Parliamentary Assembly of the Council of Europe on Discrimination against transgender people in Europe.
3. See *Identoba v Georgia*.

Overview

This manual comprises five modules and a “going further” section. The modules are made up of diverse, practical activities that are broken down into clear steps, including specific timing indications and instructions about any preparation work that needs to be undertaken.

Module One focuses on the importance of police leadership and commitment to the success of police training on hate crime, ensures early consideration of the impact of hate crimes on LGBTI persons, and gives participants an opportunity to learn about the broader context of discrimination and prejudice that LGBTI persons experience across the Council of Europe region.

Module Two supports participants in developing an understanding of key concepts, including: “sexual orientation”; “gender identity” and “sex characteristics”; “hate crime”; and the broader concepts of “homophobia”, “transphobia”, “stereotyping” and “discrimination”. This forms the basis for the more technical focus of investigating hate crime, addressed in Module Four.

Module Three includes exercises that bolster law enforcement officers’ reliance on human rights standards and principles in their efforts to effectively investigate hate crimes against LGBTI persons. Materials include a comprehensive overview and practical applications of the most relevant international standards that should underpin the effective policing of hate crimes against LGBTI persons.

Module Four focuses on a victim-centred approach to investigating hate crimes against LGBTI persons and the key skills needed to gather evidence of bias motivation, the key ingredient differentiating hate crimes from ordinary crimes. The unique needs of transgender victims of crime are specifically explored. Finally, participants are invited to take up the challenge of engaging with the context of their current relationship with the local LGBTI community.

Module Five helps participants understand the work of CSOs and how the police can best work with them to improve responses to victims. It involves direct input from civil society organisations, who will explain the services they provide, the data they have gathered, and what they have learned about the needs of LGBTI victims. Participants will have a chance to work together with representatives from civil society so as to identify areas for improvement and opportunities to work together.

Going Further is an optional final section which aims to support participants in identifying issues that may hinder implementation of the training at the national level, and to take a solution-focused approach to addressing such issues. Participants are encouraged to map their own national context, including gaps and opportunities, based on the key elements necessary for a comprehensive approach to hate crime, including: the legal framework; hate crime recording systems; the availability or lack of guidance and guidelines; training, and specialist victim support services.

A NOTE ABOUT CIVIL SOCIETY ORGANISATIONS (CSOs)

Civil society organisations (CSOs) are an important partner for the police in their efforts to understand and effectively respond to hate crimes against LGBTI persons. In recognition of their central role in monitoring hate crime and supporting victims, the Council of Europe has involved key CSOs in the design and production of this manual and we are grateful for their support.

CSOs are an important resource for the police in the following specific ways: as a support service for victims, a training partner for the police, and a critical source of data and information about the prevalence and impact of hate crime. To this end, each module includes guidance on how the police can draw on the expertise and support of expert civil society organisations. Module five is devoted to learning how best to work with CSOs in effectively identifying and investigating hate crime and supporting victims.

CSOs are also an important target audience for this manual, which can be used as an advocacy resource to encourage national and local police forces to undertake training sessions on responding to and investigating hate crime against LGBTI persons.

HOW TO USE THIS MANUAL: A TAILORED APPROACH

This manual has been designed to allow maximum flexibility for trainers. Activities and modules should be selected according to the mix of participants, the needs of the host organisation and other specific contextual requirements such as time constraints. It is recommended that the trainer carefully read through the overview of the manual set out above, as well as the specific modules, activities and trainer's notes in order to assess which modules and activities are most appropriate.

For ease of reference, model agendas for one- and two-day trainings can be found in Annex One. In order to ensure sufficient time and engagement for the key learning outcomes to be achieved, following the two-day agenda is strongly recommended. It is also recommended that trainers read through the manual before they finalise the agenda in order to ensure that the most appropriate modules and activities are chosen for their local context.

Module One: Why are we here?

BACKGROUND AND RATIONALE

This module gives an overview of the training, explains why the training is important and what police participants will learn from taking part in it. The module revolves around a presentation given by a police leader, who will acknowledge the reasons why understanding and addressing hate crime against LGBTI persons are essential and will voice the expectation that participants will commit to the training and the learning effort involved. With a view to the long-term implementation of the lessons learned from this training, it is vital that those in leadership roles in the police are fully committed to supporting what needs to be done to effectively investigate hate crimes against LGBTI persons. Participants also need to hear this message directly from their superiors. There is a big difference between hearing about the importance of the issue from a trainer and from your boss!

The second key part of the module focuses on input from a civil society organisation to bring in the victim's perspective and to recount the profound impact that hate crime can have on individuals and their communities. Finally, participants are given the opportunity to learn about the broader context of hate crime against LGBTI persons and acquire an awareness that hate crime is only one part of the discrimination and prejudice experienced by LGBTI persons across the Council of Europe region.

LEARNING OUTCOMES

Participants will:

- ▶ understand why hate crime and other violence against LGBTI persons require a particular and specific approach;
- ▶ acknowledge that improvements in this area need to be underpinned by police leadership;
- ▶ understand the prevalence and impact of hate crime and other violence, including domestic violence, against LGBTI communities;
- ▶ recognise the core duty of the police to protect, investigate crimes and provide an equal and respectful service.

OVERVIEW OF ACTIVITIES

- ▶ Activity 1.1: Input from a senior leader to set the scene of the training
- ▶ Activity 1.2: Narrative describing a hate crime against LGBTI persons
- ▶ Activity 1.3: Overview of statistics on violence and discrimination against LGBTI persons

ACTIVITY 1.1: INPUT FROM A SENIOR LEADER TO SET THE SCENE OF THE TRAINING

Before the session, try to meet the police representative or discuss over the phone or via email with him/her so as to cover the key points in their intervention. They will naturally have their own viewpoint concerning what they should talk about. You can also make the following suggestions.

- ▶ Stress that the police must provide an equal service to all communities, treating all victims with dignity and respect regardless of their background. Emphasise that this is an essential principle of the police service that you intend to uphold.
- ▶ Recognise the uniquely damaging impact of hate crime against LGBTI persons and the need to effectively investigate evidence of bias, work with the prosecution service to effectively prosecute these crimes and apply relevant hate crime laws.
- ▶ Talk about what outcomes participants should derive from the training, i.e. the skills to effectively investigate hate crime, the skills and knowledge to work with the communities concerned (in partnership where possible) and finally the ability to improve crime recording and victims' confidence in working with the police on such difficult and sensitive issues.
- ▶ Acknowledge that where there are allegations of police incidents against LGBTI communities, these will be fully investigated and dealt with according to clear procedures.
- ▶ Explain how police leadership will monitor the outcomes of the training and ensure that it will be implemented throughout the service.

ACTIVITY 1.2: HATE CRIME AGAINST LGBTI PERSONS, A VICTIM PERSPECTIVE

Before the session, take some time to identify civil society organisations working on monitoring hate crimes and/or providing direct support to victims at the national or local level. It is important to engage with CSOs that work with all groups in the LGBTI community. Your police contact should have an idea of which CSOs are active in the area. You can also go to hatecrime.osce.org and search the CSO sections of the specific country pages to identify CSOs active in the region.⁴ You might also wish to ask a colleague from ILGA-Europe⁵ or TGEU,⁶ or the Council of Europe SOGI Unit for an appropriate contact. Try to meet the CSO representative or discuss with them over the phone or via email to cover the key points of their intervention. Give them an overview of the training and draw their attention to the fact that cooperation between police and CSOs will be addressed in detail in Module Five.

Encourage the representative to bring along details of their organisation and how police can get in touch and work with them. They will most likely have their own ideas concerning what to talk about. You can also make the following suggestions.

- ▶ Bring the victim perspective to the participants through a specific story of a hate crime against an LGBTI person or provide an overview of the impact of hate crime, as apparent from your work.
- ▶ Highlight the needs of victims of hate crime and why it is difficult for them to report incidents to the police.
- ▶ Welcome the training and the input of the CSO and highlight the fact that CSO involvement has been incorporated throughout the training, and particularly in Module Five.
- ▶ Make some specific and realistic suggestions (even if they are just small steps!) about how the police might improve their relationship with CSOs and the communities concerned.

N.B. If it is not possible for a civil society organisation (CSO) to be involved in the session, make clear from the beginning that they had a significant role in producing the manual/training. The important message is: "we worked with civil society in producing this module; you need to work with civil society in implementation".

ACTIVITY 1.3: HATE CRIME AGAINST LGBTI PERSONS IN CONTEXT

There are a number of ways that you can present statistics on hate crime and other violence and discrimination against LGBTI persons. You can use the data in this section to create a PowerPoint presentation or use handouts 1.3 and 1.4 as a basis for a group discussion.

4. For example, CSOs active in monitoring hate crime in Spain can be seen by scrolling down to the 'Civil Society Information' section of: <http://hatecrime.osce.org/spain?year=2015>

5. www.ilga-europe.org/who-we-are/contact-us.

6. <http://tgeu.org/about>: scroll down the page for a list of member organisations by country, including contact details.

This session should last about 10 minutes. It can be combined with activity 1.2.

1. Before the session, spend some time reading handouts 1.3 and 1.4, which include statistics and information from key international reports. Can you add further information about the national or local context based on information available to you? Use the publications listed at the end of this module for further sources of information and specific case studies. Are there any statistics on hate crimes against LGBTI persons at the national level? Where do they originate from? Official sources such as police reports? National and local civil society organisations (CSOs)? International reports? It is important to clarify the sources of the information that you have found so that you are prepared for any challenges as to its veracity. For example, it is fine to use CSO data, but be aware that the police may not accept such data as an official picture of hate crimes against LGBTI persons in their context. If this comes up in the training, you should avoid directly challenging the police on this point but explain that:

- ▶ data on hate crime can come from a range of sources;
- ▶ while such CSO data may not have reached the police, it constitutes good background material for beginning to understand the experiences of LGBTI persons;
- ▶ the training will be used to identify other sources of information on hate crime against LGBTI persons and to identify ways of improving official sources of information on the topic.

When researching information and statistics relevant to the national context, refer to the resources listed in handout 1.5.

2. Open the session by explaining that there are two important points to remember when it comes to statistics about hate crimes against LGBTI persons: firstly, LGBTI persons are more at risk of violence and discrimination than the general population, and secondly, they are less likely to report that they have been a victim of hate crime to the police. Then make the point that this means that the job of a police officer is challenging: they must reassure LGBTI persons that they should report crimes and they must encourage LGBTI persons to give as much information as possible about an incident, in the safest possible way. Police officers must then ensure that appropriate action is taken.

3. Tell the group that, while you are going to share numbers and statistics, each case involves individual people, as in the case referred to in the previous session. It is important to get a sense of the numbers behind hate crime, but its impact must be kept in mind as well.

4. Now move on to the key points about the prevalence and impact of hate crime and broader discrimination, using handouts 1.3 and 1.4 as a basis for discussion. Alternatively, you can use the handouts to prepare a PowerPoint presentation.

5. Finally, distribute handout 1.5. Explain that it can be used by participants when they are preparing their own training sessions for colleagues.

HANDOUT 1.3: HATE CRIME AGAINST LGBTI PERSONS IN CONTEXT

There is very limited information and statistics on hate crime in the Council of Europe region, but there is significant evidence to show that a high percentage of LGBTI persons have been victims of hate crime. The following extracts from key international reports supply relevant information about hate crimes and discrimination experienced by LGBTI persons, which can be used to get a sense of the prevalence and impact of these incidents in your context. It is important to note that there are considerable disparities across different countries, and this is something to consider carefully in your own context.

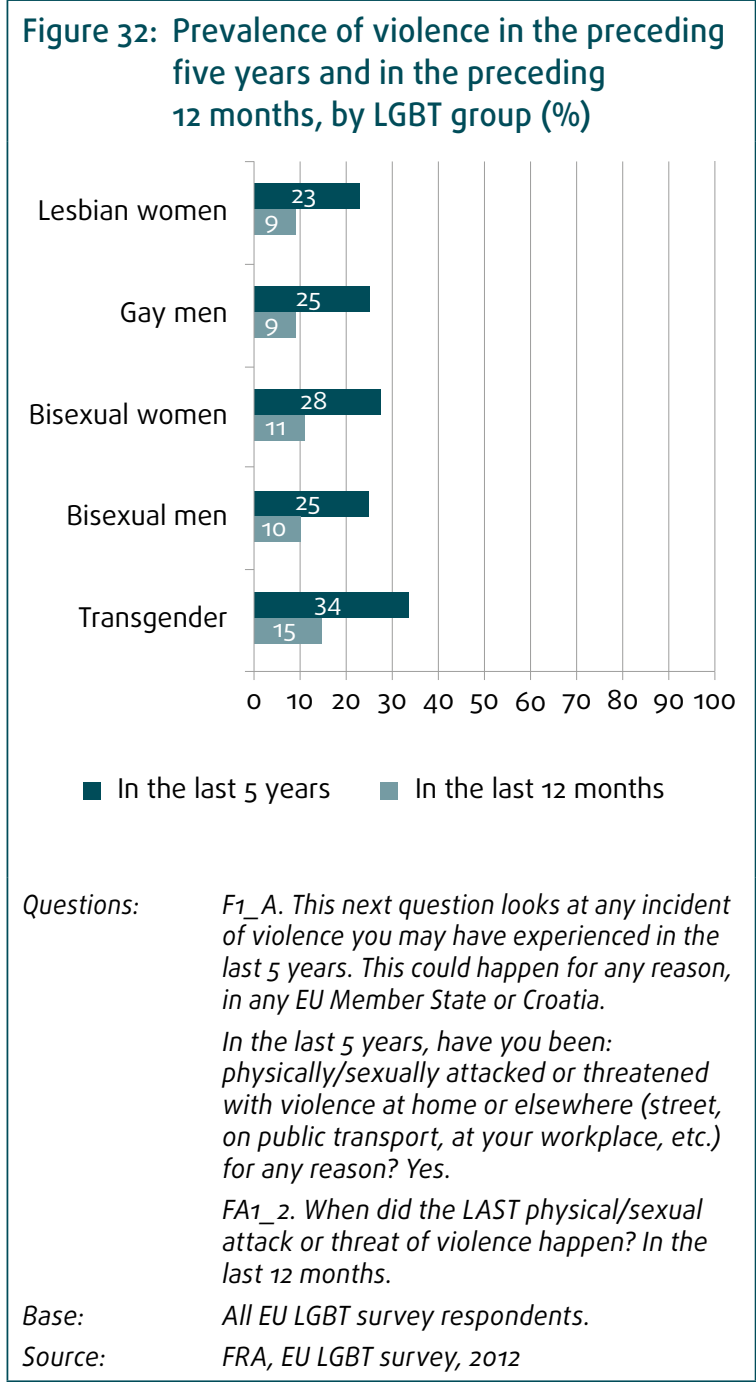
Many civil society organisations (CSOs) collect data on hate crime against LGBTI persons across the Council of Europe region, while at the same time there is a relatively low number of official reports. The image below shows that CSOs in 24 states reported hate incidents to the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) in the Annual Hate Crime Reporting exercise for 2015, while only 12 states reported official data to ODIHR.

If you have access to the Internet, take a moment to explore the several hundred reports of individual attacks against LGBTI persons and their communities by accessing this web page: <http://hatecrime.osce.org/what-hate-crime/bias-against-lgbt-persons>. You will also find official and CSO data divided into individual country overviews.

Participating States

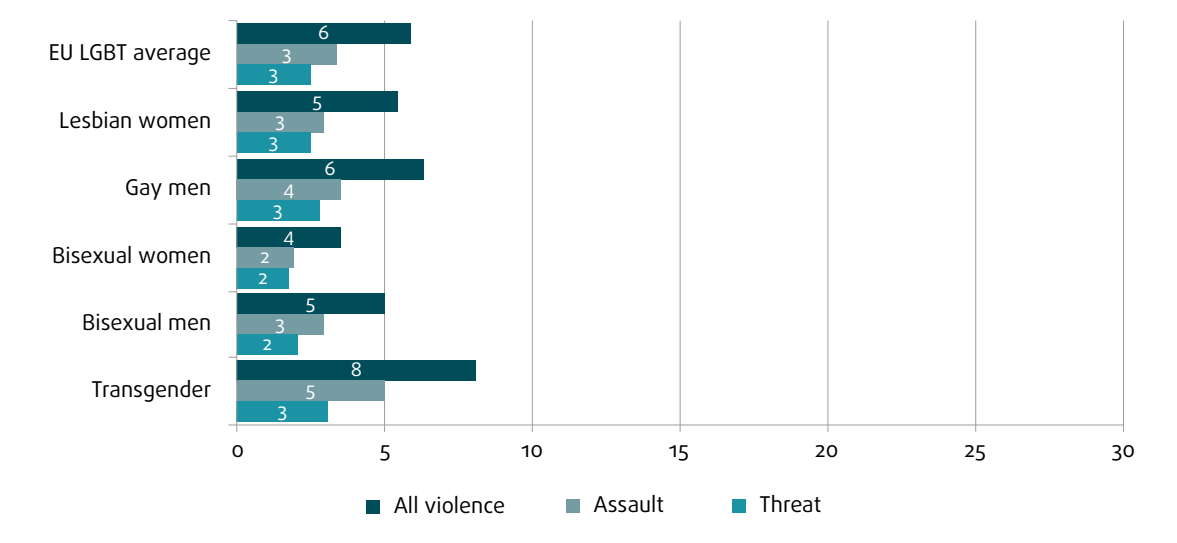


The next few images contain extracts from the European Union Fundamental Rights Agency (FRA) report on the largest ever survey of LGBT persons and their experiences of discrimination, violence, hate crime and other issues, entitled *EU LGBT survey – European Union lesbian, gay, bisexual and transgender survey – Main results*. While the report does not include countries outside the EU, it gives a very detailed snapshot of individual experiences and comparisons with countries outside the EU can be inferred. Below we draw your attention to some key points for each graph. Consider what other conclusions might be drawn from the data.



FRA, page 57, *EU LGBT survey – European Union lesbian, gay, bisexual and transgender survey – Main results*
 It can be seen from this table that transgender persons are most likely to be victims of violence.

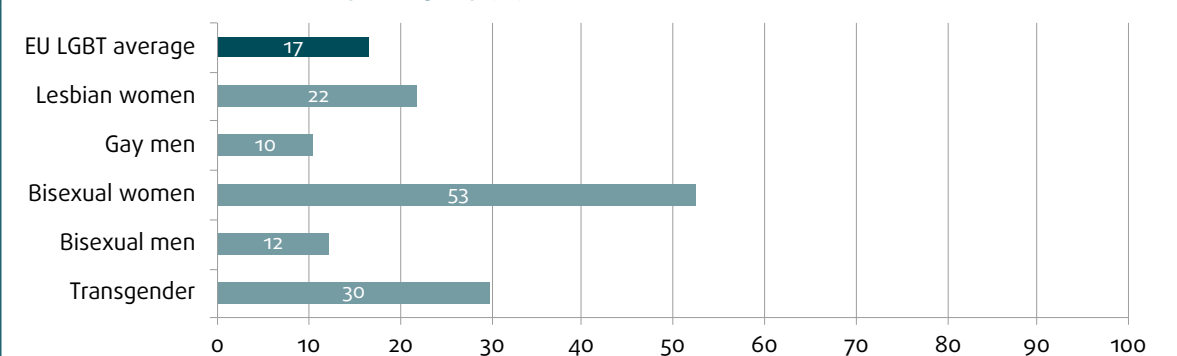
Figure 33: Prevalence of hate-motivated violence in the previous 12 months, by type of violence and LGBT group (%)



FRA, page 57, EU LGBT survey – European Union lesbian, gay, bisexual and transgender survey – Main results

Note that transgender persons are more likely to be victims of a violent assault than other groups.

Figure 40: Incidents of hate-motivated attack of a sexual nature as percentage of total incidents of hate-motivated violence, by LGBT group (%)



Questions: FA1_5. Do you think the LAST incident of physical/sexual attack or threat of violence in the past 12 months happened partly or completely because you were perceived to be [category on the basis of A3 or A4]? Yes.
 FA1_4. Thinking about the LAST physical/sexual attack or threat of violence, what happened to you? 2. Sexual attack; 3. Physical and sexual attack. Computed variable.

Note: Categories for self-identification in A3 and A4 included transgender, transsexual, woman with a transsexual past, man with a transsexual past, gender variant, cross dresser, queer, lesbian, gay, bisexual or other.

Base: EU LGBT survey respondents who were physically/sexually attacked or threatened with violence in the previous 12 months partly or entirely because they were perceived to be LGBT.

Source: FRA, EU LGBT survey, 2012

FRA, page 62, EU LGBT survey – European Union lesbian, gay, bisexual and transgender survey – Main results

Note that sexual violence is a significant category of violence experienced by LGBT persons. Note that bisexual women are particularly at risk.

	Last	Most serious
Was the perpetrator alone?		
Alone	36	36
More perpetrators	64	64
What was the gender of the perpetrator(s)?		
Male	84	86
Female	4	4
Both male and female	12	10
Don't know	0	0
Do you think the perpetrator(s) was/were ... ?		
Gay	3	3
Lesbian	0	1
Bisexual	1	2
Heterosexual/straight	72	69
Mixed sexual orientation	4	4
Don't know	20	21
Who was/were the perpetrator(s)?		
Family/household member	7	7
Neighbour	6	5
Colleague at work	5	4
Someone from school, college or university	12	14
A customer, client or patient	4	3
Someone else you know	12	11
Member of an extremist/racist group	15	14
Teenager or group of teenagers	36	33
Police officer	4	3
Security officer/bouncer	4	3
Other public official (e.g. border guard, civil servant)	3	2
Someone else you didn't know	45	42
Other person(s)	3	3

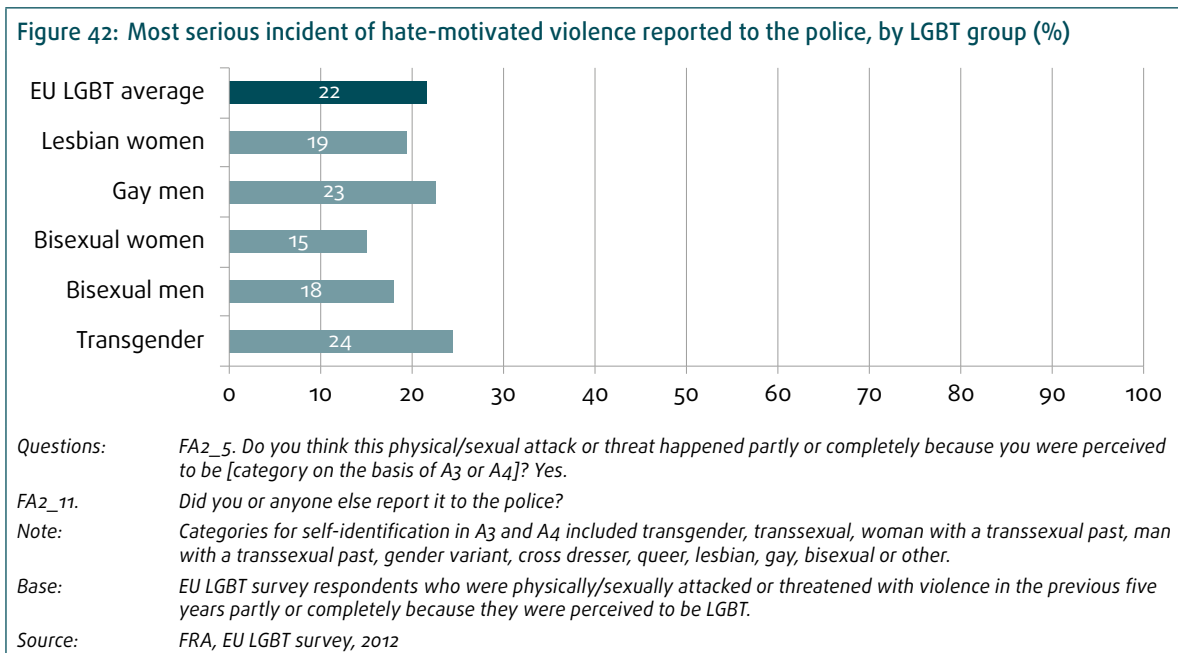
FRA, page 64, [EU LGBT survey – European Union lesbian, gay, bisexual and transgender survey – Main results](#)

Note that in the largest percentage of attacks the perpetrator was a teenager or a group of teenagers (apart from those attacks where the perpetrator was unknown).

	Last	Most serious
At my home	8	8
In some other residential building, apartment	2	2
At school, university	5	7
At the workplace	4	3
In a café, restaurant, pub, club	11	9
In a car	1	1
In public transport	8	7
In a sports club	1	0
Elsewhere indoors	3	2
In a street, square, car park or other public place	44	43
In a park, forest	4	6
At an LGBT-specific venue (e.g. club, bar) or event (e.g. pride march)	3	4
Elsewhere outdoors	5	6
Other	2	2

FRA, page 65, [EU LGBT survey – European Union lesbian, gay, bisexual and transgender survey – Main results](#)

Note that the most common location where attacks took place was in a street, square, car park or public place.



FRA, page 66, [EU LGBT survey – European Union lesbian, gay, bisexual and transgender survey – Main results](#)

Note that only a small percentage of incidents were reported to the police.

Hate crime against LGBTI persons takes place in a context of domestic violence, discrimination and prejudice.

For example, a significant percentage of LGBTI persons experience discrimination in the workplace and in the provision of goods and services. The FRA survey found that 19% of LGBT persons felt discriminated against at work. The highest rates of discrimination were experienced by transgender persons (30%). The survey also found that 32% of LGBT persons felt discriminated against in restaurants and cafes, when looking for housing, in healthcare, when seeking banking or insurance services and at sports clubs and gyms.

Evidence of intersectional differences in LGBTI persons' experience of hate crime and other forms of discrimination

It goes without saying that LGBTI persons have other identities such as gender, age, ethnicity and religion that can intersect and generate specific experiences and needs. These should be better understood and taken into account by the police and other services.

Gender: The FRA survey found that 55% of lesbian women felt personally discriminated against or harassed on the ground of their sexual orientation, compared with 45% of gay men. As noted in the tables above, transgender persons are more likely to be victims of violent hate crime and discrimination.

Age: The FRA survey found that younger LGBT persons are more likely to feel discriminated against or harassed on the ground of their sexual orientation than older LGBT persons: 57% of respondents aged 18-24 felt discriminated against compared to 45% of respondents aged 25-39.

Ethnicity: The London Metropolitan Police report "Women's experience of homophobia and transphobia" found that women from Afro-Caribbean backgrounds were more likely to change their behaviour or appearance than other women after a homophobic or transphobic attack (MPS, 2008).

Other studies:

- ▶ "For the record: Violence against trans people, experiences from the ProTrans 'Protecting Transgender Persons from Violence' Project"⁷
This report brings together findings from a project that supported organisations monitoring discrimination and hate crimes against transgender persons in several member states of the Council of Europe. The project found that transgender persons are at very high risk of violent attacks and wide-scale discrimination. The report is a good source of short case studies from a variety of countries.
- ▶ "For the Record: Documenting violence against transgender persons, experiences from Armenia, Georgia, Germany, Moldova, Russia and Ukraine" (forthcoming)
This report extends the monitoring work described above to more countries (listed in the title). It also documents structural violence, including discrimination, very serious interpersonal violence and violence carried out by the police.
- ▶ "Step up reporting on homophobic and transphobic violence" is a report by the European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA-Europe) (forthcoming).
This report brings together findings from a project that supported civil society organisations monitoring hate crimes and incidents in 12 countries including the non-EU countries of Bosnia and Herzegovina, Moldova, Turkey and Ukraine. It mirrors the significant findings of the FRA report, including the fact that a large number of hate crimes are committed in public spaces; that trans persons are more significantly at risk of serious physical violence; and that hate crimes are significantly under-reported to the police.

7. http://tgeu.org/wp-content/uploads/2013/11/TGEU_protrans_publication_1_Nov.pdf.

HANDOUT 1.4: PERSONAL EXPERIENCES

This handout gives some personal stories behind the statistics.

” More than a year after I am still afraid... After the attack I could not walk in the street without repeatedly turning back to check if someone was coming from behind to attack me... I am still traumatized, sometimes I have nightmares.

Michelle, who was attacked in Catania, Italy

From “Because of who I am: Homophobia, Transphobia and hate crime in Europe”, page 7.

Bosnia and Herzegovina: Incident of physical assault

Over the course of three years a young man was consistently abused by a group of young men in his neighbourhood. They threw stones and objects at his house, insulting, threatening and intimidating him because he was gay. While many of these incidents were reported to the police, the victim refused to identify his attackers from police file photos out of fear. The events escalated until, one day, the same perpetrators surrounded the victim on his way into town and, in broad daylight, harassed and physically assaulted him, causing him a severe hip injury that required an urgent surgical procedure. Police officers investigating the case were contacted right away, and after another interview with the victim and a thorough investigation, they identified and apprehended the perpetrators. Unfortunately, as national hate crime laws do not include sexual orientation, this case will neither be classified nor processed as a hate crime.

From ILGA-Europe, “Step up reporting on homophobic and transphobic violence” (forthcoming).

Ukraine: organised groups tracking members of the LGBTI community with the purpose of attacking them

An LGBTI activist in Lviv monitoring ultra-right groups learned that the militants of one such group had found out about a gay party planned a couple of days later. Over the next two days an online resource documented the preparations of the group’s members, as well as plans by fans of the local football club to attack this LGBT event, including detailed instructions on whom to attack, how, and which tools to use. For example, organisers engaged female friends of the militants, as part of a “campaign of intimidation” to beat lesbians, because the males did not want to beat females themselves. On the day of the party, LGBTI activists arrived at the agreed meeting place of the right-wing group and saw several groups of young persons in black, including both men and women, totalling about 60 persons. Many of them wore backpacks, with baseball bats peeping out. They went in groups towards the location of the LGBT party. The activists followed them and phoned ahead to the party organisers, describing the militants’ movements. The militants eventually recognised the LGBTI activists and tried to attack them, but the activists managed to hide in a McDonald’s restaurant, while the militants continued on to the party venue. The organisers of the LGBT party had hired a private guard in advance and applied to the police for protection. The police were waiting at the party, but made no arrests.

From ILGA-Europe, “Step up reporting on homophobic and transphobic violence” (forthcoming)

Moldova: Actively targeting gay men by arranging dates online

A worrying trend that began in Russia involves assailants arranging face-to-face meetings with victims through gay online dating websites. In one such example, a gay man in Moldova made a date with another man to meet in the early evening at a café. When they decided to take a walk in a secluded park, the victim was robbed and viciously attacked, resulting in a broken jaw. The victim stated that if he hadn’t escaped when he did the situation could have been much worse and that the perpetrator’s motives were easily recognisable, as the latter had used homophobic slurs during the attack. Similar incidents were also reported in Bosnia and Herzegovina, where victims were also robbed and beaten during meetings arranged through dating websites.

ILGA-Europe, “Step up reporting on homophobic and transphobic violence” (forthcoming).

Turkey: Psychological impact

The report found that most victims undergo severe psychological damage right after an incident, which has a longlasting impact and affects many aspects of the victims’ lives. Very few of them sought professional support to overcome the serious effects of post-traumatic stress disorder, depression, anxiety, anger or paranoia. More than half of the victims who received psychological treatment stated that they were not treated appropriately.

ILGA-Europe, “Step up reporting on homophobic and transphobic violence” (forthcoming).

HANDOUT 1.5: REFERENCES, FURTHER READING AND RESEARCH TIPS

Council of Europe Resources

Country thematic studies on homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity, Council of Europe (2011)

This webpage contains references to comprehensive reports commissioned by the Council of Europe on the legal and social situation relating to homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity for each Council of Europe member state.⁸

Explore the hate crime section in the legal studies to understand existing hate crime laws and guidance at the national level.

Explore the social reports to find data on incidents of hate crime, including incidents perpetrated by the police.

Discrimination on grounds of sexual orientation and gender identity in Europe, Council of Europe (2011)

This report brings together data collected from the above study so as to produce a comprehensive overview of hate crime law and responses across the 47 member states of the Council of Europe.⁹ See in particular section 3.2, "Violence Against LGBT Persons."

Country thematic studies on homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity – 2010 update, The European Union Agency for Fundamental Rights (FRA) (2010)¹⁰

This report brings together data and information on hate crime incidents, laws and responses in European Union member states gathered for the above thematic study by the Council of Europe.

EU LGBT survey – European Union lesbian, gay, bisexual and transgender survey – Main results, The European Union Agency for Fundamental Rights (FRA) (2014)¹¹

This publication reports on the findings of the largest survey of LGBT persons in Europe, which authoritatively established their experiences of discrimination, violence and harassment. The present manual draws on the findings of this report in Modules One and Three. In preparing for the training, you can use this report to develop country-specific case studies and to research the country context. See in particular section 2.5, *Violence and Harassment*.

Country Reports of the European Commission against Racism and Intolerance (ECRI)¹²

ECRI's regular schedule of country visits to member states of the Council of Europe, carried out by experts from across the region, encompasses detailed consideration of issues affecting LGBT persons, particularly hate crime. The reports include detailed overviews of official and civil society data on hate crime, a critical review of hate crime laws and policy, and specific recommendations for improvement. Each report also includes the official response of the relevant state to ECRI's observations and recommendations. These reports can be very useful reading matter when planning trainings, in order to gain an insight into the national situation, including issues affecting LGBT persons and the degree of priority given by the state to hate crime against LGBT persons.

Human rights and intersex persons. Issue Paper published by the Council of Europe Commissioner for Human Rights¹³

This paper presents a rare review of issues affecting intersex persons across the Council of Europe region and beyond and sets out common examples of the discrimination they experience.

8. www.coe.int/en/web/commissioner/thematic-work/lgbti-country-studies.

9. www.europewatchdog.info/wp-content/uploads/2016/11/LGBTStudy2011_en.pdf.

10. <http://fra.europa.eu/en/national-contribution/2012/country-thematic-studies-homophobia-transphobia-and-discrimination>.

11. <http://fra.europa.eu/en/publication/2014/eu-lgbt-survey-european-union-lesbian-gay-bisexual-and-transgender-survey-main>, accessed on 7 October 2016.

12. http://www.coe.int/t/dghl/monitoring/ecri/activities/countrybycountry_en.asp.

13. <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2933521&SecMode=1&DocId=2367288&Usage=2>

Thematic and country work and reports by the Council of Europe Commissioner for Human Rights

The Commissioner has undertaken a wide range of activities with either a thematic or a country focus, seeking to understand and respond to issues affecting LGBTI persons. Thematic work includes a report on discrimination on grounds of sexual orientation and gender identity and a groundbreaking report on current issues affecting intersex persons published in 2015.¹⁴

The Commissioner also conducts regular country visits to investigate the human rights situation of vulnerable groups at national level. Not all country visits encompass LGBTI issues, however it is worth using the search function on the country visits webpage to investigate whether a visit has been undertaken in the country or countries where you are planning to hold a training session.¹⁵

Other Resources

Because of who I am: Homophobia, Transphobia and hate crime in Europe, Amnesty International (2013)¹⁶

This report supplements the EU LGBT survey summarised above with case studies of hate crime against LGBT persons in European Union member states. In addition, the current legal frameworks and policy are critically assessed, and recommendations for improvement at the national and European level are proposed. This report is useful as a source of national case studies and in order to get a sense of the legal and policy contexts in certain European countries.

OSCE Annual Hate Crime Reporting Data

The Organisation for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights has been monitoring and reporting on hate crimes and incidents in the OSCE Region since 2008. Their hate crime reporting website details official and civil society data, information about relevant policy and guidance for criminal justice agencies, details of current hate crime laws, and relevant judgments of the European Court of Human Rights, as well as summarising relevant recommendations from international organisations, including the Council of Europe's European Commission Against Racism and Intolerance and the Office of the Council of Europe Commissioner for Human Rights.

All Council of Europe member states are also participating states of the OSCE. This website can therefore be useful if you are seeking an overview of the situation in the country in which you are planning to hold a training session. This website is used as a resource for Module One of this manual.

ILGA-Europe (forthcoming), "Step up reporting on homophobic and transphobic violence" (Reference available from the ILGA-Europe website when published).¹⁷

"For the record: Violence against trans people, experiences from the ProTrans, 'Protecting Transgender Persons from Violence Project'"¹⁸

This report brings together findings from a project that supported organisations monitoring discrimination and hate crimes against transpersons in several member states of the Council of Europe. The project found that transpersons are at a very high risk of violent attacks and wide-spread discrimination. The report is a good source of short case studies from a variety of countries.

"For the Record: Documenting violence against trans people, experiences from Armenia, Georgia, Germany, Moldova, Russia and Ukraine" (Forthcoming)

14. www.coe.int/en/web/commissioner/thematic-work/lgbti.

15. www.coe.int/en/web/commissioner/country-report.

16. Available at <https://www.amnesty.org/en/documents/eur01/014/2013/en/>, accessed on 7 October 2016.

17. European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA-Europe)

18. http://tgeu.org/wp-content/uploads/2013/11/TGEU_protrans_publication_1_Nov.pdf.

Module Two: Key concepts

INTRODUCTION AND BACKGROUND

As outlined in Module One and as will become more apparent as we work through this programme, LGBTI persons are disproportionately selected by offenders to be the victims of crime. LGBTI persons are hesitant to report hate crimes to the police and when they do report them, the police often fail to record these crimes adequately or even to record them at all.

In order for the police to respond professionally to the needs of LGBTI victims of hate crime, they have to be able to identify LGBTI persons, the characteristics of discriminatory behaviour, and what constitutes a hate crime.

In part (a) of this module, participants will develop an understanding of who the LGBTI community are and will be introduced to the concepts of sexual orientation (LGB), gender identity (T) and sex characteristics (I).

Participants will move on to develop an understanding of the concepts associated with negative or discriminatory thinking and behaviour towards LGBTI persons. Homophobia, transphobia, stereotyping and discrimination against LGBTI persons constitute the foundation of most hate crimes against LGBTI persons.

In part (b) of this module, hate crime and hate crimes against LGBTI persons will be defined. Some of the key features of hate crime will be outlined. These concepts will form the foundation for Module 4, which will look at hate crime from a practical policing perspective.

Parts (a) and (b) combined will provide participants with a foundation for an understanding of the specific issues being examined in this training programme.

Module 2(a): Key concepts and definitions – The LGBTI Community – Homophobia, Transphobia, Stereotyping and Discrimination

LEARNING OUTCOMES

Participants will:

- ▶ understand the key concepts of sexual orientation, gender identity, gender expression and the component parts of L, G, B, T & I;
- ▶ understand the concepts of homophobia, transphobia, stereotyping and discrimination and how they relate to the role of a police officer;
- ▶ be able to apply the terminology throughout the training session and in their work.

OVERVIEW OF ACTIVITIES AND TIMING

- ▶ Activity 2.1: Understanding the key terminology relevant to the LGBTI community: Plenary presentation by course facilitators (30 minutes)
- ▶ Activity 2.2: Understanding Stereotypes: Group work followed by plenary presentation and discussion (20 minutes)
- ▶ Activity 2.3: Understanding Stereotypes: Individual work followed by discussion (25 minutes)

ACTIVITY 2.1: UNDERSTANDING THE KEY TERMINOLOGY RELEVANT TO THE LGBTI COMMUNITY. PLENARY PRESENTATION BY COURSE FACILITATORS (30 MINUTES)

Key Concepts and Definitions – Presentation

Materials needed:

Flipchart paper, pens
Handouts 2.1a & 2.1b

In this module the facilitator will introduce the following key concepts to the group in a plenary session:

- ▶ Sexual orientation (LGB), Gender identity (T) and Intersex (I)
- ▶ Homophobia, Transphobia, Stereotyping and Discrimination

The group should be instructed to take notes about what they understand from the presentation and about the key concepts. To facilitate this, the worksheet on handout 2.1 can be used to assist the group to record what they learn as they go along. Handout 2.1b may be used to further facilitate understanding of this area.

This learning can be tested at a later stage in the module during activity 2.6, using handout 2.6.

Note for Trainers:

The following pages provide information which can be tailored to local training sessions. Adaptations should be based on existing knowledge of the target audience and the level of detail that is required, in accordance with both time considerations and the depth of the training to be provided. Review the material and choose those parts that are most relevant for facilitating an improved understanding by the police officers concerned.

Please note that this exercise is not appropriate for discussions about intersex persons. This is because the image does not reflect the diversity of sex characteristics that fall within the intersex definition. When discussing intersex issues, please refer to the language in activity 2.1 and handout 2.1a.

Sexual Orientation: The “LGB” Component

Sexual orientation refers to each person’s capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender (heterosexual) or the same gender (homosexual, lesbian, gay) or more than one gender (bisexual).¹⁹

The following definitions relating to sexual orientation are relevant to this training programme:

- ▶ **Lesbian:** a woman whose primary romantic, emotional, physical and sexual attractions are to other women.
- ▶ **Gay man:** a man whose primary romantic, emotional, physical and sexual attractions are to other men. This term can also be applied to lesbians, bisexuals, and, on some occasions, be used as an umbrella term for all LGBT persons.
- ▶ **Bisexual:** a person who has significant romantic, emotional, physical and sexual attractions to members of both sexes. The frequency, intensity, or quality of attraction is not necessarily directed toward both sexes equally.
- ▶ **Heterosexual:** a person who is emotionally, romantically, or sexually attracted or committed to members of the opposite sex.²⁰

Each one of us has a sexual orientation. The exact percentage of the population which is lesbian, gay or bisexual is unclear. Percentages vary from study to study, and people report having had same-sex encounters in higher percentages than they define themselves as being lesbian, gay or bisexual. Reported figures vary based on cultural norms, religious beliefs and general levels of social acceptance. Stonewall, a British gay-rights charity, estimates that between 5-7% of the British population are gay, lesbian or bisexual.²¹ The Williams Institute estimated that 3.5% of the US adult population were gay, lesbian or bisexual and that 8.2% report that they have engaged in same-sex sexual behaviour.²² While exact figures are unclear, we do know that a sizable proportion of the population is lesbian, gay or bisexual. Even if the figure is as low as 3%, that would equate to over 220,000,000 people.²³ Across all continents, lesbian, gay and bisexual persons represent a very sizable minority group.

Gender Identity: The “T” Component

Transgender persons include persons who have a gender identity which is different from the gender assigned to them at birth and those persons who wish to portray their gender identity in a different way from the gender assigned at birth. It includes persons who feel they have to, prefer to, or choose to, whether by clothing, accessories, mannerisms, speech patterns, cosmetics or body modification, present themselves differently from the expectations of the gender role assigned to them at birth. This includes, among many others, persons who do not identify with the labels “male” or “female”, transsexuals, transvestites and cross-dressers.

A transgender man is a person who was assigned “female” at birth but has a gender identity which is “male” or within the masculine gender identity spectrum. A transgender woman is a person who was assigned “male” at birth but has a gender identity which is female or within the feminine gender identity spectrum.

Some transgender persons identify as being neither male nor female or as being both and thus identify as **non-binary** transgender persons.

Analogous labels for sexual orientation of transgender persons are used according to their gender identity rather than the gender assigned to them at birth. A heterosexual transgender man, for example, is a transgender man who is attracted to female partners. A lesbian transgender woman is attracted to female partners. The word transgenderism refers to the fact of possessing a transgender identity or expression.

19. www.coe.int/en/web/sogidatabase/glossary.

20. <http://rainbowcenter.uconn.edu/terms/>.

21. https://www.staffs.ac.uk/assets/Stonewall%20-%20Employment%20regulations%20-%20guidelines%20for%20employers_tcm44-21515.pdf.

22. <http://williamsinstitute.law.ucla.edu/research/census-lgbt-demographics-studies/how-many-people-are-lesbian-gay-bisexual-and-transgender/>.

23. www.census.gov/popclock/ 29th September 2016.

Gender identity refers to a person's deeply felt individual experience of gender, which may or may not correspond with the sex assigned at birth, and includes the personal sense of the body and other expressions of gender (that is, "gender expression") such as dress, speech and mannerisms.

The **sex** of a person is usually assigned at birth and becomes a social and legal fact as from then on. However, some persons experience problems in identifying with the sex they were assigned at birth – these persons are referred to as "**transgender**" or "**trans**" persons. Gender identity is not the same as sexual orientation, and transgender persons may identify as heterosexual, bisexual or gay/lesbian.²⁴

An alternative definition of **gender identity** is "An individual's internal sense of being male, female, or another gender (not necessarily visible to others)."²⁵

In Europe it is common to use the umbrella term 'transgender' or 'trans' to cover the multitude of diverse ways in which individuals can identify their gender as being distinctive from the mainstream population.

Again, as with sexual orientation, the number of persons who identify as having a lack of congruence between their gender identity and the sex assigned at birth is very hard to measure. Some estimates place it at between 0.3 percent and 3 percent of the population.²⁶ Given the social stigma and widespread discrimination against transgender persons, population measurement is difficult.

Like sexual orientation, each one of us has a gender identity. For the majority of the population there is congruence between our physical gender and our sense of gender identity. For those who do not have such congruence, defining their gender identity can be a painful and complex journey and often impacts significantly on their lives.

Gender expression relates to a person's expression of their gender through clothing, grooming, speech, hair style, body language, social interactions, and other behaviours.²⁷ Gender expression, as opposed to gender identity, is what is on the outside.

While gender identity relates to how we feel, gender expression relates to the multitude of choices that we make on a daily basis regarding what we wear and how we dress and behave. Most of us take these things for granted, but when our gender identity does not conform to the gender which was assigned to us at birth, deciding on how to physically express oneself can be a complex and often life-changing decision to make.

Transitioning

The process of changing gender is often called *transitioning*. This is the process through which a person goes from predominantly being seen as one gender to predominantly being seen as another gender, and the time it takes. There can be social, legal and/or medical aspects to a person's transitioning.

Transitioning can be a social change involving changes to, amongst other things, physical appearance, clothing and social relationships. It can also involve significant physical transitioning using hormone therapy and, for some people, gender reassignment surgery.

Persons who have transitioned may no longer consider themselves part of the trans umbrella.

Gender marker

Gender markers are something that police officers come across every day. They are gendered designators, often found on documents such as national identity cards, driving licences and passports. The most obvious gender markers are designations such as male/female or Mr/Mrs. They can also be professional titles, personal pronouns, or coded numbers, such as social security numbers and tax numbers, which may use certain combinations for men and for women.²⁸

Changing gender markers on identity documents can be difficult, if not impossible, in many countries. This causes challenges for transgender persons in situations where documentation is required for interaction with public authorities, such as the police. This will be further explored in Module Four.

24. www.coe.int/en/web/sogidatabase/glossary.

25. Office for Victims of Crime (2014) Responding to Transgender Victims of Sexual Assault

26. Ibid.

27. Scottish Transgender Alliance, Gender Identity, Introductory Guide for Supporting Transgender People.

28. www.coe.int/en/web/sogidatabase/glossary.

Pronouns

Pronouns are words that can be used to refer to an individual in place of their name. Common pronouns include he/she, him/her, his/hers. Some transgender individuals use gender-neutral pronouns or use “they/their” instead of gendered pronouns. This will be further examined in Module Four.

Some further trans umbrella definitions

There is a multitude of ways in which persons who fall under the transgender umbrella can define their own specific gender expression and gender identity make-up. A number of these are outlined below. However, if unsure about what term to use, note that the term “**trans**” is generally considered inclusive and respectful. When dealing with an individual, it is often best to ask in a respectful manner. Again, we will further explore how best to interact professionally with trans persons in Module Four.

Transsexual is a term used for persons who have a gender identity which does not correspond to the sex assigned at birth and who consequently correct that sex by modifying their bodily appearance or their bodily functions by undergoing gender reassignment treatment.

A **female-to-male/FTM** trans man is someone who was labelled female at birth but has a male gender identity and transitions to live permanently as a man.

A **male-to-female/MTF** trans woman is someone who was labelled male at birth but has a female gender identity and transitions to live permanently as a woman.

Crossdresser is a term to describe people who choose to wear clothing generally associated with the opposite gender. They do so because they find it fulfilling in emotional or sexual ways. The word “**transvestite**” is no longer used and can be offensive to some people.²⁹

Drag Queen is a term historically used by gay men who dress in clothing usually associated with women for the purposes of entertainment or personal fulfilment. There are also drag kings, who are biologically female and dress as men.³⁰

Cisgender is a term used to describe those who are not transgender – i.e. who have a gender identity or perform in a gender role that society considers appropriate for their sex.³¹

Genderqueer is a term used in rejection of the gender binary (male/female) in favour of a more fluid, non-traditional identity.³²

Gender binary is a socially constructed concept stating that there are only two genders: male and female.

Non-binary describes a gender identity that is neither female nor male; or gender identities that are outside of or beyond the two traditional concepts of male and female.³³

Intersex: The “I” Component

Intersex people are those who do not match medical and societal norms of so-called female and male bodies with regard to their chromosomal, gonadal, endocrine or anatomical sex.

The latter becomes evident, for example, in secondary sex characteristics such as muscle mass, hair distribution and stature, or primary sex characteristics such as the inner and outer genitalia and/or the chromosomal and hormonal structure.

A simpler working definition can also be used: intersex persons are intersex because their innate sex characteristics are either female and male at the same time *or* not quite female or male *or* neither female or male.

Many forms of intersex exist; it is a spectrum or umbrella term, rather than a single category. The word has replaced the term “hermaphrodite”, which was extensively used by medical practitioners during the 18th and 19th centuries. It is now considered deeply offensive to use the term hermaphrodite.

An intersex individual is born intersex. Intersex differences may be visibly apparent at birth. Some intersex traits become apparent at puberty, or when trying to conceive, or through random chance. Other instances may only be discovered during an autopsy.

29. www.transequality.org/issues/resources/teaching-transgender-guide-leading-effective-trainings.

30. www.transequality.org/issues/resources/teaching-transgender-guide-leading-effective-trainings.

31. <http://rainbowcenter.uconn.edu/terms/>.

32. <http://rainbowcenter.uconn.edu/terms/>.

33. https://lgbt.wisc.edu/documents/Trans_and_queer_glossary.pdf.

A significant difference between intersex persons and transgender persons is that intersex persons are often identified as such by doctors while they are young children or during adolescence. Often their genitals may be operated upon, or their reproductive organs removed before they are old enough to give or withhold consent.

The lowest statistic used when referencing intersex persons is 1 in 200 (0.5 percent of births). Often even lower statistics of 1 in 2000 will be cited, but these statistics only cover some intersex persons who are operated upon during infancy. Various agencies like the UN have used statistics of up to 1.7%.

This makes intersex differences more common than being born deaf and even as common as having red hair.³⁴

It is clear that intersex persons have been and remain at great risk of discrimination and human rights violations. A small number of countries have explicitly recognised intersex as a protected category for hate crime laws (e.g. Scotland and Malta within the Council of Europe). The Council of Europe itself has stressed the importance of including sex characteristics as protected ground for the purposes of hate crime law (insert reference).

Complex communities and shared experiences

The information above shows the somewhat complex communities that fall under the LGBTI umbrella.

LGBTI communities fall outside of what are considered binary sex and gender norms. In many cases, however, individuals within one subgroup do not see themselves as having common experiences with persons in other subgroups. Many LGB persons see no natural association between their community and transgender persons. Many transgender persons see their gender identity issue as being distinct from sexual orientation and advocate separate approaches in the campaign for recognition. A person can also be a member of more than one subgroup (e.g. a trans person who considers themselves to be lesbian).

There are succinct differences between LGB persons (sexual orientation), transgender persons (gender identity and gender expression) and intersex persons (sex characteristics). While the life experiences of the persons concerned may be very different, the groups are often brought together under a single umbrella term to support an understanding of how the groups suffer similar types of discriminatory behaviour, including hate crimes against LGBTI persons.

Information on intersex persons as victims of hate crime is limited, and law enforcement agencies and NGOs are only just beginning to map these experiences.

Intersectionality refers to the added layers of discrimination that someone may experience by being part of more than one minority group. Intersectional issues can compound the challenges that exist in the lives of LGBT persons. A black gay woman, for example, may have to deal with racism, homophobia and sexism. Discriminatory behaviour may not just come from mainstream society; racism exists within LGBT communities and homophobia exists within racial minorities.

A Muslim trans person may have to deal with both religious discrimination and transphobia, from within their religious community and from those outside it.

KEY DEFINITIONS – HOMOPHOBIA, TRANSPHOBIA, STEREOTYPING AND DISCRIMINATION

Homophobia is defined as an irrational fear of, and aversion to, homosexuality and to lesbian, gay, bisexual persons based on prejudice.

A simple definition would be *'a fear or dislike of LGB persons'*.

Transphobia is defined as an irrational fear of, and aversion to, transgender persons' gender non-conformity based on prejudice.

A simple definition would be *'a fear or dislike of transgender persons'*.

Homophobia and transphobia can be manifested socially as avoidance, social exclusion, discrimination, abusive behaviour, violence and even murder.

Homophobia and transphobia can arise as a result of attitudes and beliefs that we pick up from parents, friends, schools, communities, religious leaders and social influencers (politicians/celebrities). Homophobia and transphobia are found in varying degrees in all countries.

34. <http://www.ilga-europe.org/what-we-do/our-advocacy-work/trans-and-intersex/intersex>.

A **stereotype** is an attitude or belief about a person or persons based on traits or characteristics they have or groups they belong to.³⁵

An alternative definition of **stereotype** is: "A preconceived or oversimplified generalisation about an entire group of persons without regard for their individual differences."

Examples of stereotypes are:

- ▶ All lesbians are masculine
- ▶ All African immigrants are criminals
- ▶ All police officers abuse their power
- ▶ All Muslims are religious extremists

Stereotypes are predetermined and caricatured perceptions which result in ascribing the same generalising traits to all members of certain groups without paying attention to their individual traits. Stereotypes can lead to prejudices against other groups and ultimately to discriminating behaviour and actions.

Though often negative, stereotypes can also be complimentary. Positive stereotypes can still have a negative impact, however, simply because they involve broad generalisations that ignore individual realities.³⁶ An example of this would be that women are better at looking after children than men. This stereotype ignores the reality that there are many women who are, for example, abusive to children and should not be in a position to care for them.

The concept of **prejudice** is related to the concept of stereotype.

A **prejudice** is an advance judgement and a preconceived idea about or attitude towards other persons or groups. Prejudices are often negative and are typically based on rumours, assumptions, feelings and beliefs rather than on knowledge and facts. Prejudices influence both our actions and our interpretations of the acts of others.

Note for Trainers

Local legislation and related definitions of discrimination should be examined prior to the training session and incorporated where appropriate. Participants should be provided with both the definition of discrimination and the protected groups covered by the legislation.

Discrimination: Most countries have legal definitions of discrimination. The definitions often cover both direct and indirect discrimination. The following definition of discrimination is broader and reflects the experiences of LGBTI and other minority communities in many countries:

"Discrimination occurs when members of a more powerful social group behave unjustly or cruelly to members of a less powerful social group. Discrimination can take many forms, including both individual acts of hatred or injustice and institutional denials of privileges normally accorded to other groups."³⁷

Legal definition of discrimination

Discrimination is legally defined as unjustified, unequal treatment:

1. Direct discrimination occurs when, for a reason related to one or more prohibited grounds, a person or group of persons is treated less favourably than another person or another group of persons is, has been, or would be treated in a comparable situation; or when, for a reason related to one or more prohibited grounds, a person or group of persons is subjected to a detriment.

In simpler terms: **Direct discrimination** is when a person or persons are treated less favourably than the majority population because of membership of a minority group.

Examples of this would be the refusal of a police officer to take a crime report from a victim of crime because the victim is transgender, Roma or from a minority religious community.

35. OSCE (2014) TAHCLE Training Manual Training on Hate Crime for Law Enforcement Curriculum for Trainers.

36. <https://lgbtrc.usc.edu/education/terminology/>.

37. <https://lgbtrc.usc.edu/education/terminology/>.

2. Indirect discrimination occurs when a provision, criterion or practice would put persons having a status or a characteristic associated with one or more prohibited grounds (including sexual orientation and gender identity) at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary.

In simple terms: **Indirect discrimination** is where certain practices, rules or policies place a person or persons at a disadvantage as compared to members of the majority. Indirect discrimination is sometimes harder to identify than direct discrimination.

An example of this would be giving special annual leave entitlements to married police officers where policies and/or legislation do not recognise same sex relationships.

Another example would be refusing to acknowledge educational qualifications from outside the country the police force operates in, even if they are as good as local educational qualifications. This indirect form of discrimination would exclude ethnically diverse persons from employment in the police.

HANDOUT 2.1: TAKE NOTE!

What makes up the LGBTI community? – Key Concepts and Definitions


Sexual orientation	
LGB	L – G – B –
Gender Identity	
Gender Expression	
Transgender or T	
Intersex	

Harmful social behaviour– Key Concepts and Definitions

Homophobia	
Transphobia	
Stereotype	
Discrimination	Direct – Indirect –

HANDOUT 2.1B: KEY CONCEPT HAND-OUT

The Gingerbread Person is an aid for identifying and understanding the main LGBT concepts discussed so far in the module. Please note that this exercise is not appropriate for discussions about intersex persons. This is because the image does not reflect the diversity of sex characteristics that fall within the intersex definition. When discussing intersex issues please refer to the language in activity 2.1 and handout 2.1a.³⁸

	<p>Sexual orientation: How we feel about others, who we are attracted to emotionally and physically, what is in our hearts. Being gay, lesbian, bisexual or heterosexual.</p> <p>Gender identity: How we think and feel about our gender; what is in our brain (e.g. I feel female or male or a combination of both).</p> <p>Gender expression: How we express ourselves through behaviour and physical appearance. Our dress, hair, jewellery, mannerisms, etc. Being trans, cis-gender or cross-dressing, amongst other groups.</p> <p>Our sex: The biological make-up of chromosomes and physical organs. What makes us male, female, both or neither.</p> <p>Lesbian: a woman whose primary romantic, emotional, physical and sexual attractions are to other women.</p> <p>Gay: a man whose primary romantic, emotional, physical and sexual attractions are to other men.</p> <p>Bisexual: a person who has significant romantic, emotional, physical and sexual attractions to members of both sexes.</p> <p>Heterosexual: a person who is emotionally, romantically, or sexually attracted or committed to members of the opposite sex.</p> <p>Transgender: persons who have a gender identity which is different from the gender assigned to them at birth and those persons who wish to portray their gender identity in a different way from the gender assigned at birth.</p>
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38. <http://itspronouncedmetrosexual.com/2012/03/the-gingerbread-person-v2-0/>.

ACTIVITY 2.2: UNDERSTANDING STEREOTYPES 1: GROUP WORK FOLLOWED BY PLENARY PRESENTATION AND DISCUSSION (20 MINUTES)

Note for Trainers:

This exercise needs to be facilitated carefully to ensure that the collection of negative stereotypes against LGBTI persons is not used as an opportunity for homophobia/transphobia. It may not be appropriate in very challenging work environments or when the facilitator is not experienced in managing controversial discussions.

Materials needed:

Flipchart paper, pens

Breakout rooms or space within the training room

1. Divide participants into four groups.
2. Task each group with collecting as many stereotypes as possible in the following areas:
 - ▶ the first group is asked to collect negative stereotypes about LGBTI persons;
 - ▶ the second group is asked to collect negative stereotypes about the police;
 - ▶ the third group is asked to collect positive stereotypes about LGBTI persons;
 - ▶ the fourth group is asked to collect positive stereotypes about the police.
3. Give the groups five minutes to identify the relevant stereotypes. Then bring the participants back together and ask the groups to outline their findings. Place the results on four flip chart sheets.
4. Through general discussion, ask the following questions:
 - ▶ Do stereotypes provide an accurate description of the individual groups?
 - ▶ What harm can stereotypes do to members of the two groups concerned?

The exercise should expose prejudices and show that all groups suffer from stereotyping. The parallel examination of LGBTI persons and the police should build a connection between the police and the LGBTI community.³⁹

ACTIVITY 2.3A: UNDERSTANDING STEREOTYPES 2: INDIVIDUAL WORK FOLLOWED BY DISCUSSION (20 MINUTES)

Materials needed:

Flip chart paper

Paper, Pens

1. Have participants work on their own, asking them to think of a time that they or a member of their family was stereotyped. Have them record what the impact of that stereotyping was.
2. After a few minutes, ask a number of participants to outline their experience.

ACTIVITY 2.3B: UNDERSTANDING STEREOTYPES 2: GROUP DISCUSSION (15 MINUTES)

Based on the above discussion, ask the group the following questions, placing their ideas on the flip chart:

- ▶ Given your understanding of stereotyping, what are the risks to individuals, families and communities if stereotyping is not challenged?
- ▶ What are the risks if police officers engage in such stereotyping?

39. Source: Polack, R. and LeDeroff, J. (2010) ILGA Europe Toolkit for training police officers on tackling homophobic crime, ILGA Europe.

Module 2 (b): Key concepts and definitions – Hate crime

LEARNING OUTCOMES

Participants will:

- ▶ have a clear understanding of the definition of a hate crime;
- ▶ be able to differentiate a hate crime and a hate incident;
- ▶ have an understanding of some of the main features of hate crimes as they relate to policing;
- ▶ explore their local/national policing context;
- ▶ be able to apply the terminology throughout the training session and in their work;
- ▶ understand that even if there is no hate crime legislation in place, hate crime as a practical policing and social concept still exists.

OVERVIEW OF ACTIVITIES AND TIMING

- ▶ Activity 2.4: What is a hate crime? Presentation and discussion (20 minutes)
- ▶ Activity 2.5: Definition Quiz (10 minutes)
- ▶ Activity 2.6: Map the national hate crime legislative context (10 minutes)

ACTIVITY 2.4: WHAT IS A HATE CRIME? PRESENTATION AND DISCUSSION (30 MINUTES)

Note for Trainers

Local legislation and the legal definitions of Hate Crime/Hate Incident/Hate Speech should be examined prior to training and incorporated where appropriate. Participants should be provided with both the definitions and the protected groups covered by the legislation.

Materials needed:

Flipchart paper, pens, paper
Handout 2.4a
Handout 2.4b

In this activity, the trainer will provide the definition of hate crime and some key related concepts in a plenary session. Handout 2.4a can be distributed to participants (after having been adapted as necessary for local use). Handout 2.4b can be used by participants to test their understanding of the key concepts.

Key Definitions

Definition

Hate crime: A **criminal act** with a **bias motive**.

Hate crimes include intimidation, threats, property damage, assault, murder or any other criminal offence where the victim, premises or target of the offence are selected because of their real or perceived connection, attachment, affiliation, support or membership of a protected group.

The two essential ingredients of a hate crime are that:

- a) a **criminal offence** has occurred and
- b) the offender had a **bias motive**.

Without either of the above ingredients, an incident cannot be designated a hate crime.

Hate crimes against LGBTI persons are criminal acts with a bias motive. They are hate crimes where the victim, premises or target of the offence are selected because of their real or perceived connection, attachment, affiliation, support or membership of an LGBTI group. There should be a reasonable suspicion that the motive of the perpetrator is the sexual orientation, gender identity, gender expression or sex characteristics of the victim.⁴⁰

Hate-motivated incidents are incidents, acts or manifestations of intolerance committed with a bias motive that may not reach the threshold of hate crimes, due to there being insufficient evidence to constitute proof in a court of law of the criminal offence or bias motivation, or because the act itself may not constitute a criminal offence under national legislation.

Shouting a transphobic remark at someone on the street may be a hate incident if the shouting and associated threatening behaviour are not sufficient to justify a criminal sanction.

Hate speech refers to public expressions which spread, incite, promote or justify hatred, discrimination or violence towards a minority group – for example, statements made by political and religious leaders or other opinion leaders circulated by the press or the Internet which aim to incite hatred.

Hate speech may or may not be a crime depending on local legislation.

Genocide involves intentional conduct aimed at destroying, in whole or part, a national, ethnic, racial, religious or social group. Hate crimes can be part of the process that leads to genocide. Individual acts of genocide may be considered to constitute hate crimes.

A key feature of hate crimes is that they can **escalate** if not addressed. Hate speech left unchallenged can lead to persons engaging in criminal damage and/or acts of violence. The impact can escalate from the individual to their family, to members of their local community and across society.

It is therefore important that schools, communities, governments and the police intervene where appropriate in a prompt fashion to prevent the escalation of discriminatory behaviour.

A **protected characteristic** is a fundamental feature of a group, such as race, religion, ethnicity, nationality, gender, sexual orientation, sex characteristics or a similar common factor that is *fundamental to their identity*. Protected characteristics represent parts of our make up as individuals that we *cannot easily change*. They tend to be characteristics where there is a visible *pattern of discrimination across time* and culture.

Sexual orientation and gender identity are often listed as protected characteristics in legislation, as they are personal characteristics that cannot be changed. Clear patterns of discrimination against LGBTI persons are identifiable across cultures and over earlier centuries. These patterns include criminalisation, abuse and social stigmatisation of LGBTI persons.

Hate crime is often called **message crime**, as the aim of the offender is often to send a message to a group or community that they are not safe. It is the responsibility of the criminal justice community, including the police, to send a **message** to offenders that society will not tolerate such crimes.

Writing “death to all fags” on the wall of a LGBT community centre or venue is a message crime. A message is being sent through this act to the whole local LGBT community that they are not safe.

40. www.coe.int/en/web/sogidatabase/glossary.

Note that it is **not necessary to show** that the offender **hated** the selected group. It is sufficient to show that the victim was chosen as a result of protected group membership (**bias selection**). The hate crime offender may also be a member of the same group.

For example, criminals often select gay men as targets of blackmail as they hope to be able to extort money from them due to their fear of being outed. The criminals may not hate the gay men concerned, but simply wish to make money in the easiest way possible.

It should be noted that not all countries have hate crime legislation. In these countries it may be useful to refer to such incidents when dealing with the police as **hate-motivated crimes**.

The victim does not have to be part of the protected group. The victim can be someone who is selected because of being associated with **support** for that group **or** who has been **wrongly identified** as being part of the group.

For example, the victim may be a heterosexual man who walked past a gay bar and was mistaken for a customer and consequently beaten up by skin heads. The victim could also be a TV personality who supports gay rights and is targeted by right-wing groups as a result of this support.

The victim may not know they have been the **victim** of a hate crime or they **may not understand the concept**. This does not negate the fact that the incident may be an instance of hate crime.

They may or may not know that they were targeted for being a minority group member. It is up to the police to identify if a bias motive exists and to explain this to the victim where appropriate. The victim's perception is only one factor amongst many to be considered here (see Module Four "Bias Indicators").

HANDOUT 2.4A – HATE CRIME FACT SHEET

Definition:

Hate crime: a **criminal act** with a **bias motive**. Hate crimes include intimidation, threats, damage to property, assault, murder or any other criminal offence where the victim, premises or target of the offence are selected because of their real or perceived connection, attachment or affiliation to a protected group, or their support or membership thereof.

Hate crime against LGBTI persons: criminal acts with a bias motive. Hate crimes where the victim, premises or target of the offence are selected because of their real or perceived connection, attachment or affiliation to an LGBTI group, or their support or membership thereof. There should be a reasonable suspicion that the motive of the perpetrator is the sexual orientation or gender identity of the victim.

The two essential ingredients of a hate crime are that:

- a) a **criminal offence** has occurred and
- b) the offender had a **bias motive**.

Hate-motivated incidents are incidents, acts or manifestations of intolerance committed with a bias motive that may not reach the threshold of hate crimes, due to there being insufficient evidence to constitute proof in a court of law of a criminal offence or bias motivation, or because the act itself may not have been a criminal offence under national legislation.

Hate speech against LGBT persons refers to public expressions which spread, incite, promote or justify hatred or discrimination towards LGBT persons, for example, statements made by political or religious leaders, or other opinion leaders, circulated by the press or on the Internet, which aim to incite hatred.

Genocide involves intentional conduct aimed at destroying, in whole or part, a national, ethnic, racial, religious or other social group. Hate crimes can be part of the process that leads to genocide. Individual acts of genocide may be considered to constitute hate crimes.

A key feature of hate crimes is that they can **escalate** if not addressed. Hate speech left unchecked can lead to criminal damage or violence. The impact can escalate from the individual to the family, to the local community and across society.

A **protected characteristic** is a fundamental feature of a group, such as race, religion, ethnicity, nationality, gender, sexual orientation or a similar common factor that is *fundamental to their identity*. Protected characteristics represent parts of our make-up as individuals that we *cannot easily change*. They tend to be characteristics where there is a visible *pattern of discrimination across time* and cultures.

Hate Crime is often called **message crime** as the aim of the offender is often to send a message to a group or community that they are not safe. It is the responsibility of the criminal justice community to send a **message** to offenders that society will not tolerate such crimes.

Note that it is **not necessary to show** that the offender **hated** the selected group. It is sufficient to show that the victim was chosen as a result of protected group membership (**bias selection**). The hate crime offender may also be a member of the same group.

It should be noted that not all countries have hate crime legislation. In these countries it may be useful to refer to such incidents when dealing with the police as **hate-motivated crimes**.

The victim does not have to be part of the protected group. The victim can be someone who is selected because of being associated with **support** for that group **or** who has been **wrongly identified** as being part of the group.

The victim may not know they have been the **victim** of a hate crime or they **may not understand the concept**. This does not negate the fact that the incident may be an instance of hate crime.

HANDOUT 2.4B – HATE CRIME QUICK TEST

1	<p>Fill in the blanks (same answer for both)</p> <p>Hate crime is often called _____ crime. This is because the offenders wish to send a _____ to a community that its members are not safe.</p>
2	<p>Does the victim have to report the crime as a hate crime for the police to investigate the incident as a hate crime? Briefly explain your answer.</p>
3	<p>What pattern is likely to emerge if hate crimes are not addressed at an early stage?</p>
4	<p>What are the two key components that must be present in every hate crime?</p> <p>1) _____</p> <p>2) _____</p>
5	<p>Does the victim have to be LGBTI to be a victim of hate crimes against LGBTI persons? Briefly explain your answer.</p>
6	<p>Is it necessary to prove that the offender hated the victim in a criminal investigation into hate crimes against LGBTI persons?</p>
7	<p>Is hate speech a hate crime?</p>
8	<p>List the protected characteristics as provided for in your national hate crime legislation.</p>
9	<p>List two common features of a protected characteristic:</p> <p>1) _____</p> <p>2) _____</p>

ACTIVITY 2.5: DEFINITION QUIZ (5 MINUTES)

Materials needed:

Pens

Handout 2.5a (quiz) and 2.5b (answers)

Distribute a handout to each participant. Inform participants that the goal of the exercise is to match the key concept to the definition provided. At the end of the five minutes, provide the answers and ask participants to add up their scores. Consider giving a small prize to the person with the highest score.

HANDOUT 2.5A – DEFINITION QUIZ

Key Concept	Insert Letter		Definition
Discrimination		A	Words that can be used to refer to a person in place of their name, e.g. he/she, him/her, they
Homophobia		B	A person's capacity for profound emotional, affectional and sexual attraction to and intimate and sexual relations with others
Trans		C	An irrational fear of/aversion to homosexuality and to LGB persons based on prejudice
Intersex		D	Persons who have a gender identity which does not correspond to the sex assigned at birth and who modify their bodily appearance or their bodily functions by undergoing gender reassignment surgery
Transitioning		E	A man whose primary romantic, emotional, physical and sexual attractions are to men
Stereotype		F	The choices we make on a daily basis regarding what we wear and how we dress and behave that indicate our gender
Gender identity		G	A process of social, legal and/or medical change involving physical appearance, clothing and social relationships, among other things
Bisexual		H	Unjustified, unequal treatment
Lesbian		I	Persons emotionally, romantically, or sexually attracted/committed to the opposite sex.
Pronouns		J	An irrational fear of/aversion to transgender persons' gender non-conformity based on prejudice.
Transsexual		K	An umbrella term used to cover the multitude of diverse ways in which individuals can identify their gender as being distinctive from the mainstream population
Sexual orientation		L	An individual's internal sense of being male, female, or another gender
Heterosexual		M	A person who has significant romantic, emotional, physical and sexual attractions to members of both sexes
Transphobia		N	A preconceived or oversimplified generalisation about an entire group of persons without regard for their individual differences
Gender expression		O	A woman whose primary romantic, emotional, physical and sexual attractions are to women
Gay		P	Designations such as male/female or Mr/Mrs which are found regularly on ID documents
Gender marker		Q	A person born with physical, hormonal or genetic features that are neither wholly female nor wholly male; a combination of female and male; or neither female nor male

HANDOUT 2.5B – DEFINITION QUIZ ANSWERS

Key Concept	Insert Letter		Definition
Discrimination	H	A	Words that can be used to refer to a person in place of their name, e.g. he/she, him/her, they
Homophobia	C	B	A person's capacity for profound emotional, affectional and sexual attraction to and intimate and sexual relations with others
Trans	K	C	An irrational fear of/aversion to homosexuality and to LGB persons based on prejudice
Intersex	Q	D	Persons who have a gender identity which does not correspond to the sex assigned at birth and who modify their bodily appearance or their bodily functions by undergoing gender reassignment surgery
Transitioning	G	E	A man whose primary romantic, emotional, physical and sexual attractions are to men
Stereotype	N	F	The choices we make on a daily basis regarding what we wear and how we dress and behave that indicate our gender
Gender identity	L	G	A process of social, legal and/or medical change involving physical appearance, clothing and social relationships, among other things
Bisexual	M	H	Unjustified, unequal treatment
Lesbian	O	I	Persons emotionally, romantically, or sexually attracted/committed to the opposite sex
Pronouns	A	J	An irrational fear of/aversion to transgender persons' gender non-conformity based on prejudice
Transsexual	D	K	An umbrella term used to cover the multitude of diverse ways in which individuals can identify their gender as being distinctive from the mainstream population
Sexual orientation	B	L	An individual's internal sense of being male, female, or another gender
Heterosexual	I	M	A person who has significant romantic, emotional, physical and sexual attractions to members of both sexes
Transphobia	J	N	A preconceived or oversimplified generalisation about an entire group of persons without regard for their individual differences
Gender expression	F	O	A woman whose primary romantic, emotional, physical and sexual attractions are to women
Gay	E	P	Designations such as male/female or Mr/Mrs which are found regularly on ID documents
Gender marker	P	Q	A person born with physical, hormonal or genetic features that are neither wholly female nor wholly male; a combination of female and male; or neither female nor male

ACTIVITY 2.6: MAP THE NATIONAL HATE CRIME LEGISLATIVE CONTEXT (30 MINUTES)

Materials needed:

Paper and pens

In this activity, the group is tasked with discussing national hate crime legislation and indicating their understanding of how the legislation is defined. Participants will be asked if they have had experience investigating hate crimes and how the investigation and prosecution worked in practice. The following areas should be explored:

- ▶ What type of law (specific penalty enhancement, general penalty enhancement, specific offence)?
- ▶ What are the protected characteristics?
- ▶ What is police policy on investigating hate crimes?
- ▶ What is your role as an investigator?
- ▶ What is the role of the prosecutor as you understand it?
- ▶ What is the role of the judiciary as you understand it?
- ▶ What has been your experience of the legislation to date?
- ▶ Do you consider it effective?

Module Three: Policing hate crime against LGBTI persons – a human rights and anti-discrimination approach

INTRODUCTION AND BACKGROUND

While human rights can often feel quite removed from matters of “real policing,” they in fact affect every police officer’s core responsibilities, from ensuring victim safety and security to conducting effective investigations. Failure to meet these standards can have serious repercussions. Victims may lose confidence in the commitment of the police to protecting them, perpetrators go unchecked and are free to further offend, and police services risk legal claims of discrimination including being found in breach of the European Convention on Human Rights.

Hate crimes against LGBTI persons take place in a context of daily occurrences of prejudice and discrimination. Research has found that LGBTI persons experience hostility and harassment in public, and face discrimination at work, at school and when trying to access housing and health services. Some LGBTI persons experience harassment and even violence at the hands of the police. These experiences combine to create barriers that stop LGBTI persons reporting hate crimes to the police or cooperating with investigations and possible court proceedings. Common reasons for not reporting include: victims do not think that the police will take their complaint seriously; their experience is that such incidents happen too frequently to report; or because they fear repercussions from the perpetrators.

This means that when investigating hate crime against LGBTI persons, police officers need to be very careful to avoid re-victimisation. As we learned in Module Two, taking simple steps to ensure that police stations and personnel are LGBTI friendly can increase the chance that victims feel confident enough to cooperate during the investigation and in possible court proceedings.

This module outlines the human rights standards that are most relevant for the police in the context of hate crime against LGBTI persons, and includes exercises that can be used to encourage officers to rely on human rights standards and principles to support them in their efforts to effectively investigate hate crimes against LGBTI persons. Handout 3.3b gives a comprehensive overview of the most relevant international standards related to effectively policing hate crimes against LGBTI persons.

Where appropriate and possible, local CSOs should be invited to deliver a presentation and to engage in constructive dialogue with participants on the subject of the discrimination experienced by LGBTI persons in the national context. Opportunities for input from CSOs are highlighted throughout this module.

LEARNING OUTCOMES

Participants will:

- ▶ become aware of the broader context of prejudice, hostility and discrimination that LGBTI persons and communities face (knowledge); identify specific barriers to reporting hate crime faced by LGBTI communities and the corresponding responsibilities of the police (skill);
- ▶ understand Council of Europe and other human rights standards that are relevant to hate crime against LGBTI persons, including key judgments of the European Court of Human Rights, and why they are important to their role (knowledge);
- ▶ recognise specific human rights violations that can be committed by the police (skill);
- ▶ become familiar with essential Council of Europe and other international standards.

OVERVIEW OF ACTIVITIES AND TIMINGS

- ▶ Activity 3.1: Understanding the broader context of discrimination that LGBTI persons and communities experience (30 minutes)
- ▶ Activity 3.2: Identifying specific barriers to reporting hate crime faced by LGBTI communities; reading of the FRA report (30 minutes)
- ▶ Activity 3.3: Understanding key CoE standards, other human rights standards and national standards relevant to hate crime against LGBTI persons; understanding key ECHR judgments and why they are important for the role of a police officer (knowledge) (60 minutes)

ACTIVITY 3.1: UNDERSTANDING THE BROADER CONTEXT OF PREJUDICE AND DISCRIMINATION THAT LGBTI PERSONS AND COMMUNITIES EXPERIENCE

Materials needed:

Flipchart paper, pens

Handout 3.1

1. Before the session, prepare two flipchart pages:
 - ▶ a table entitled: "LGBTI persons' experiences of prejudice and discrimination" on a flipchart with four columns: public spaces, public services (housing, education), private, workplace. You can also sketch out the categories as a mind map. The important thing is to have the four categories clearly visible, with enough space to add words.
 - ▶ a page called "LGBTI persons' experience of the police".

"LGBTI persons' experiences of prejudice and discrimination"

Public space (on the street, in restaurants/pubs)	Public services (health, housing, education)	Private (family life)	Workplace

2. Before the training session, research evidence of prejudice and hostility experienced by LGBTI persons in the context/country in which the training session is taking place. For example, you could look for data on the websites of TGEU and ILGA-Europe. You could also contact local CSOs for this information (see 3.2a below).

3. 5 minutes: Introduce the activity by explaining that LGBTI persons face prejudice, hostility and discrimination in many areas of their lives. Let participants know that they will be studying some examples of these experiences in the next part of the activity. Explain that, for now, you would like them to share their ideas about what kinds of hostility and prejudice LGBTI people face. As participants propose examples, make a note of them in the correct column. If no one offers any suggestions, start by making one or two suggestions yourself, referring back to previous discussions where appropriate. Here are some examples that you could add:

Public space (on the street, in restaurants/pubs)	Public services (health, housing, education)	Private (family life)	Workplace
Name calling; staring	School bullying; inappropriate treatment by health professionals; being unfairly evicted by landlords	Threats of being thrown out of the family home; physical assault and abuse by family members	Jokes; Inappropriate comments; lack of promotion

4. Divide participants into small groups of four or five. Try to make sure that you separate people who regularly work together and get a good gender mix if possible.

5. Give each group handout 3.1 and ask them to read it and discuss it for a few minutes. Remind them to come prepared to add to the table.
6. Give the groups 10-15 minutes to read the handout and agree points to add to the table. Check on the groups to see that they are on track.
7. Bring the groups back into plenary and ask them to come up and add their points to the table. Encourage them to draw pictures or represent the points in other ways. Depending on the participants' suggestions, ask the other people present what they think of these ideas.
8. Summarise the following key points: LGBTI persons experience prejudice and discrimination in all areas of life.
9. Now put up the second flipchart paper, LGBTI persons' experience of the police. If there is no response you can make the following suggestions:
 - ▶ Lack of follow-up given to reported incidents
 - ▶ Experiences of harassment by the police
 - ▶ Experiences of discrimination in police responses
 - ▶ Experiences of violence, including physical assaults
10. Close the activity by highlighting key points and explain that the group will further explore these issues in the next activity.

HANDOUT 3.1: UNDERSTANDING THE BROADER CONTEXT OF DISCRIMINATION THAT LGBTI PERSONS AND COMMUNITIES EXPERIENCE

LGBTI persons experience hostility and discrimination in many areas of their lives. Homophobic and transphobic jokes are very common and LGBTI people are often stared at on the street. This sets the context of their experience of hate crime and hate-incidents, an experience which will affect their confidence in the police to respond appropriately in cases of hate crime.

Have a look at this graphic produced by the Fundamental Rights Agency in the largest EU wide study of LGBT persons.

<http://fra.europa.eu/en/publications-and-resources/infographics/eu-lgbt-survey>

What does this overview tell you about LGBT persons' experience of hostility and prejudice? Now read the quotations originating from the persons who were surveyed. How do you think that these experiences influence LGBT persons' feelings of safety and security in public and their willingness to report hate crimes and incidents against them?

I came out as lesbian when I was 18. Negative comments and jokes were the rules of communication, and anyone who expressed a comment in favour of LGBT rights (or just respect) was marginalised and harassed. Discrimination for me has never meant violent physical attack, but gossiping, exclusion, jokes, psychological violence, feeling inadequate, fear for myself and the persons around me: partner, family, friends."

(Italy, lesbian, 30)

"It's difficult to keep your job in France once the employer knows that you are gay. You are immediately considered as fragile."

(France, gay, 33)

"I worked in a bank for 24 years and I was constantly discriminated against by directors who felt that, being honest about my sexuality, I should not be promoted, because I could not command respect. Once a new employee asked to have his desk placed at 'a reasonable distance' from mine, because he feared that I might assault him sexually. His request was considered reasonable and my desk was moved. When I was finally promoted, I was ordered to be secretive about my sexuality."

(Greece, gay, 53)

[My female partner and I] do not visit night clubs, mostly because it feels too dangerous if they are not LGBT friendly, especially if the two of us are alone. We do not share our relationship openly with our landlord or persons living nearby."

(Slovenia, lesbian, 28)

National adaptation

Include extracts of data and case studies from any relevant national reports on hate crime, if available. Clearly cite the source, with details about how to access the publication.

ACTIVITY 3.2: IDENTIFYING SPECIFIC BARRIERS TO REPORTING HATE CRIME FACED BY LGBTI COMMUNITIES; READING OF THE FRA REPORT

This activity comprises reading, discussion in small groups and a facilitated discussion in plenary.

Materials needed:

Flipchart paper, pens

Handout 3.2

1. Prepare two flip chart pages. Entitle the first page: "Reasons for not reporting to the police". Entitle the second page: "What does this mean for the police? What can be done?"
2. Divide participants into small groups of 4-5 participants. Try to make sure that you separate persons who work together regularly and get a good gender mix if possible.
3. Give them handout 3.3 and ask them to follow the instructions. Give the group 10-15 minutes to read through the text and share their thoughts about the questions on the handout.
4. Bring the small groups back into the larger group. Ask participants to share their thoughts about the FRA report. Were they surprised to see the percentage of people who **do not** report crimes to the police? What did they think of the reasons why people don't report? Do they think this reflects their own context? Note down key points on the flipchart.
5. When taking the group through these questions, remind them that the FRA report is based on robust research that can be applied to other contexts. If participants challenge the findings, acknowledge that the study may have some flaws, but that it can still reveal important issues that need to be addressed when it comes to understanding why LGBTI persons do not report hate crimes. If you also have input from a local CSO, draw on that input to highlight local evidence of hate crime against LGBTI persons and their reasons for not reporting.
6. Now move on to the second flip chart page and ask the group to say what this means for the police and their practice.
7. Close the activity by summarising key points on the flip chart. These can be returned to later in the training.

ACTIVITY 3.2A: INVOLVEMENT OF LOCAL CSOS IN ACTIVITIES 3.1 AND 3.2 (OPTIONAL)

Local and national CSO involvement in the delivery of activities 3.1 and 3.2 would greatly enhance the experience for participants. Consider involving CSOs in giving a presentation of the broader context of prejudice and discrimination that LGBTI persons and communities experience and of the specific barriers to reporting hate crime faced by LGBTI communities. The CSO representative(s) could also co-facilitate the group discussions and add their specific information and data to the discussion. Refer to Module Five for a more in-depth discussion of these issues.

HANDOUT 3.2: IDENTIFYING SPECIFIC BARRIERS TO REPORTING HATE CRIME FACED BY LGBTI COMMUNITIES; READING OF THE FRA REPORT

1. Spend a few minutes reading section 2.3, "Reporting hate motivated violence" of the report entitled *EU LGBT Survey: European Union lesbian, gay, bisexual and transgender survey, Main results*, published by the EU Fundamental Rights Agency in 2013.

It explains the proportion of victims that report hate crimes to the police and sets out the reasons why victims do not report hate crimes against LGBTI persons to the police.

2. Now read

www.ilga-europe.org/sites/default/files/womens_experience_of_homophobia_and_transphobia.pdf

This highlights the impact of hate crimes against LGBTI persons – on women in particular – and shows that LGBT women are less likely to report hate crime. It also shows that women from minority groups are more likely to experience violent crime.

3. After you have finished this activity, discuss your thoughts within the group.

4. In the FRA report, what is the percentage of victims that reported hate crimes against LGBTI persons to the police?

5. What were the main reasons why victims did not report to the police?

WHAT DOES THIS MEAN FOR YOUR WORK?

As a group, agree a summary of your thoughts that you can share with your peers when you come back into the larger group.

ACTIVITY 3.3: UNDERSTANDING KEY COUNCIL OF EUROPE STANDARDS, OTHER HUMAN RIGHTS STANDARDS AND NATIONAL STANDARDS RELEVANT TO HATE CRIMES AGAINST LGBTI PERSONS

This activity highlights the centrality of human rights obligations in police practice. It starts off with key words, which are then further explained in the reading on *Identoba v. Georgia*.

Materials:

Card/ A4 paper
Flip chart, paper and pens
Handout 3.3a
Handout 3.3b

Note for trainer

In preparing this session, carefully read through handout 3.3b, which contains detailed information about relevant judgments of the European Court of Human Rights, Council of Europe standards and other international standards. ECHR judgments are particularly relevant when preparing this session.

1. Before the session, write the following terms and phrases on pieces of card or paper:

- ▶ *Article 3, European Convention on Human Rights*
- ▶ *Article 14, European Convention on Human Rights*
- ▶ *Positive obligation*
- ▶ *Procedural obligation*
- ▶ *Unmasking homophobic motive*

Then write each term on one piece of flipchart paper and put them up around the room.

2. At the start of the activity, hand out the pieces of paper with the terms described. Explain that these terms and phrases are central to the practice of a human rights approach to policing.

3. Ask participants to read out the terms and to offer an idea of what they mean. Explain that you are not looking for perfect answer but just ideas at this point. Ask another participant to write down the contributions offered on the flip chart. Have a short discussion about each term, but don't yet offer a definition. Explain that you will come back to this at the end of the session.

4. Now give out handout 3.3, which provides an overview of *Identoba v. Georgia*. Introduce this part of the activity by explaining that, while nothing in the summary is inaccurate, the aim is not to give an exhaustive description of the facts of the case, Georgia's laws or the law(s) that the Court considered. The point is to look at one example – that happened to take place in Georgia – and to identify the common human rights principles that apply to all police officers.

5. Give participants 5-7 minutes to read handout 3.3. Ask them to look out for the terms that you have just discussed together as a group and to look again at the definitions.

6. Bring the participants back to a larger group and launch a guided discussion. Go back to the definitions and terms that you introduced at the beginning of the training session. Start with Article 3 of the Convention. Ask participants whether they still agree with the definition and whether they would add anything to it. Ask them what it means for their practice.

7. Now talk about the term "positive obligation". Ask the group what it means and if they would add anything to the definition. Draw on the following expert opinion about the meaning of Article 3 in this discussion.

The positive obligation that Article 3 imposes means that states must take both preventative and investigative action in respect of any ill-treatment of individuals. This means that states must provide effective protection of an individual or individuals from the criminal acts of a third party, as well as taking reasonable steps to prevent ill-treatment which authorities know or ought to know about. In addition, states must conduct effective official investigations into alleged ill-treatment even if such treatment has been inflicted by private individuals.

Explain that these obligations already exist on the grounds of race, ethnicity and religion.

8. Now talk about **Article 14**. Ask if participants would add anything to their definition. During the discussion, draw on the following definition: The enjoyment of the rights and freedoms set forth in [the] Convention

shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

9. Now move on to the term “**unmasking bias motivation**” and what this means for police practice. Remind participants that we will come back to this when looking at bias indicators; explain what this means for police practice, protocols and training and that this is one of the key reasons why we are conducting this training session. Draw on the expert opinion in your discussion.

Use this expert opinion when discussing the topic and issues involved.

Police practice: “it was essential for the relevant domestic authorities to conduct the investigation [...], taking all reasonable steps with the aim of **unmasking** the role of possible homophobic motives for the events in question. The necessity of conducting a meaningful inquiry into the discrimination behind the attack [...] was indispensable given, on the one hand, the hostility against the LGBT community and, on the other, in the light of the clearly homophobic hate speech uttered by the assailants during the incident. The Court considers that without such a strict approach from the law enforcement authorities, prejudice-motivated crimes would unavoidably be treated on an equal footing with ordinary cases without such overtones, and the resultant indifference would be tantamount to official acquiescence to or even connivance with hate crimes” (para. 77).

10. Finally, move on to a discussion about procedural obligations. Ask participants what this means in their practice. Make it clear that, where there is evidence of homophobia in society and someone is victimised on the basis of their sexual orientation, the police have a duty to investigate it and this is the procedural element of their human rights obligations. Draw on this expert opinion as you guide the discussion.

“The Court’s language is extremely clear and sends a strong and powerful message to all contracting states: when there are negative attitudes towards sexual minorities in society and there is a known likelihood of homophobic abuse, then law-enforcement authorities are under a ‘compelling positive obligation’ (para. 80) to protect LGBT individuals. Furthermore, states have a procedural obligation to investigate homophobic hatred ‘with particular emphasis on unmasking the bias motive’ (para. 80). As the Court said, if states do not take such action then ‘it would be difficult [...] to implement measures aimed at improving the policing of [...] peaceful demonstrations in the future’ (para. 80).”⁴¹

11. Finally, distribute handout 3.3b and draw participants’ attention to the detailed information on judgments of the European Court of Human Rights and other relevant international standards. Emphasise that these are important resources in their work.

41. <http://echrso.blogspot.co.uk/2015/05/the-judgment-in-identoba-and-others-v.htm>.

HANDOUT 3.3A: OVERVIEW OF ECHR CASE *IDENTOBA V. GEORGIA*

This handout gives an overview of the case of *Identoba v. Georgia* for training purposes. For full details of the case, go to the ECHR website goo.gl/ddlwPG.

Background

What happened?

Identoba were granted permission by the Georgian authorities to organise a peaceful march on 17 May 2012 in the centre of Tbilisi to mark the International Day Against Homophobia. The authorities confirmed that “police forces would be deployed to ensure that the procession took place peacefully”.

On the day, LGBT marchers were confronted by “a hundred or more counter-demonstrators, who were particularly aggressive and verbally offensive.” The aggression escalated to banners being grabbed and torn, the pushing and punching of the LGBT marchers and at least one person being kicked and beaten. Several marchers sustained physical injuries. Specific threats that the marchers “should be burnt to death and crushed” were made.

When the marchers were confronted by the counter-demonstrators, the police “suddenly distanced themselves from the scene”. Other police on the scene informed the LGBT marchers that it wasn’t their duty to intervene, because they were not part of the police patrol. After receiving telephone calls from the marchers, other police officers arrived and intervened to stop the beatings, but the threats continued. Several of the LGBT marchers were arrested by the police. According to the Court judgment, this was “to prevent them from committing an administrative offence – impeding road traffic – and to protect them from the counter-demonstrators’ assault.”

After the event

The applicants made several detailed complaints in relation to the violence perpetrated against them and the lack of police protection (see paragraphs 20-28).

The decision of the ECHR

The context of homophobia and hostility

The Court drew upon evidence of homophobia and negative attitudes towards LGBT persons in Georgia in forming its judgment in favour of the applicants. This evidence was based on a visit made by the Council of Europe Commissioner for Human Rights to Georgia and on evidence from the European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA-Europe). The Court concluded that the background of negative attitudes in “some quarters of Georgian society” rendered the “discriminatory overtones of the incident of 17 May 2012 and the level of vulnerability of the applicants, who publicly positioned themselves with the target group of the sexual prejudice... particularly apparent” (paragraph 68). This, combined with the lack of police support during the march, led the Court to conclude “that the treatment of the applicants must necessarily have aroused in them feelings of **fear, anguish and insecurity**, which were **not compatible** with respect for their human dignity and **reached the threshold of severity within the meaning of Article 3 taken in conjunction with Article 14 of the Convention.**”

The police did not protect

Second, the Court found that the domestic authorities knew or ought to have known about the risks associated with this event, “and were consequently under an obligation to provide **heightened** state protection” (paragraph 72). However, it concluded that the police “failed to provide adequate protection to the thirteen individual applicants from the bias-motivated attacks of private individuals during the march of 17 May 2012” (paragraph 74).

Lack of an effective investigation

Although the perpetrators had been caught on video, and the victims had suffered injuries, the authorities “inexplicably narrowed the scope of the investigation and opened two separate and detached cases concerning the physical injuries inflicted on two individual applicants only” (paragraph 75). In addition, the investigation

had lasted over two years, and only minor administrative fines had been given to the perpetrators at the time the judgment was given.

The authorities did not instigate a **hate crime investigation** nor did they apply Georgia's existing hate crime laws. Bearing in mind the circumstances of the case and the fact that Georgia does have hate crime laws, the Court found that:

"It was essential for the relevant domestic authorities to conduct the investigation in that specific context, taking all reasonable steps with the aim of **unmasking the role of possible homophobic motives for the events in question**. The necessity of conducting a meaningful inquiry into the discrimination behind the attack on the march of 17 May 2012 was indispensable given, on the one hand, the hostility against the LGBT community and, on the other, in the light of the clearly homophobic hate speech uttered by the assailants during the incident. **The Court considers that without such a strict approach from the law-enforcement authorities, prejudice-motivated crimes would unavoidably be treated on an equal footing with ordinary cases without such overtones, and the resultant indifference would be tantamount to official acquiescence to or even connivance with hate crimes.**"

HANDOUT 3.3B: RELEVANT COUNCIL OF EUROPE STANDARDS AND OTHER INTERNATIONAL NORMS AND STANDARDS

Council of Europe standards

European Court of Human Rights Factsheets

These resources bring together cases and judgments of the European Court of Human Rights cutting across all aspects of the Convention. The most relevant factsheets are summarised below.

“Sexual Orientation Issues”⁴²

This factsheet provides an updated overview of all cases that consider criminal justice responses to incidents of hate crime and hate speech against LGBTI communities in Council of Europe member states. Further information is given about the cases of *Identoba v. Georgia* and *M.C. and C.A. v. Romania* that are considered in this manual in Modules Three and Five. In addition, the facts of two pending cases against Georgia and Croatia are outlined.

“Homosexuality: Criminal Aspects”⁴³

This factsheet describes the outcomes of cases brought by complainants alleging discriminatory treatment with regard to how states address sexual relations between gay persons as compared to heterosexual persons. These cases again illustrate the context as experienced by LGBTI persons, who are often treated as suspects and offenders as opposed to being recognised as potential victims of hate crime and other offences.

“Gender Identity Issues”⁴⁴

This factsheet does not refer to hate crime cases or the treatment of LGBTI persons by the police; however, the judgments it summarises highlight the struggles of transgender persons to have their gender identity legally and socially recognised. As explored in this module, it is important to understand the context of discrimination that LGBTI persons experience because it can undermine their confidence to report incidents to the police and their belief that incidents against them will be effectively investigated.

Committee of Ministers Recommendation CM/Rec(2001)10 on the European Code of Police Ethics,⁴⁵ Summary of key extracts

Even with the diversity of police services and institutions present within the membership of the Council of Europe, the Committee of Ministers recognises that there is a set of ethics that should be common across all services. The Code sets out detailed standards to be followed by the police in their efforts to fulfil their core functions, as set out below:

1. The main purposes of the police in a democratic society governed by the rule of law are:
 - ▶ to maintain public tranquillity and law and order in society;
 - ▶ to protect and respect the individual's fundamental rights and freedoms as enshrined, in particular, in the European Convention on Human Rights;
 - ▶ to prevent and combat crime;
 - ▶ to detect crime;
 - ▶ to provide assistance and service functions to the public.

In the context of police training, there is a clear connection between each of these purposes and the effective, fair and safe policing of hate crimes against LGBTI persons. Police obligations to, “carry out their tasks in a fair manner, guided, in particular, by the principles of impartiality and non-discrimination” are emphasised throughout the Code, including in the areas of support and assistance to victims; developing a culture of non-discrimination and respect for individual rights within police services; and specifically in relation to upholding the European Convention on Human Rights and the general prohibition on discrimination with respect to the rights enshrined in the Convention.

42. www.echr.coe.int/documents/fs_sexual_orientation_eng.pdf.

43. www.echr.coe.int/Documents/FS_Homosexuality_ENG.pdf.

44. www.echr.coe.int/Documents/FS_Gender_identity_ENG.pdf.

45. www.refworld.org/docid/43f5c7944.html.

Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity⁴⁶

This recommendation highlights the most important articles of the Convention and the key findings of the European Court of Human Rights as they relate to issues affecting LGBTI persons. These include the importance of effective investigations into hate crime against LGBTI persons; relevant and effective laws that allow the court to take anti-LGBTI bias motivation into account; and safeguarding the right of freedom of expression and assembly, especially the right to protection when exercising the right to freedom of assembly.

The relevant articles are set out below.

“1. Member states should ensure effective, prompt and impartial investigations into alleged cases of crimes and other incidents, where the sexual orientation or gender identity of the victim is reasonably suspected to have constituted a motive for the perpetrator; they should further ensure that particular attention is paid to the investigation of such crimes and incidents when allegedly committed by law enforcement officials or by other persons acting in an official capacity, and that those responsible for such acts are effectively brought to justice and, where appropriate, punished in order to avoid impunity.

2. Member states should ensure that when determining sanctions, a bias motive related to sexual orientation or gender identity may be taken into account as an aggravating circumstance.

13. Member states should take appropriate measures to ensure, in accordance with Article 10 of the Convention, that the right to freedom of expression can be effectively enjoyed, without discrimination on grounds of sexual orientation or gender identity, including with respect to the freedom to receive and impart information on subjects dealing with sexual orientation or gender identity.

14. Member states should take appropriate measures at national, regional and local levels to ensure that the right to freedom of peaceful assembly, as enshrined in Article 11 of the Convention, can be effectively enjoyed, without discrimination on grounds of sexual orientation or gender identity.

15. Member states should ensure that law enforcement authorities take appropriate measures to protect participants in peaceful demonstrations in favour of the human rights of lesbian, gay, bisexual and transgender persons from any attempts to unlawfully disrupt or inhibit the effective enjoyment of their right to freedom of expression and peaceful assembly.

17. Public authorities at all levels should be encouraged to publicly condemn, notably in the media, any unlawful interferences with the right of individuals and groups of individuals to exercise their freedom of expression and peaceful assembly, notably when related to the human rights of lesbian, gay, bisexual and transgender persons.”

Council of Europe Parliamentary Assembly Resolution 1728 (2010) Discrimination on the basis of sexual orientation and gender identity⁴⁷

This resolution describes and recognises the range of discrimination experienced by LGBT persons, including hate crime and hate speech. It is an important complement to *Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity* described above. The resolution calls on the member states of the Council of Europe to “ensure that the fundamental rights of LGBT persons, including freedom of expression and freedom of assembly and association, are respected, in line with international human rights standards” and to “provide legal remedies to victims and put an end to impunity for those who violate the fundamental rights of LGBT persons, in particular their right to life and security”.

The resolution also calls for Council of Europe member states to “condemn hate speech and discriminatory statements and effectively protect LGBT persons from such statements while respecting the right to freedom of expression, in accordance with the European Convention on Human Rights and the case law of the European Court of Human Rights” and to “adopt and implement anti-discrimination legislation which includes sexual orientation and gender identity among the prohibited grounds for discrimination, as well as sanctions for infringements”.

Council of Europe Convention on Violence Against Women and Domestic Violence⁴⁸

Also known as the Istanbul Convention, this instrument introduces legally binding commitments relating to prevention, protection, investigation and sentencing. While violence against women and domestic violence are outside the scope of this manual, it is important to bear in mind that LGBTI persons can also be victims

46. www.coe.int/en/web/sogi/rec-2010-5.

47. <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=17853&lang=en>.

48. www.coe.int/en/web/istanbul-convention/about-the-convention.

of this type of violence. Further, some cases of targeted violence against LGBTI persons in the home can be considered and experienced as hate crime *and* domestic violence. For a trainer it is useful to explore this point during plenary discussions and ask participants about the issues raised when thinking about how domestic violence and gender-based violence interrelate with hate crime against LGBTI persons.

The Convention includes a non-discrimination provision which provides that victims are not to be discriminated against on grounds of gender identity or sexual orientation. For further background and information see the explanatory notes⁴⁹ and a helpful analysis provided by Transgender Europe.⁵⁰

Other international human rights standards

***Resolution adopted by the Human Rights Council on 30 June 2016 32/2: Protection against violence and discrimination based on sexual orientation and gender identity*⁵¹**

This resolution “strongly deplores acts of violence and discrimination, in all regions of the world, committed against individuals because of their sexual orientation or gender identity.” With this resolution, the members of the United Nations signatories to the resolution also appointed an Independent expert on protection against violence and discrimination based on sexual orientation and gender identity for a period of three years. The expert has a number of roles, including assessing the implementation of relevant human rights standards, offering technical assistance to member states, engaging in dialogue with public authorities and reporting their progress to the Human Rights Council.

For more UN standards relating to sexual orientation and gender identity, explore the SOGI UN Database.⁵²

***European Union Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime*⁵³**

This Directive was adopted on 25 October 2012 and entered into force on 15 November 2012. European Union member states had until 16 November 2015 to incorporate the provisions into their national laws. The Directive applies to all victims of crime and specifically refers to victims of hate crime, including victims of hate crimes against LGBTI persons. It imposes specific duties on European Union member states to treat victims of hate crime as a category requiring specific protection; to ensure that they have access to specific support services based on an assessment of their needs; and to ensure that criminal justice practitioners who are likely to come into contact with victims, including police, prosecutors and judges, are appropriately trained to ensure that victims are treated in a respectful and non-discriminatory manner.

Extracts from the most relevant articles are set out below.

Article 3: Right to understand and be understood

1. Member States shall take appropriate measures to assist victims to understand and to be understood from the first contact and during any further necessary interaction they have with a competent authority in the context of criminal proceedings, including where information is provided by that authority.
2. Member States shall ensure that communications with victims are given in simple and accessible language, orally or in writing. Such communications shall take into account the personal characteristics of the victim including any disability which may affect the ability to understand or to be understood.
3. Unless contrary to the interests of the victim or unless the course of proceedings would be prejudiced, Member States shall allow victims to be accompanied by a person of their choice in the first contact with a competent authority where, due to the impact of the crime, the victim requires assistance to understand or to be understood.

Article 8: Right to access victim support services

1. Member States shall ensure that victims, in accordance with their needs, have access to confidential victim support services, free of charge, acting in the interests of the victims before, during and for an appropriate time after criminal proceedings. Family members shall have access to victim support services in accordance

49. www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210.

50. <http://tgeu.org/protection-of-trans-people-under-the-istanbul-convention/>.

51. www.un.org/en/ga/search/view_doc.asp?symbol=A/HRC/RES/32/2.

52. www.icj.org/sogi-un-database.

53. <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1421925131614&uri=CELEX:32012L0029>.

with their needs and the degree of harm suffered as a result of the criminal offence committed against the victim.

2. Member States shall facilitate the referral of victims, by the competent authority that received the complaint and by other relevant entities, to victim support services.

3. Member States shall take measures to establish free of charge and confidential specialist support services in addition to, or as an integrated part of, general victim support services, or to enable victim support organisations to call on existing specialised entities providing such specialist support. Victims, in accordance with their specific needs, shall have access to such services and family members shall have access in accordance with their specific needs and the degree of harm suffered as a result of the criminal offence committed against the victim.

4. Victim support services and any specialist support services may be set up as public or non-governmental organisations and may be organised on a professional or voluntary basis.

5. Member States shall ensure that access to any victim support services is not dependent on a victim making a formal complaint with regard to a criminal offence to a competent authority.

Article 20: Right to protection of victims during criminal investigations

1. Without prejudice to the rights of the defence and in accordance with rules of judicial discretion, Member States shall ensure that during criminal investigations:

- a) interviews of victims are conducted without unjustified delay after the complaint with regard to a criminal offence has been made to the competent authority;
- b) the number of interviews of victims is kept to a minimum and interviews are carried out only where strictly necessary for the purposes of the criminal investigation;
- c) victims may be accompanied by their legal representative and a person of their choice, unless a reasoned decision has been made to the contrary;
- d) medical examinations are kept to a minimum and are carried out only where strictly necessary for the purposes of the criminal proceedings.

Article 22: Individual assessment of victims to identify victim protection needs

1. Member States shall ensure that victims receive a timely and individual assessment, in accordance with national procedures, to identify specific protection needs and to determine whether and to what extent they would benefit from special measures in the course of criminal proceedings, as provided for under Articles 23 and 24, due to their particular vulnerability to secondary and repeat victimisation, to intimidation and to retaliation.

2. The individual assessment shall, in particular, take into account:

- a. the personal characteristics of the victim;
- b. the type or nature of the crime; and
- c. the circumstances of the crime.

3. In the context of the individual assessment, particular attention shall be paid to victims who have suffered considerable harm due to the severity of the crime; victims who have suffered a crime committed with a bias or discriminatory motive which could, in particular, be related to their personal characteristics; victims whose relationship to and dependence on the offender make them particularly vulnerable. In this regard, victims of terrorism, organised crime, human trafficking, gender-based violence, violence in a close relationship, sexual violence, exploitation or hate crime, and victims with disabilities shall be duly considered.

4. For the purposes of this Directive, child victims shall be presumed to have specific protection needs due to their vulnerability to secondary and repeat victimisation, to intimidation and to retaliation. To determine whether and to what extent they would benefit from special measures as provided for under Articles 23 and 24, child victims shall be subject to an individual assessment as provided for in paragraph 1 of this Article.

5. The extent of the individual assessment may be adapted according to the severity of the crime and the degree of apparent harm suffered by the victim.

6. Individual assessments shall be carried out with the close involvement of the victim and shall take into account their wishes including where they do not wish to benefit from special measures as provided for in Articles 23 and 24.

7. If the elements that form the basis of the individual assessment have changed significantly, Member States shall ensure that it is updated throughout the criminal proceedings.

Article 25: Training of practitioners

1. Member States shall ensure that officials likely to come into contact with victims, such as police officers and court staff, receive both general and specialist training to a level appropriate to their contact with victims to increase their awareness of the needs of victims and to enable them to deal with victims in an impartial, respectful and professional manner.

2. Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall request that those responsible for the training of judges and prosecutors involved in criminal proceedings make available both general and specialist training to increase the awareness of judges and prosecutors of the needs of victims.

3. With due respect for the independence of the legal profession, Member States shall recommend that those responsible for the training of lawyers make available both general and specialist training to increase the awareness of lawyers of the needs of victims.

4. Through their public services or by funding victim support organisations, Member States shall encourage initiatives enabling those providing victim support and restorative justice services to receive adequate training to a level appropriate to their contact with victims and observe professional standards to ensure such services are provided in an impartial, respectful and professional manner.

5. In accordance with the duties involved, and the nature and level of contact the practitioner has with victims, training shall aim to enable the practitioner to recognise victims and to treat them in a respectful, professional and non-discriminatory manner.

Module Four: Investigating hate crimes against LGBTI persons

INTRODUCTION AND BACKGROUND

The primary responsibility of police officers is to prevent crime and, should crime occur, to investigate and detect criminal behaviour. This is particularly important in the area of hate crime, given the psychological impact on the victim,⁵⁴ the tendency for hate crimes to escalate and the possible impact on the wider LGBTI community. Preventing repeat victimisation is also an important factor. If not addressed, hate crimes can lead to further and more severe criminal behaviour. A failure to respond effectively on the part of the police may lead to significant challenges to police competence and damage community relationships.

As discussed in previous chapters, the police have a positive responsibility to do their job in a professional and thorough manner. This module is designed to equip police officers with the knowledge and skills to investigate hate crime professionally.

Investigating hate crimes against LGBTI persons is challenging, as it requires the police to obtain evidence from vulnerable victims, often in very stressful personal situations. It requires the victim to disclose information that they may not feel comfortable talking about.

Communities and victims will expect a swift and professional response from the police. Failure to clearly demonstrate this can erode trust and sends a message to communities that the police don't take hate crime seriously or, worse, that they endorse hate crimes.

The module begins with an exercise to support front-line police officers' understanding of steps that should be taken when initially responding to a hate crime incident. These include taking details from the victim, collecting physical evidence and making an official record of the crime.

The module then explores the investigation of hate crime from a victim-focused perspective. This includes supporting the victim at the scene of the crime, on the phone or at the police station. It explores the ideal way in which a statement can be taken and it then looks at further considerations for providing victim support after the comprehensive report has been compiled.

The unique needs of transgender victims of crime are then explored in some detail. This is important given the limited knowledge that police officers often have about transgender persons and the high rates of victimisation suffered by that group.

The module then examines bias indicators, the evidential building blocks to prove that hate crimes have occurred. Practical examples are then used to focus the attention of the participants on what is required to identify and prove a hate crime from a front-line policing perspective.

Finally, participants will be challenged to examine the relationship that exists between the police service and the local LGBTI community. The last module will focus on the importance of trust, a key factor both in encouraging reporting and in helping to secure the evidence required to support criminal prosecutions.

54. The Council of Europe recognises that the term "victim" is not accepted by many people who have been targets of hate crime. We acknowledge that in many instances people prefer the term "survivor" as it better reflects their lived experience. The term "victim" is used in this manual because it best fits the legal and technical status of a person targeted by hate crime who is in contact with the police and broader criminal justice agencies. As emphasised throughout this manual, the police should take a victim-centred approach and ask the targeted person how they would like to be addressed, and where possible, follow their wishes.

LEARNING OUTCOMES

Participants will:

- ▶ identify good practices in investigating hate crimes against LGBTI persons. This will be done both from the technical perspective of a police investigation and from a victim-centred angle;
- ▶ develop a better understanding of the specific challenges facing the transgender community and how best, from a policing perspective, to support transgender persons when they are victims of crime;
- ▶ understand and be able to identify bias indicators, the building blocks used to prove the bias motivation necessary for a successful hate crime investigation and prosecution;
- ▶ be able to identify hate crimes;
- ▶ understand the role of proactive policing in building trust, a key component for ensuring that policing is effective.

OVERVIEW OF ACTIVITIES AND TIMING

- ▶ Activity 4.1: Collecting the evidence: hate crimes against LGBTI persons – Action at the crime scene and subsequent criminal investigation (30 minutes)
- ▶ Activity 4.2: Collecting the evidence: hate crimes against LGBTI persons – A victim-centred approach (30 minutes)
- ▶ Activity 4.3: Collecting the evidence: victims of hate crimes against LGBTI persons – Transgender-specific considerations (60 minutes)
- ▶ Activity 4.4: Collecting the evidence: Bias Indicators – Proving bias selection/motive (30 minutes)
- ▶ Activity 4.5: Collecting the evidence: Bias Indicators – Identifying hate crimes against LGBTI persons (30 minutes)
- ▶ Activity 4.6a: The importance of trust: Police responses and the LGBTI community (30 minutes)

ACTIVITY 4.1: COLLECTING THE EVIDENCE: HATE CRIMES AGAINST LGBTI PERSONS – ACTION AT THE CRIME SCENE AND SUBSEQUENT CRIMINAL INVESTIGATION (30 MINUTES)

This activity comprises reading, discussions in small groups and a facilitated discussion in plenary.

Materials needed:

Flipchart paper, pens

Breakout rooms or space within the training room

Handouts 4.1a and 4.1b

1. Prepare three flip chart pages.
 - ▶ Entitle the first page:
“Collecting oral testimony: Victim and witness evidence”
 - ▶ Entitle the second page:
“What to collect: Forensic and technical evidence”
 - ▶ Entitle the third page:
“At the station: Making an initial official record”
 - ▶ Entitle the fourth page:
“Further investigation: Exploring all avenues.”
2. Divide participants into four groups. Try to make sure that you separate people who regularly work together and get a good gender mix if possible.
3. Distribute handout 4.1a and ask participants to follow the instructions. Give the group 10-15 minutes to read through the scenario and, using the above headings, brainstorm all of the issues a police officer should consider when investigating a crime. One member of the group should record these.
4. Bring the small groups back into the larger group. Ask for the spokesperson from each group to present the key points identified by their group. Then ask all the participants if anyone can think of points that are missing.
5. When going through the points, refer to the good practice guide at 4.1b, highlighting key points and any that may have been missed.

HANDOUT 4.1A

Collecting the evidence: hate crimes against LGBTI persons – Action at the crime scene and subsequent criminal investigation

This activity comprises reading, discussions in small groups and a facilitated discussion in plenary.

- ▶ One participant should be delegated responsibility to read the following scenario to the group.
- ▶ One participant should be delegated responsibility as note-taker.

Scenario:

City Centre Assault:

Two lesbian women leave an LGBTI venue in the city centre. 100 metres from the venue the women are attacked by a group of males, some of whom are armed with sticks. The women are badly beaten with sticks, punched and kicked. The offenders shout homophobic abuse at the women before and during the assault. A passer-by phones the police and you arrive at the scene.

Having read the scenario above, read the description of the task below that your group has been assigned. Brainstorm ideas for 10-15 minutes, taking notes to help present your findings to the main group.

Group 1 – task:

Collecting oral testimony: Oral evidence from victims and witnesses

What are the key points to consider when taking details from victims and witnesses at the scene?

Group 2 – task:

What to collect: Forensic and technical evidence

What are your key responsibilities surrounding the collection of forensic and technical evidence?

Group 3 – task:

At the station: Making an initial official record

What are the key considerations that the police should consider when returning to the station and filing an official report? What does the police organisation need the police officer to do and why?

Group 4 – task:

Further investigation: Exploring all avenues

Outline the investigation process after the initial on-scene investigation and having made your official report at the police station. Without an initial named suspect, what good investigative practices could you employ?

HANDOUT 4.1B: INVESTIGATION OF A HATE CRIME AGAINST LGBTI PERSONS – FROM ARRIVAL AT CRIME SCENE, COLLECTION OF TECHNICAL AND WITNESS EVIDENCE AND FOLLOW-UP ENQUIRIES

The initial actions at the scene of a crime can have huge implications for the success of a criminal investigation. A failure to record written testimony, to record what actions you took as a police officer or to collect physical evidence can result in a failed criminal case.

It is particularly relevant to hate crimes against LGBTI persons that the initial police interaction with the victim and/or witnesses can result in the provision of or withholding of vital information, which again could make or break a prosecution for a serious crime.

This handout provides some guidance to police officers on action to take at the scene of a crime, in terms of collecting witness and forensic evidence. It then explores the reporting of the crime through official police channels and some ideas for follow-up investigation.

Trainer tip: the following guide is not exhaustive and local best practice guides and regulations should be consulted prior to exploring this area further.

A) Collecting oral testimony: Victim, witness and suspect evidence

What are the key points to consider when taking details at the scene from victims and witnesses?

B) What to collect: Forensic and technical evidence

What are the key tasks surrounding the collection of forensic and technical evidence?

C) At the station: Making an initial official record

What are the key considerations that the police should bear in mind when returning to the station and filing an official report. What does the police organisation need the police officer to do and why?

D) The follow-on investigation: Exploring all avenues

Outline the investigation process after the initial on-scene investigation and having made your official report at the police station. What good investigative practices could you employ?

► Collecting oral witness evidence at the scene

Key points to consider when taking details at the scene from victims and witnesses.

While the notes taken at the scene may just be a preliminary record, they are likely to be used throughout the investigation and may be examined at the prosecution stage. It is thus vital to record as much detail as possible.

Notes should be sufficiently detailed to allow a second investigator to carry the investigation forward should the case be reallocated to a detective/hate crime investigator/other.

- Identify if witnesses require interpreters or any other support to assist them in providing evidence. Family members/friends can initially be used if an interpreter is not available at the scene. Children should never be used unless it is an emergency situation.
- Police officers should use language which is open and inclusive, such as:
 - "Do you have a partner?" instead of "Are you married?"
 - "Are you in a relationship?" instead of "Do you have a boyfriend/girlfriend?"
- Victims should be allowed to explain what happened in their own words and in their own time. A patient approach may result in key evidence being provided, evidence that may otherwise be missed.
- If victims are too distressed or too badly injured, defer detailed questioning until they are in a better position to talk (and arrange medical treatment where appropriate).
- Victims should use their own language and not police language. Clarification can be sought if there is ambiguity.
- Record verbatim anything said by the suspects to the witnesses.
- If a suspect is at the scene, record any admissions in accordance with local legislation/police regulations, cautioning as appropriate. Use their exact words.

► Collect forensic and technical evidence at the scene

Key tasks surrounding the collection of forensic and technical evidence at the scene of hate crimes against LGBTI persons.

Trainer tip: The list below is not exhaustive and local guidance from technical experts and manuals should be considered.

- ▶ Secure the scene on arrival, cordoning off the location of the incident and any areas where offenders may have been or where they fled the scene.
- ▶ Preserve any visible evidence and take photographs of all relevant areas and exhibits. Consider taking a video of the scene if resources are available and it is appropriate. Ensure physical evidence showing bias is collected (e.g. photograph homophobic graffiti).
- ▶ Preserve any trace evidence on the victim. Remember that every contact leaves a trace and evidence from the offenders may be present on the skin and clothes of the victim (blood, saliva, clothing fibres, hair, DNA, etc.).
- ▶ Consider taking swabs if appropriate and seizing clothing once a change of clothes has been made available.
- ▶ Photograph injuries of the victim, obtaining consent where appropriate. You may have to take photographs after a period of time to allow for bruising to become visible.
- ▶ Arrange for crime scene examiners or forensic specialists to be present as required.
- ▶ Gather and package all physical evidence in accordance with local regulations and best practices.
- ▶ Identify opportunities for obtaining DNA evidence from the scene. Sources include weapons/tools used, anything they may have been touched or drunk out of, blood, saliva, hair or other bodily fluids. As stated above, the suspect's DNA may be present on the victim.
- ▶ If the incident is being reported by telephone, advise the victim/witness to preserve any evidence.
- ▶ Seek the assistance of trained investigators if available.
- ▶ Gather CCTV footage from the immediate and surrounding areas, paying particular attention to access and egress points from the scene.
- ▶ Should a suspect be identified and arrested, seek to secure clothing and shoes which may have evidence on them and take a DNA sample as well as fingerprints and photographs. Tattoos indicating membership of, for example, far-right wing groups should be photographed.
- ▶ Arrange for a medical examination and request consent to obtain a medical examiner's report.
- ▶ Assume the case will lead to a full court case and collect all evidence accordingly.

▶ **Back at the police station: Making an official record**

When recording and reporting requirements at the station immediately after the incident, remember that accurate recording of hate crime is vital to ensure that patterns of offending behaviour can be identified and that preventative measures are put in place. This section should be amended to support local practices and procedures.

- ▶ Create a crime report on the police database (paper-based or computer-based depending on the country).
- ▶ Record any initial observations that flag the incident as a possible hate crime.
- ▶ Carry out initial investigations to identify if there have been similar crimes committed before. There may be a pattern of offender behaviour. Review hate crime records in order to identify patterns of victimisation.
- ▶ Examine records to see if the victim has been a victim before. This is important to identify potential repeat victimisation.
- ▶ Report the incident to the relevant manager as required by local policy/regulations.
- ▶ Report the incident to the local/national hate crime unit in accordance with policy/regulations.
- ▶ If the investigation is passed on to another investigator/unit, ensure they are aware it may be a hate crime.
- ▶ Ensure where required that the relevant manager/police media spokesperson is informed of the incident.
- ▶ If a pattern of hate crime is identified, report it so that an appropriate response/intervention can be put in place.
- ▶ Make arrangements for interpreters for future victim/witness/suspect engagement if required.
- ▶ Arrange for the handover of exhibits to any investigating officer/investigating team.

▶ **Further Investigation: Exploring all avenues**

After the initial on-scene investigation and having made your official report at the police station, the case will often require significant further investigation, particularly where there is no named suspect(s). The good investigative practices outlined below are not exhaustive and should be expanded upon to suit local practices/procedures. The determination of police officers to identify offenders in hate crime incidents is key to building trust among minority communities. Where trust in the police service is low, LGBTI witnesses may not feel comfortable talking to the police. An extra effort will be required in these cases to encourage witnesses to come forward.

Police officers should:

- ▶ launch appeals for witnesses using the media, social media, etc.
- ▶ look for similar incidents in other locations/police districts
- ▶ look for witnesses who may regularly visit the area/scene (post office workers, refuse collectors, people on bus routes). Local beat/community police officers may be of assistance.
- ▶ have an experienced officer review the evidence gathered to date, to identify new lines of enquiry
- ▶ examine recordings at the emergency call centre
- ▶ use a forensic medical examiner for the case if appropriate.
- ▶ conduct door-to-door enquiries in the area.
- ▶ conduct a survey of CCTV footage
- ▶ examine all available crime records and criminal intelligence records to identify links
- ▶ triangulate mobile phone usage and examine phone evidence if appropriate
- ▶ use specialist units as appropriate
- ▶ request the services of a crime review unit (if one exists) to review evidence and investigations after 28 days have passed for serious cases
- ▶ canvass security employees and staff at LGBTI venues to see if they have any information that may assist. People may be having conversations within communities that they are not having with the police. Even “soft” intelligence can be of assistance
- ▶ seek the assistance of LGBTI civil society organisations in making appeals for information
- ▶ utilise information from 3rd party recording websites where available.

ACTIVITY 4.2: COLLECTING THE EVIDENCE: HATE CRIME – A VICTIM-CENTRED APPROACH (30 MINUTES)

This activity comprises reading, discussions in small groups and a facilitated discussion in plenary.

Materials needed:

Flipchart paper, pens

Breakout rooms or space within the training room

Handouts 4.2a and 4.2b

1. Prepare three flip chart pages.
 - ▶ Entitle the first page:
"Initial report: Supporting the victim at the scene of the crime/phone/station reception"
 - ▶ Entitle the second page:
"Taking a detailed victim statement"
 - ▶ Entitle the third page:
"Ongoing support and risk mitigation"
2. Divide participants into three groups. Try to make sure that you separate people who regularly work together and get a good gender mix if possible.
3. Give them handout 4.2a and ask them to follow the instructions. Give the group 10-15 minutes to brainstorm ideas. One member of the group should record these.
4. Bring the small groups back together into the larger group. Ask the person acting as spokesperson for each group to list the key points identified by their group. Then ask all the participants if anyone can think of points that are missing.
5. When going through the points, refer to the good practice guide at 4.2b, highlighting key points and any points that may have been missed.

HANDOUT 4.2A: INVESTIGATION OF A HATE CRIME AGAINST LGBTI PERSONS: A VICTIM-CENTRED APPROACH (30 MINUTES)

One participant should be delegated responsibility as note-taker.

The same scenario as activity 4.1 can be used for this exercise.

Scenario:

City Centre Assault:

Two lesbian women leave an LGBTI venue in the city centre. 100 metres from the venue the women are attacked by a group of males, some of whom are armed with sticks. The women are badly beaten with sticks, punched and kicked. The offenders shout homophobic abuse at the women before and during the assault. A passer-by phones the police and you arrive at the scene.

Having read the scenario, read the task below that has been assigned to your group. Brainstorm ideas for 10-15 minutes, taking notes as appropriate.

Group 1 – task:

The initial response: Supporting victims at the crime scene, when reporting a crime by phone or upon arrival at a police station to report a hate crime against LGBTI persons.

What should the police consider?

Group 2 – task:

Taking the official statement/report: Gathering the best evidence and supporting the victim when taking a detailed victim or statement.

What should the police consider?

Group 3 – task:

After the initial evidence is gathered: Providing ongoing victim information and support. Reducing the risk of re-victimisation.

What should the police consider?

HANDOUT 4.2B: INVESTIGATION OF A HATE CRIME AGAINST LGBTI PERSONS: A VICTIM-CENTRED APPROACH

What are the key considerations that the police should take into account about supporting the victim at the scene, when taking a detailed witness statement and on an ongoing basis? This handout provides guidance on the following three areas:

- A) supporting victims at the initial stages of a criminal investigation.
- B) taking a detailed victim/witness statement and creating an environment conducive to gathering the best evidence
- C) ongoing victim support and risk mitigation.

It should be noted that these recommendations are not exhaustive and should be adapted to take account of local legislation, policies and procedures.

► Supporting victims at the initial stages of the criminal investigation

The initial contact with the victim will have a lasting impression on how they view the police and the expectations they will have in terms of service provision. A bad start could destroy the chances of obtaining witness cooperation.

Key points to consider at the initial stages of the investigation are summarised below.

At the crime scene

- Call for medical attention if required, as the first priority.
- Ensure the victim is safe at the scene; remove them from the scene if they are in danger.
- The victim should be interviewed by one police officer to minimise trauma; a second officer can be present if required, but should ideally not ask questions.
- Reassure the victim that they are not to blame for what happened.
- Police officers should use language which is open and inclusive, such as:
 - "Do you have a partner?" instead of "Are you married?"
 - "Are you in a relationship?" instead of "Do you have a boyfriend/girlfriend?"
- Be patient and give the victim the space to express how they feel.
- Protect the victim's identity from unnecessary exposure. Advise the victim that the police will protect their privacy as much as is legally possible.
- Advise the victim of the realistic possibilities of the incident becoming public knowledge and/or reported in the media. Ensure that this information is not relayed in a way such that the victim thinks the police do not wish to pursue the matter.
- Refer the victim to a local victim support service (with their consent). Details of support services should be provided orally and in writing.
- The victim should be given details of the investigating officer or case contact person should they wish to communicate further. A second contact person should be considered if the initial person is to be absent for any extended periods.
- Ask the victim if they have a friend/partner that they want contacted for support.
- Record the victim's emotional state (e.g. are they in shock?)
- Based on the information gathered above, assess any immediate risk to the victim or their partner/immediate family. In addition to the points above, establish if the victim has received any threats, if there were weapons involved, if there have been previous incidents and whether the perpetrator – if known – has committed similar offences in the past. Based on the assessment, put in place any required protection measures immediately. For an example of a detailed risk assessment, see a model hate incident assessment designed by the Hampshire police.⁵⁵

If taking an initial report on the phone

- Identify if medical attention is needed and make arrangements for an ambulance if required.

55. www.hampshire.police.uk/internet/asset/de7ad9c0-8783-4cae-9cb9-2bc004ab0eal/hc-002299-15.%20additional%20information.pdf.

- ▶ Ask questions to ascertain whether the victim is safe at the scene, and advise the victim to leave the scene if they are in danger and can do so. Direct emergency response officers to the scene if the victim is in danger and cannot leave.
- ▶ Be patient and give the victim the space to explain what has happened to them, taking as much detail as possible.
- ▶ The victim should be given information on how best to make an official report. The victim should be given details of whom to contact, when and where. Arrangements should be made to have the victim contacted by an investigating officer in line with local police policy.
- ▶ Refer the victim to a local victim support service (with their consent). Details of support services should be provided orally and in writing.
- ▶ Record the victim's emotional state (e.g. are they in shock?)
- ▶ Conduct a victim risk assessment and put in place any protection measures required immediately. See the section above for more information about risk assessments.

If a victim arrives at the police station

- ▶ Call for medical attention, if required.
- ▶ The victim should be interviewed by one police officer to minimise trauma, a second officer can be present if required.
- ▶ Reassure the victim that they are not to blame for what happened.
- ▶ Take initial details from the victim in a private room and not at the public counter.
- ▶ Police officers should use language which is open and inclusive, such as:
 - “Do you have a partner?” instead of “Are you married?”
 - “Are you in a relationship?” instead of “Do you have a boyfriend/girlfriend?”
- ▶ Protect the victim's identity from unnecessary exposure. Advise the victim that the police will protect their privacy as much as is legally possible.
- ▶ The victim should be given details of the investigating officer or case contact person should they wish to communicate further. A second contact person should be considered if the initial person is to be absent for any extended periods.
- ▶ Refer the victim to a local victim support service (with their consent). Details of support services should be provided orally and in writing.
- ▶ Advise the victim of the realistic possibilities of the incident becoming public knowledge and/or reported in the media. Ensure that this information is not relayed in a way such that the victim thinks the police do not wish to pursue the matter.
- ▶ Be patient and give the victim the space to express how they feel.
- ▶ Ask the victim if they have a friend/partner that they want contacted for support.
- ▶ Record the victim's emotional state (e.g. are they in shock?)
- ▶ Conduct a victim risk assessment and put in place any protection measures required immediately. See above for further information about risk assessments.

▶ Taking a detailed victim/witness statement. Creating an environment conducive to gathering the best evidence

The interview is often the point in the investigation where key evidence is provided. This can make or break a criminal case. The police must balance the need to press for as much detailed information as possible with the needs of the victim, including the need for privacy.

- ▶ Ensure the interview room is quiet and that you will not be disturbed while taking the statement.
- ▶ Place a “do not disturb” sign on the door.
- ▶ Make the setting as comfortable as possible.
- ▶ Turn off mobile phones and try to ensure you are not disturbed for the period in question.
- ▶ Provide breaks when required.
- ▶ Do not use judgemental language or give your personal opinion on the victim's individual circumstances.
- ▶ Let the victim know that you appreciate that giving evidence is difficult.

- ▶ Use a reassuring tone.
- ▶ Be careful with your body language and keep as neutral an expression as possible.
- ▶ Be respectful at all times, acknowledging pain/upset.
- ▶ Do not pressurise the victim if they are distressed. It may be necessary to take a second statement at a later stage. Where this presents legal difficulties, this should be explained to the victim.
- ▶ Be patient with the victim if they go into great detail about the incident beyond what you require for a statement.
- ▶ Allow sufficient time and do not rush the process.
- ▶ Avoid criticising the victim's behaviour.
- ▶ Avoid making assumptions about the victim's religion, lifestyle, sexual orientation, etc.
- ▶ Never use discriminatory terms.
- ▶ Never belittle the seriousness of the crime. This is particularly relevant where the offenders are youths or if alcohol was involved.
- ▶ Consider taking the statement at a neutral venue or at the victim's home if that is appropriate given the facts of the case.

▶ **Ongoing victim support and risk mitigation**

After the initial interaction and once the statement has been taken, follow the recommendations set out below.

- ▶ The victim should be contacted within 24 hours of the investigating member being appointed to reassure the victim that they are being taken seriously.
- ▶ After the initial risk assessment has been conducted, the risk to the victim should be periodically monitored and appropriate action should be taken to mitigate against risks identified.
- ▶ Advise a local community officer or beat officer to call in to see the victim and provide reassurance where appropriate. You should discuss this with the victim prior to doing so.
- ▶ In serious cases, consider bringing in a family liaison officer (a trained police officer who liaises with the victim/family in a major investigation) or trained LGBTI liaison officer.
- ▶ The victim should be notified if a suspect has been arrested, charged, or released from custody.
- ▶ If the suspect is released from custody, the victim should be notified about why the suspect was released.
- ▶ The victim should be provided with a single point of contact and a secondary contact person if the single point of contact is to be absent for significant periods.
- ▶ Victim support referrals should be made if these have not been attended to already.
- ▶ Advice on crime prevention and home and personal security should be provided.
- ▶ The victim should be advised of any media requests for information.
- ▶ To mitigate risks, the victim should be provided with home and personal security equipment (burglar alarms, security guards, etc.) where appropriate.
- ▶ Re-housing should be supported if required.
- ▶ The victim's details should be safeguarded on paper and in electronic databases, as required.
- ▶ Victims may require a name change or a whole new identity in serious cases.
- ▶ Victim relocation programmes should be considered in these circumstances.
- ▶ Provide suitable support for victims when they are required to attend court including:
 - arranging access to victim support rooms/witness waiting rooms;
 - arranging for the victim to visit and view the court before the trial (in conjunction with court services, if available);
 - arranging for the investigating officer or a nominated officer to meet and remain with the victim where possible. If unable to do so, a "witness liaison" should meet and remain with the victim.
 - If none of the above is possible, it might be worth suggesting that the victim be accompanied by a friend or family member who is not evidentially connected with the case.

ACTIVITY 4.3: COLLECTING THE EVIDENCE: VICTIMS OF HATE CRIMES AGAINST LGBTI PERSONS – TRANSGENDER-SPECIFIC CONSIDERATIONS (60 MINUTES)

Materials needed:

Flipchart paper, pens

Handouts 4.3a & 4.3b

This activity includes a presentation by the trainers (possibly along with a presentation by a CSO focusing on transgender issues, or the presentation of suitable video material on the lives of transgender persons), covering transphobic hate crime and good policing practices, discussions in small groups, and a facilitated discussion in plenary.

At the start of the presentation, participants should be asked to take notes during the presentation regarding the key points raised that address the following questions:

1. What makes transgender persons particularly vulnerable to crime?
2. What can the police do to support transgender victims of crime?

Trainer tip: Where possible, a local transgender or LGBTI CSO should be brought in to provide a comprehensive briefing on the experiences of transgender persons, their experience as victims and to provide advice on the best way for public officials to interact with them. Where this is not possible, the use of videos should be considered.

There are a multitude of factors relevant to the support of transgender victims, and handout 4.3a provides a detailed but non-exhaustive list of matters that police officers should take into consideration when engaging with transgender persons in an official capacity. Handout 4.3b can be provided to participants to assist them in focusing on the key activity questions.

HANDOUT 4.3A: COLLECTING THE EVIDENCE: VICTIMS OF HATE CRIMES AGAINST LGBTI PERSONS – TRANSGENDER-SPECIFIC CONSIDERATIONS

The information outlined below provides some guidelines and good practices for professional and supportive police interaction with transgender victims of crime. A number of the issues are also relevant to intersex persons.

1) Gender identity and law enforcement

As outlined previously, transgender persons suffer high levels of victimisation across a range of crime areas, including sexual violence and murder. Rates of victimisation are greater in the case of certain subgroups such as ethnic minority transgender persons and young transgender persons. Given the high levels of social stigma and criminal victimisation, delivering a professional response to transgender persons should be a priority for law enforcement.

In many countries, transgender persons, in particular those who engage in sex work, often face discrimination by police officers, which can erode trust and make it harder for them to report crimes of which they are the victim. Displaying **professionalism** and **respecting the identity** of a transgender crime victim is vital if police officers are to be able to effectively support and serve this vulnerable minority community.

2) Manage curiosity

Police officers may not have had any interaction with a transgender person prior to their interaction with a transgender victim of crime. As police officers are often naturally inquisitive people, there may be questions that the police officers have in relation to the transgender person's lifestyle, physiology and psychology. It is important to remember that not all transgender persons are a spokesperson for their community. Transgender persons are subject to regular questioning and judgement throughout their lives. They do not need the police to create further stress by asking questions that are not relevant to their professional interaction with the victim. **A key responsibility for police officers is to stay in their professional role and only ask questions that are relevant to the investigation in question.**

When conducting an investigation, police officers should be mindful of the criminal charge they are trying to prove and the information required to provide evidence of a bias motive. It may be relevant to refer to the victim being transgender when proving a transphobic incident. It may not, however, be necessary to provide evidence in relation to more personal elements of the transitioning process, including questions about the person's physical history/anatomy. **If the information is not evidentially related to the crime or the bias motivation, do not ask the question.**

Transgender persons can often encounter judgemental reactions from family, friends and the wider community. When they arrive at a police station, having been the victim of a crime, it is vital that they do not face further judgement from the police. Keep facial expressions neutral and remain professional at all times. Language should be neutral, technical and non-judgemental. The role of a professional police officer is to be supportive and empathetic. **Secondary victimisation is likely to occur if the victim feels that they are going through a second judgemental/discriminatory process when engaging with the criminal justice system.**

2a) Confidentiality

Police officers have a professional responsibility to maintain confidentiality when investigating criminal matters. Transgender persons are often secretive about their past or, for a multitude of reasons, live their life without reference to their being transgender (i.e. as male or female in their new role). Releasing that information to third parties poses significant risks to the individual's safety and mental well-being. It could also cause problems for their relationships with family and friends and employment status. Police officers have a responsibility to keep personal information private. Data protection legislation should also be taken into consideration where it exists. This is particularly relevant in smaller towns and cities where anonymity is harder to maintain.

The role described above should be considered in conjunction with the risk of details of the criminal case reaching the media through court appearances or otherwise. The victim should be told what the risks are so that they can make an informed decision on how to proceed. *This information should never be conveyed in a manner whereby the victim feels they are being dissuaded from making a complaint.* Lastly, **never make promises you cannot keep regarding confidentiality** in order to influence someone to make a criminal complaint.

2b) Supports

Where the victim is particularly distressed, and in particular, where relationships between the transgender community and the police are challenging, it may be appropriate to **ask the transgender victim of crime if they would like to have a friend or family member present**. This person should not be linked evidentially to the case. It may also be helpful to take the statement at a neutral venue such as a community centre or at the victim's home. Local policy and legislation may impact on this, and the relevant policy and legislation should be considered when making such decisions.

3) Use of pronouns

As discussed in Module One, pronouns are the ways in which we refer to people - the use of a person's names, and words like he or she, his or hers. Pronouns are normally gender specific and when interacting with transgender persons, they should be used appropriately.

If you are involved in a brief interaction with a transgender person it may be best to avoid using pronouns where possible, and move on. If your engagement is longer than just a brief engagement, you should **ask the person which pronoun they prefer to use/how they prefer to be addressed**.

If you find yourself using the wrong pronoun it is best to apologise quickly and move on. Lingering on the subject could cause embarrassment for all, and a brief acknowledgement of the error is all that is required.

It is important to note that some transgender persons do not identify as male or female. They identify as *non-binary*. For non-binary persons, pronouns such as they/them/theirs (instead of she/her/hers) are the appropriate pronouns to use for non-binary transgender persons.

It is considered insulting to use the wrong pronoun on purpose and can cause considerable hurt. Police officers' use of the correct pronouns and sensitive questions about preferred pronouns show cultural competence and engender trust.

4) Legal name

Many countries do not legislate to provide for persons changing their name to coincide with their preferred gender. In other circumstances, a transgender person may not be in a position to change their name legally, even if it is permitted by the state. This can create a multitude of challenges, especially when dealing with police officers who are trained and experienced in examining identity documents.

It may be necessary for police officers to use a person's legal/birth name which may not correlate with their preferred gender. Where this legal requirement exists, **it is important to explain the reasons why and when and where the name will be used** (forms, statements, court and medical documents, etc). The police officer should still refer to the person's preferred name and gender when interacting wherever possible.

When taking a statement of complaint, acknowledge the identity of the witness and their preferred name and pronouns and use these when interacting with them. In the statement, commence by stating the witness's *legal name and gender*, and that they identify as *preferred name and gender*. Indicate that from that point on you will refer to the witness legally known as (legal name) as (chosen name). Once this has been clarified in the statement, you should continue to use the person's preferred identity and pronouns throughout the statement/report.

Documents to prove identity/gender should not be requested unless legally necessary for a specific purpose.

5) Body sensitivity

Sexual assault is a sensitive and personally devastating crime. This is particularly true for persons who may have the extra challenge of having difficulties with their own body. Many transgender persons can be anxious about their body parts, causing them to be reluctant to discuss them. This makes building trust even more important.

Where a forensic sexual examination is required, the procedures should be explained to the victim in advance so as to give them enough information to make a decision as to how to proceed. Victims' decisions in such cases should be respected.

6) Domestic violence

At times, internalised transphobia and shame can lead to low self-esteem. For some transgender persons, any relationship may be seen as better than none. This creates a fertile ground for domestic abuse.

Police officers should be aware that the person accompanying a victim of domestic abuse may be the abuser. In these circumstances it may be appropriate to briefly separate the victim and partner and ask questions such as: Do you feel safe at home? Does anyone in your life hit, hurt or threaten you? Is there any reason you may feel uncomfortable or unable to openly answer questions while your companion is present?

7) Family

The police may be required to engage with the family of the victim, particularly if the victim is missing, deceased or not available. Try to sensitively gauge the family's levels of acceptance and identify how far/whether they want to be involved in supporting the investigation. This may include asking if they are interested in talking to the media.

The family may not accept the new gender of their family member and you may find yourself using former details/pronouns when dealing with them. It may be necessary to have two types of conversation, one with the family and one with the victim.

The family of the victim may have no understanding of transgender issues and it may, in certain cases, be appropriate to arrange for them to receive information on the subject and to provide them with victim support services.

8) Detention of transgender persons

If it becomes necessary to arrest a transgender person, the police will have to carefully consider the arrangements for their detention. Most police forces do not have a policy on transgender persons being held in custody. Housing a transgender person with those of their legal/birth gender in prison facilities can be dangerous. Transgender persons are at a high risk of harassment, assault and sexual assault while incarcerated.

Where possible, the transgender person should be detained on their own in the event of short-term detention. For long-term detentions it is advisable to identify a means of housing the prisoner with their preferred gender. Prisoner safety should be the paramount consideration.

For anything other than short-term detention, the police should enquire about any medical transition treatments to ensure the prisoner's health during detention.

9) Intersex-specific issues

Even within a short lapse of time such as 24 hours, intersex persons may have medical needs. For example, cortisol steroid management may be needed to prevent salt wasting, or effective air conditioning may be needed to prevent overheating.

Most persons who are on hormone replacement therapy due to childhood gonadectomies can generally only manage up to 24 hours without accessing their hormones. Action will need to be taken immediately after 24 hours, and consideration must also be given to how much time has passed between the last dose taken and the person being detained.

Intersex persons who are on implants or injections will generally not need access to hormones in the short term. However, they may need access to a trained nurse for injections or a trained doctor for implants.

Among certain groups within the intersex "umbrella", there is a high risk of osteoporosis or osteopenia due to hormone mismanagement in earlier years. In some cases, individuals may have suffered multiple breaks and fractures, meaning their bones can break very easily. It is essential that these issues are included in a supportive and comprehensive needs assessment.

HANDOUT 4.3: QUESTIONS TO CONSIDER

1. What makes transgender persons particularly vulnerable to crime?

2. What can the police do to support transgender victims of crime?

ACTIVITY 4.4: COLLECTING THE EVIDENCE: BIAS INDICATORS – PROVING BIAS SELECTION/MOTIVE (30 MINUTES)

This activity comprises a plenary presentation, individual work and a facilitated group discussion.

Materials needed:

Handouts 4.4a and 4.4b.

- 1) The topic of bias indicators should be addressed using the information provided at the start of handout 4.4a.
- 2) Each member of the group should be given handout 4.4a and asked to write down as many examples of indicators of bias motivation that they can think of under each of the headings.
- 3) The results should then be compared in a group discussion, using the examples given in 4.4b to identify new ideas or indicators that may have been missed.

HANDOUT 4.4A: BIAS INDICATOR EXERCISE

Bias indicators

As outlined in the previous modules, hate crimes are defined as **criminal acts** accompanied by a **bias motive**.

Police officers will be experienced in identifying and collecting evidence to prove **criminal acts**. To support the collecting of evidence in relation to crimes, each criminal offence is defined in the criminal code. These definitions include “proofs”, which have to be present in order to proceed with an arrest/charge/prosecution for an offence.

When investigating hate crimes, evidence to prove an additional ingredient/proof is required: the presence of **bias motivation**. Motivation is somewhat subjective and can be harder to define. There are a number of factors which can be used to identify bias motivation, some evidentially stronger than others. These factors can be usefully categorised under the following headings:

1. Victim or witness perception
2. Comments, written statements and gestures,
3. Involvement of organised hate groups or their members
4. Location and timing
5. Patterns or frequency of previous crimes or incidents
6. Nature of violence
7. Lack of other motives

Given the subjective nature of motivations, and the fact that some indicators will be stronger than others, it may be necessary to build a case using a combination of bias indicators. In some cases, while there may be one indicator present, it may not be enough to prove that the incident is a hate crime, and the case may therefore be treated as a standard criminal act. Whether or not the case is indeed a hate crime is a matter to be decided by the prosecutor, based on the facts presented by the police. It is thus vital that the police gather and present any available evidence to the prosecutor and do not decide themselves that the crime is not a hate crime, if the evidence suggests that it could be.

It is important to note that, even though the victim may not be LGBTI, the fact that the attackers selected the victim *believing* them to be so makes the offence a hate crime. What is important is the *motivation of the offender*, not the sexual orientation or gender identity of the victim.

Each case will need to be examined based on the facts available. Care should be taken to keep a look out for misleading facts or cases where offenders purposely feign bias motivation.

To better understand bias indicators, read the following scenario and examine the answers to questions a-d.

Scenario:

A gay couple leave a city centre gay club at 2 a.m. The club exit is down a dark side road. At the end of the road, a gang of youths have gathered. When the couple walk past the gang, the youths attack them and beat them up, punching and kicking them as they lie on the ground. The gang call them “faggots” and “queers” as they attack them. The gang then runs off. A witness calls the police.

a) Has a criminal offence occurred?

Yes, aggravated assault or affray (use local crime definition).

b) Was bias motivation demonstrated in the above scenario?

Yes, LGBTI bias motivation was demonstrated in a number of ways:

Location: The incident happened when the men exited a LGBTI venue (the gay bar).

Time: It happened at a time when LGBTI persons would be expected to be leaving that location.

Comments: Homophobic comments were made during the assault (“faggots” and “queers”).

Victim/Witness perception: The two victims were gay men.

c) What other evidence could the police look for?

The above assessment is made based on the limited information available in the example. Further investigations by the police could reveal information such as:

Victim/Witness perception: The victims may perceive that they were targeted because they were gay. The witness may have perceived the assault to be homophobic in nature.

Lack of other motive: There may be a lack of other motives (unprovoked attack, nothing stolen, etc).

Membership of hate groups: The suspects, if identified, may be associated with hate groups. There may be posts on social media about the attack.

Patterns/Frequency of similar crimes: Did similar attacks take place in the same area or at similar times or with a similar modus operandi?

d) Is this a hate crime? :

The incident is a hate crime, as it constitutes a criminal offence with a bias motive.

Homophobic and transphobic crime indicators

Use the time remaining available to outline some bias indicators that would provide evidence to investigating police officers that a homophobic/transphobic crime has occurred:

Victim or witness perception

Comments, written statements and gestures

Involvement of organised hate groups or their members

Location and timing

Patterns or frequency of previous crimes or incidents

Nature of violence

Lack of other motives

HANDOUT 4.4B: BIAS INDICATORS: HOMOPHOBIC AND TRANSPHOBIC

Based on the definition of a hate crime, hate crimes against LGBTI persons are crimes that are motivated by bias or prejudice towards lesbian, gay, bisexual, transgender persons and intersex persons. "Anti-LGBTI bias motivation" means that the perpetrator chose the target of the crime based on their actual or perceived sexual orientation or gender identity. The target may be a person, persons or property correctly or falsely associated with the LGBTI community.

It is very important to identify bias indicators for hate crimes against LGBTI persons, as this will help the relevant authorities to decide whether the case in question should be investigated as a possible hate crime against LGBTI persons.

A non-exhaustive list of bias indicators is set out below:

Victim or witness perception

- ▶ Did the victim or witness perceive that the criminal act that occurred was motivated by anti-LGBTI bias? (Note that the victim may not realise they have been the victim of a bias-motivated crime. They may also wish to deny that it was a bias-motivated crime, as they may be denying the LGBTI part of themselves.)
- ▶ A substantial portion of the community where the crime occurred perceived that the incident was motivated by bias.
- ▶ Was the victim with a same-sex partner at the time of the event? Were they holding hands or kissing? Were they wearing pride or other LGBTI badges/ribbons/clothing (rainbow/pink or black triangles)?
- ▶ Was the victim engaged in activities promoting LGBTI rights/services/issues at the time of the incident?
- ▶ Was the victim visibly identifiable as LGB or T due to dress, behaviour or presentation?
- ▶ Is the victim a public figure who is known as being LGBTI or for advocating LGBTI rights (the victim may be openly heterosexual but support LGBTI causes and thus become a victim of a LGBTI bias crime)?

Comments, written statements and gestures

- ▶ Did the perpetrator use homophobic/transphobic language or terminology when committing the crime?
- ▶ Did the perpetrator refer to the perceived sexual orientation, transgender status or gender identity of the victim?
- ▶ Did the perpetrator write homophobic or transphobic statements or refer to the perceived sexual orientation/gender identity in writing (possibly in an email/letter/on a social networking site)?
- ▶ Did the perpetrator use hand gestures that would indicate perceived sexual orientation?
- ▶ Were homophobic/transphobic graffiti left at the scene?

Involvement of organised hate groups or their members

- ▶ Did the perpetrator identify as part of an organised hate group?
- ▶ Did the perpetrator display through their clothing or tattoos any indication of belonging to an organised hate group?
- ▶ Does the perpetrator identify with any hate groups online, on social media, etc.?
- ▶ Is the offender known for making hate speeches or homophobic/transphobic speeches or comments (in writing or orally)?
- ▶ Did a hate group take responsibility for the assault?

Location and timing

- ▶ Did the attack happen during a major LGBTI event (e.g. Pride festival)?
- ▶ Did the attack happen at a time of political significance for LGBTI persons in the area (marriage equality laws being passed, opening of a new LGBTI bar for the first time in a city, or first gay pride event being held)?
- ▶ Did the offence happen near to LGBTI premises/bar/centre?
- ▶ Did the offence happen in an area that is known as a meeting place for LGB or T persons?
- ▶ Did the offence happen at a location that is known as a public sex environment/cruising area?
- ▶ Did the incident happen near a location used by extremist/hate groups?
- ▶ Was the location historically an LGBTI meeting place, even if it is not now?

Patterns/frequency of previous crimes or incidents

- ▶ Did the offence happen in a location where previous events have occurred or at similar times?
- ▶ Is there a pattern in the type of offence/graffiti/violence towards minority group members?
- ▶ Does the perpetrator have a history of committing this type of offence?

Nature of violence

- ▶ Was there an unusual level of violence/brutality or sexual violence associated with the attack that would appear inappropriate given the facts of the case?
- ▶ Did the violence concentrate on genitals or sexual organs?

Lack of other motives

- ▶ Did the attacker fail to display any financial or other motive when committing the offence (e.g. no theft during an assault or house burglary)?

ACTIVITY 4.5: COLLECTING THE EVIDENCE: BIAS INDICATORS – IDENTIFYING HATE CRIMES AGAINST LGBTI PERSONS (30 MINUTES)

This activity comprises reading, discussions in small groups and a facilitated group discussion.

Materials needed:

Handouts 4.5a and 4.5b

1. Divide participants into small groups. Try to make sure that you separate people who regularly work together and get a good gender mix if possible.
2. Distribute handout 4.5a and ask the groups to follow the instructions. Give the groups 10-15 minutes to read through the scenarios. They should then address the following points:
 - a) Ascertain if a crime has occurred
 - b) Identify evidence of bias motivation in the written scenario
 - c) What other evidence could the police look for?
 - d) Decide if the incident is a hate crime
3. Discuss the groups' findings in relation to each scenario in conjunction with handout 4.5b. Record further bias indicators identified by the group that do not appear on the handout.

Trainer tip: Scenario 6 is particularly challenging and forces the participants to look closely at the definition and hate-crime legislation. It may be useful to examine the scenario in the context of local legislation and legal thresholds before the training session commences.

HANDOUT 4.5A: IDENTIFYING BIAS INDICATORS (30 MINUTES)

Scenario 1:

On the morning of the first pride parade to be held in the capital city, a group of young gay men are walking through the streets to a meeting point. One man has a rainbow flag wrapped around his shoulders, and a couple in the group are holding hands. The group are attacked by a group of skinheads who punch, kick and spit at them.

- a) Ascertain if an unlawful punishable act (offence or crime) has occurred
- b) Identify evidence of bias motivation in the scenario
- c) What other evidence could the police look for?
- d) Decide if the incident is a hate crime

Scenario 2:

An office belonging to a local politician who is known widely in the media for supporting LGBTI rights is broken into. The interior of the building is damaged and homophobic slogans are sprayed on the politician's campaign posters. The politician is heterosexual. Nothing is stolen.

- a) Ascertain if a crime has occurred
- b) Identify evidence of bias motivation in the scenario
- c) What other evidence could the police look for?
- d) Decide if the incident is a hate crime based on a and b

Scenario 3:

A transgender woman is walking down the street when she is approached by a man who spits at her and shouts at her that she is a "fucking abomination" and that she should be put down. The woman does not know the man and has never met him before.

- a) Ascertain if a crime has occurred
- b) Identify evidence of bias motivation in the scenario
- c) What other evidence could the police look for?
- d) Decide if the incident is a hate crime based on a and b

Scenario 4:

A gang of youths attack a man on a main shopping street, stealing his wallet, phone and bag. As they are robbing the man, one of the attackers calls him a faggot and other names. The man is not gay.

- a) Ascertain if a crime has occurred
- b) Identify evidence of bias motivation in the scenario
- c) What other evidence could the police look for?
- d) Decide if the incident is a hate crime based on a and b

Scenario 5:

A transgender man is found murdered in his apartment. The man was beaten and stabbed to death. The body has been mutilated and an object has been inserted into the man's anus.

- a) Ascertain if a crime has occurred
- b) Identify evidence of bias motivation in the scenario
- c) What other evidence could the police look for?
- d) Decide if the incident is a hate crime based on a and b

Scenario 6:

A 20 year-old man makes advances to an older gay man on a dating website. The two men meet in a hotel and spend the night together. The young man secretly records the two having sex on his smartphone. The

young man starts to blackmail the older man, saying he will out him to his family and colleagues if he does not give him money.

- a) Ascertain if a crime has occurred
- b) Identify evidence of bias motivation in the scenario
- c) What other evidence could the police look for?
- d) Decide if the incident is a hate crime based on a and b

Scenario 7:

A 17 year-old intersex person who presents and identifies as male reveals their status to a schoolmate and asks that it be kept secret. The following day in the male locker room before gym class, the schoolmate along with 5 other students surround the victim and demand that he remove his trousers so that they can “get a good look at it”. When he refuses, the group pull off his trousers, punch him and call him a “freak” and a “faggot”. They leave him on the floor and take away his trousers and underwear. The victim has a broken nose and is very emotionally disturbed by the incident and refuses to return to school.

- a) Ascertain if a crime has occurred
- b) Identify evidence of bias motivation in the scenario
- c) What other evidence could the police look for?
- d) Decide if the incident is a hate crime based on a and b

HANDOUT 4.5B: IDENTIFYING BIAS INDICATORS (30 MINUTES)

Scenario 1:

On the morning of the first pride parade to be held in the capital city, a group of young gay men are walking through the streets to a meeting point. One man has a rainbow flag wrapped around his shoulders and a couple in the group are holding hands. The group are attacked by a group of skinheads who punch, kick and spit at them.

- a) Ascertain if a crime has occurred – Yes – Assault
- b) Identify evidence of bias motivation in the scenario

Timing: It is the day the first gay pride parade is to take place in the city.

Location: The men were on their way to the Pride meeting point.

Victim/Witness perception: The victims were all gay men. They were carrying a rainbow flag which identified them as gay. Two of them were holding hands.

- c) What other evidence could the police look for?

Comments: Did the offenders use homophobic language during the assault or refer to the victims' sexual orientation?

Involvement of hate groups: If identified, were the offenders members of hate groups? Did they have any tattoos or clothing which would indicate membership of such groups?

Crime patterns: Checking police reports - did similar attacks happen that day to other LGBTI persons?

Nature of violence: Unusual levels of violence used/weapons, etc.

Lack of other motives: Was the group robbed during the assault?

- d) Decide if the incident is a hate crime based on a and b.

The incident is a hate crime, as it combines a criminal offence and a bias motive.

Scenario 2:

An office belonging to a local politician who is known widely in the media for supporting LGBTI rights is broken into. The interior of the building is damaged and homophobic slogans are sprayed on the politician's campaign posters. The politician is heterosexual. Nothing is stolen.

- a) Ascertain if a crime has occurred – Yes – Burglary and criminal damage
- b) Identify evidence of bias motivation in the scenario

Victim/witness perception: *The victim is a known LGBTI advocate.*

Comments, written statements: *The homophobic slogans on the posters.*

Lack of other motive: *No other items were stolen.*

- c) What other evidence could the police look for?

Involvement of hate groups: Online/social media postings taking responsibility for the crime.

Timing: Was the politician involved in any significant LGBTI campaign at the time?

Patterns: Has this happened before, or have any other homophobic events happened recently to the politician, his posters or other LGBTI supporting politicians?

- d) Decide if the incident is a hate crime based on a and b

The incident is a hate crime, as it combines a criminal offence and a bias motive.

Scenario 3:

A transgender woman is walking down the street when she is approached by a man who spits at her and shouts at her that she is a "fucking abomination" and that she should be put down. The woman does not know the man and has never met him before.

- a) Ascertain if a crime has occurred – Yes – Assault and possibly public order offences
- b) Identify evidence of bias motivation in the scenario

Victim/witness perception: *The victim is transgender – the visibility of the transition may be relevant in terms of the transgender person being easily identified.*

Comments: *The offender called her an abomination, which is an unusual term and may have religious/biological implications.*

Lack of other motives: *The offender and victim did not know each other.*

Nature of violence: *The act of spitting implies strong feelings of disgust.*

c) What other evidence could the police look for?

Victim/Witness perception: Does the victim believe that it was a transphobic attack? Does any witness present perceive the attack to have been motivated by anti-LGBTI prejudice?

Location: Are there any LGBTI venues in the area the person could be coming from/going to? Are LGBTI known to frequent the area?

Patterns: Do police records show similar events happening in the area in the past?

d) Decide if the incident is a hate crime based on a and b

The incident is a hate crime, as it combines a criminal offence and a bias motive.

Scenario 4:

A gang of youths attack a man on a main shopping street, stealing his wallet, phone and bag. As they are robbing the man, one of the attackers calls him a faggot and other names. The man is not gay.

a) Ascertain if a crime has occurred – Yes – Robbery

b) Identify evidence of bias motivation in the scenario

Comments: The word faggot was used during the assault.

c) What other evidence could the police look for?

Victim perception: Did the victim think it was a homophobic crime?

Involvement of hate groups: Is there any evidence to believe that hate groups were involved?

d) Decide if the incident is a hate crime based on a and b

There is no clear evidence, apart from one use of a derogatory term, to prove homophobic motive. Homophobic terms are often used as a general abusive term and are not always directed at LGBTI persons.

Scenario 5:

A transgender man is found murdered in his apartment. The man was beaten and stabbed to death. The body has been mutilated and an object has been inserted into the man's anus.

a) Ascertain if a crime has occurred – Yes – Murder/Homicide

b) Identify evidence of bias motivation in the scenario

Victim/witness perception: The victim is transgender.

Nature of violence: Extreme violence shown, mutilation of genitals, stabbing of victim.

c) What other evidence could the police look for?

Comments, written statements: Any written evidence in the apartment/comments on social media.

Patterns: Evidence of similar modus operandi in other murders/serious assaults.

Lack of other motives: Was the victim robbed? Was there any history with any of the people involved which would explain such an assault?

d) Decide if the incident is a hate crime based on a and b

The incident is a hate crime, as it combines a criminal offence and a bias motive.

Scenario 6:

A 20 year-old man makes advances to an older gay man on a dating website. The two men meet in a hotel and spend the night together. The young man secretly records the two having sex on his smartphone. The young man starts to blackmail the older man, saying he will out him to his family and work colleagues if he does not give him money.

a) Ascertain if a crime has occurred – Yes - Blackmail

b) Identify evidence of bias motivation in the scenario

Victim/witness perception: The victim is gay. The offender may also be gay.

Comments: The offender threatens to out the man as being gay to persons who may react negatively.

c) What other evidence could the police look for?

Patterns: Evidence of similar offending by the blackmailing man.

d) Decide if the incident is a hate crime based on a and b

The incident is a hate crime, as it combines a criminal offence and a bias motive. Although the offender may also be gay, he selected the victim based on his sexual orientation, aware of the leverage he could use due to social prejudice.

Scenario 7:

A 17 year-old intersex person who presents and identifies as male reveals their status to a schoolmate and asks that it is kept a secret. The following day in the male locker room before gym class, the schoolmate along with 5 other students surround the victim and demand that he remove his trousers so that they can “get a good look at it”. When he refuses, the group pull off his trousers, punch him and call him a “freak” and a “faggot”. They leave him on the floor and take away his trousers and underwear. The victim has a broken nose and is very emotionally disturbed by the incident and refuses to return to school.

a) Ascertain if a crime has occurred – Yes – Physical assault.

b) Identify evidence of bias motivation in the scenario:

Victim/witness perception: The victim is intersex and was deeply upset by the incident, experiencing a particular violation of trust.

Comments: The offenders used hostile language about the victim’s body and genitals. Homophobic language was also used.

Nature of violence: The assault was particularly vicious and targeted the victim’s genitals, ripping off his trousers and underwear.

c) What other evidence could the police look for?

d) Decide if the incident is a hate crime based on a and b

The incident is a hate crime, as it combines bias motivation and a criminal offence. There will be questions concerning national law regarding the age of culpability (the offenders were teenagers) and whether hate crime on the ground of sex characteristics is covered by the current legal framework.

ACTIVITY 4.6: THE IMPORTANCE OF TRUST: POLICE RESPONSES AND THE LGBTI COMMUNITY (30 MINUTES)

This activity comprises reading and a facilitated discussion in plenary.

Materials needed:

Handout 4.6

1. Read the two examples, as set out in handout 4.6.
2. Ask the police officers present to consider the points raised in the handout.
3. Ask the police officers present what they believe the level of trust between the LGBTI community and the police to be in their areas of work.
4. Ask the police officers present what they believe would happen if such incidents occurred in their city next week.
5. Ask the police officers present what they think they could do individually and as a police service to improve the level of trust.

Trainer tip: There may be more relevant local/recent examples that you can use instead of the examples provided.

HANDOUT 4.6: THE IMPORTANCE OF TRUST – POLICE RESPONSES AND THE LGBTI COMMUNITY

The following examples are based on real events and demonstrate two starkly different police responses to crimes against LGBTI persons. They have been summarised to highlight the key learning points. While they occurred in different countries over different periods, the experiences are relevant.

The key here is the development of an awareness that the capacity to effectively investigate hate crimes is significantly enhanced when there is an existing positive relationship between the LGBTI community and the police.

Activities by the police to build trust on an ongoing basis support good policing in two key ways.

- ▶ Firstly, they can create and support the flow of information and intelligence upon which police officers can proactively act to prevent hate crimes from occurring in the first place.
- ▶ Secondly, they can create a sense of willingness for people to come to the police after a crime has happened, either to report the incident as a victim or to provide supporting evidence as a witness.

Examine the cases below and then debate the discussion points.

Case A) Murder of a gay man

A well-known gay man was socialising in a number of city centre bars. Having left the final venue, he went home with a man he had met that night. He was found in his living room the next day having been stabbed repeatedly in the neck and chest.

The police force used the investigation to develop a database of the gay men in the city. Gay men in the city were instructed to turn up at the city centre police station to be photographed and fingerprinted. There were many reports of the police abusing and intimidating gay men to coerce them into coming to the police station. The investigation led to almost 1,500 gay men being questioned, photographed and fingerprinted.

The collection of information on the gay men living in the city stopped when gay community groups took legal action against local police managers.

Investigating detectives at the time noted that support for the investigation was not forthcoming from the community. The case was never solved.

Case B) Bombing of LGBT venue

A right-wing extremist placed a nail bomb in a busy LGBT bar. The explosion killed three people and wounded 70 others.

At an open-air meeting in a nearby square a few days after the event organised by LGBT groups, the local chief of police attended and spoke to the LGBTI community. He stated that he would put in place a mobile police unit on the street where the bombing had happened and that it would be kept in the area until the investigation had been concluded.

The van was staffed by openly LGBTI police officers. Many LGBTI persons attended the mobile unit and gave statements to the police officers.

Group discussion:

Case A) Murder of a gay man

- ▶ What would you do if you were in charge of an investigation like the case described above?
- ▶ What was the primary function of the police in this case?
- ▶ What was the impact of the police approach on the LGBTI community and its members?
- ▶ What was the impact of the police approach on the criminal investigation?
- ▶ If a similar murder took place in your city next week, would you be able to access the LGBTI witnesses? Would they answer a public appeal to come forward and give information to the police?

Case B) Bombing of LGBT venue

- ▶ What would you do if you were in charge of an investigation like the case described above?
- ▶ What was the primary function of the police in this case?

- ▶ What was the impact of the police approach on the LGBTI community and its members?
- ▶ What was the impact of the police approach on the criminal investigation?
- ▶ If a similar bombing took place in your city next week, would you be able to access the LGBTI witnesses? Would they answer a public appeal to come forward and give information to the police?

General discussion point:

- ▶ If witnesses were nervous about providing evidence to the police, what could the police do to build trust with the LGBTI community?

ACTIVITY 4.7: SUPPORTING LGBT COMMUNITIES: AN EFFECTIVE POLICE RESPONSE (15 MINUTES PER EXAMPLE)

This activity comprises a short reading and a discussion of specific points in small groups, followed by a presentation and discussion in plenary session. All scenarios are real-life cases and reflect situations relevant to policing and the LGBTI community.

Trainer tip: Prior to using the examples below, trainers should examine the scenarios that police officers are likely to be involved in in the country concerned. The cases and discussion points below should best be used as a guide rather than directly translated, unless the scenario meets local needs. Any cases used should be drafted in such a manner that they are relevant to the police officers concerned, using local names, locations, etc. This will make the cases as real as possible for the participants.

Materials needed:

Handout 4.7 (or similar cases)

Paper, Pens

1. Divide participants into groups.
2. Task each group with reading the short case provided.
3. Task the group with discussing and formulating an answer for the discussion points under each scenario.
4. One member of the group should be selected to record the relevant answers.
5. Bring participants back into plenary and discuss the cases and issues raised, focussing on the professional police response required.

HANDOUT 4.7: CASE STUDIES

Case 1 – Gay bar assault

Michael is a solicitor working in a city centre law firm. He is out one night in a city-centre gay club with his partner Alex. They leave the club at 2 a.m. The club exit is down a passageway. At the end of the passageway a gang of youths have gathered. When Michael and Alex walk past the gang, its members set on the couple, beating them up. The gang call them “faggots”. After the gang has finished beating them, the two men go back to the door of the club where a member of security administers first aid.

Alex wants to call the police but Michael says “no”. He is afraid of the details of the case becoming public and of having to go to court, which might identify him as being gay to colleagues, potential clients or his family. Michael says to Alex “it’s just what happens to queers sometimes, you just have to put up with it”.

Case 1 – Discussion Points

- ▶ Should Michael and Alex report the assault to the police?
- ▶ What is the desired outcome for the couple if they do?
- ▶ What is the desired outcome for the police if such a report is received?
- ▶ If the couple do not report the assault what is the impact on a) the couple, b) the local LGBT community and c) the police?
- ▶ How could the police encourage people to report such incidents to them?

Case 2 (a) – Public sex environment

You are on patrol on a sea-front area. It is 11 p.m. and dark outside. You come across a car on the beach and there is a young man and a young woman in the back seat of the car. They are both naked from the waist down.

The woman is performing oral sex on the man.

Case 2 (b) – Public sex environment

You are on patrol on a sea-front area. It is 11 p.m. and dark outside. You come across a car on the beach and there are two young men in the back seat of the car. They are both naked from the waist down.

One man is performing oral sex on the other.

Case 2 – Discussion points

- ▶ Have you come across situations like scenario B before?
- ▶ How did/would you deal with it?
- ▶ Would you deal with scenarios A and B differently?
- ▶ What are the factors that you take into consideration when deciding on a course of action in this scenario?
- ▶ If you came across a scenario like A or B above and it transpired that one of the persons involved was a sex worker being paid for the sexual encounter: a) what would be an appropriate course of action and b) what would legislation provide for?

Case 3 – Public sex environment – Cruising and assault

Richard works as a middle manager in a large insurance company. He is married with three children and lives in a small country town. Richard becomes aware of a motorway lay-by where men meet for anonymous encounters. Richard drives to the lay-by and hangs around the wooded area nearby. Richard meets a man and goes into the woods with him for a sexual encounter. After they go into the woods, the man beats Richard unconscious and robs him of his wallet and phone. Richard is found injured a short time later and is brought by ambulance to the local hospital, where he regains consciousness. The police have been notified by the hospital and attend to take a report.

Case 3 – Discussion points

- ▶ How do the police act to protect the rights of individuals to have sex in a public place, even if it may be an offence?

- ▶ If Richard does not reveal to the police the details of what happened to him, what are the risks to him and to the public? Are there issues about the perpetrator reoffending?
- ▶ Why would perpetrators choose to rob and assault persons in these circumstances?
- ▶ What issues related to privacy are raised by this case?

Case 4 – School – Bullying and assault

Thomas is a 15 year-old student in a secondary school. A quiet, studious boy, he doesn't play any of the "male" school sports such as football or rugby. Seen as "soft" by the other boys, Thomas is often called a "queer", a "faggot" and other derogatory names, implying homosexuality and not fitting gender expectations for a "real man". The students in Thomas's school become aware that Thomas was seen at a gay venue in the city centre.

The next day at sports class Thomas is badly beaten in the changing rooms. The boys call him homophobic names as they beat him and his head is placed down the toilet, which is then flushed. Thomas leaves the school that day and never comes back.

Case 4 – Discussion points

- ▶ Is this a police matter?
- ▶ Is it school management's responsibility to police behaviour in schools or do the police have a role?
- ▶ What is the impact of using homophobic words as derogatory terms in schools or wider society?
- ▶ How can this type of incident be prevented?

Case 5 – On-line date theft

John is a primary school teacher based in a small town. He is not "out" as a gay man to his family or colleagues and works for a school run by a religious institution. His family are elderly and he has decided he will not "come out" as a gay man until after they have passed away, as he feels they would never understand. He has concerns regarding his temporary position in the school if his employers find out that he is gay.

John uses a gay social networking site to meet other gay men. One evening he invites an online contact Alfred to his house. Alfred stays the night but leaves early the next morning. On his way out he takes John's work laptop and wallet. John has to report the loss of the school laptop to the police.

Case 5 – Discussion points

- ▶ Is the injured party likely to tell the facts of the case to the police?
- ▶ What do the police need to know to effectively deal with the case?
- ▶ What is the desired outcome for the injured party?
- ▶ What is the desired outcome for the police?
- ▶ What would help the injured party to trust the police?
- ▶ Can the police bring the matter to a conclusion without "outing" the injured party?
- ▶ In every criminal case the police investigate, is the desired outcome a successful criminal prosecution?
- ▶ How should the police act to prevent the injured party hiding or changing facts because of fear of being "outed" as gay or lesbian?

Case 6 – Blackmail

Susan is a lesbian but has never come out. She married Peter 16 years ago and they have a 14 year-old child. She has a distant relationship with her husband, but wants to remain married in the interests of her son. Susan is a senior civil servant in a government department.

A colleague has discovered she is a lesbian and threatens disclosing her sexual orientation to her husband and her managers unless Susan gives her a substantial amount of money. Susan wants to tell the police about the blackmailing, but fears that they may not be understanding about her situation. She also fears the police will disclose her situation to her husband.

Case 6 – Discussion points

- ▶ Are LGBT persons who are closeted more likely to be the victims of blackmail?
- ▶ Why is this?
- ▶ What are the implications for Susan if she is outed?
- ▶ Are persons who are being blackmailed likely to report it to the police?
- ▶ What should the police do to encourage people being blackmailed to come forward to them?
- ▶ What responsibility do the police have to protect Susan's privacy?

MODULE FOUR REFERENCES

- Danish Institute for Human Rights. (2011) Hate Crime Tool Kit: A guide for Police
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- National Coalition of Anti-Violence Programmes and The National Centre for Victims of Crime. (2010) Why it matters: Rethinking Victim Assistance for Lesbian, Gay, Bisexual, Transgender and Queer Victims of Hate Violence and Intimate Partner Violence.
- National Centre for Transgender Equality. (2009) Responding to hate crime: A community resource manual
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- Scottish Transgender Alliance. (2013) Gender Identity, Introductory Guide for Supporting Transgender Persons www.scottishtrans.org/resources/
- Stout, B. (2010) Equality and Diversity in Policing, Learning Matters Limited, Exeter.

Module Five: Working with civil society organisations (CSOs)

BACKGROUND AND RATIONALE

The Council of Europe has long considered civil society, “a vital component of European society, and an important and indispensable element of democracy.”⁵⁶ In addition to assessing measures to combat racism and xenophobia, the Council and its institutions, including the European Commission against Racism and Intolerance (ECRI) and the Commissioner for Human Rights, specifically monitor progress at the national level to address discrimination on grounds of sexual orientation and gender identity. They have sought and relied upon data from CSOs to prepare their country reports and visits to assess the state of discrimination and human rights at the national level. Data on hate crime collected by civil society are carefully considered as well as CSOs’ assessment of the effectiveness of the police and other agencies in responding to this type of violence.

Civil society organisations (CSOs) are often the first point of contact for victims of hate crime. Many provide essential emotional, practical, legal and, sometimes, medical support. As such they are a key resource for the police and can help them understand the true impact of hate crime on victims and their communities. Very often, the support provided by CSOs increases the chance that victims will cooperate with the investigation and remain engaged in the criminal justice process.

Working in partnership is not always easy. In some cases there can be mutual distrust between civil society and the police. This module helps participants understand the work of CSOs and how the police can best work with them to improve responses to victims. It involves direct input from civil society organisations, who will explain the services they provide, the data they have gathered, and what they have learned about the needs of LGBTI victims. Participants will then have a chance to work with representatives from civil society to identify areas for improvement and opportunities to work together.

It is highly recommended that this module is included in training sessions if civil society has yet to be involved. This module could also be hosted at a civil society organisation venue. This will give participants the chance to get to know an organisation first hand, further underlining the message that CSOs are a key partner in understanding and addressing crime against LGBTI persons, as well as generating new questions and opportunities for engagement.

LEARNING OUTCOMES

Participants will:

- ▶ understand what civil society can offer to improve hate crime investigation and recording;
- ▶ be able to approach local civil society organisations to work together on addressing hate crimes against LGBTI persons;
- ▶ be able to design cooperative activities with civil society.

OVERVIEW OF ACTIVITIES

- ▶ 5.1 What are civil society organisations, how can they help, how can we work together? (40-45 minutes)
- ▶ 5.2 “Walking in their shoes: what do I need and what can I do?” (45 minutes)
- ▶ 5.3 Building effective relationships with communities (40 minutes)

56. Resolution CM/Res(2016)3 ‘Participatory status for international non-governmental organisations with the Council of Europe’

ACTIVITY 5.1: WHAT ARE CIVIL SOCIETY ORGANISATIONS (CSOs) AND HOW CAN THEY HELP?

1. Before the activity:
 - a. Research the relevant national and local CSOs working on LGBTI hate crimes. Collect names, contact details and a short description about their work and services. Add these to handout 5.1 under information about ILGA and TGEU.
 - b. Identify a relevant CSO to carry out the presentation session of this activity. Ideally, the CSO will have conducted high quality work in the area of hate crime monitoring and/or victim support. You may wish to consult national experts on hate crime to identify an appropriate organisation to contact. Take the time to plan the session with the CSO beforehand. Go over the session plan, agree key messages and identify any sensitive areas that are likely to come up during the training session. For example, there may be a particularly sensitive case where the police are alleged to have mistreated victims and/or their supporters. Agree the best way to handle discussions about such cases or issues beforehand. Remember the overall aim of this session is to identify directly and honestly any problems and tensions between CSOs and the police, yet to remain focused on solutions and ways that the police and CSOs can work together productively in the future.

The presentation should cover the following key points:

- c. the work of the CSO;
 - d. the impact of hate crime on victims, perhaps including a case study or personal story;
 - e. impressions concerning gaps in laws or implementation;
 - f. data on hate crime affecting LGBTI persons recorded by either the guest CSO or another partner organisation; some analysis of how they compare to police figures and why there may be differences (e.g. victims may not report to the police, perhaps CSO and police use different criteria, etc.);
 - g. an overview of their recording methodology, and an assessment about how robust their data on hate crime is;
 - h. reasons why victims do not report crimes to the police;
 - i. recommendations about how police can best work with and support LGBTI victims;
 - j. suggestions about how the CSO and police might work better together.
2. Start off the activity with a short brainstorming session, asking participants what they know about the work of CSOs internationally, nationally and locally.

During the discussion you can offer the following ideas:

CSOs may:

- ▶ be large international organisations, working on a range of subjects including hate crime and broader human rights issues, for example Amnesty International or Human Rights Watch
 - ▶ specifically focus on LGBTI issues and rights, such as ILGA and TGEU
 - ▶ engage in a range of activities including: monitoring, reporting and raising awareness about hate crime
 - ▶ submit data and information to international organisations, including the Council of Europe, about the national situation on hate crime
 - ▶ provide direct support to victims of hate crime and support them to report offences to the police if victims give their consent.
3. Direct participants' attention to handout 5.1 which lists international and national CSOs working on issues relating to hate crime against LGBTI persons.
 4. Invite the CSO representative to give their presentation.
 5. After the presentation, facilitate a question and answer session.

HANDOUT 5.1: INTERNATIONAL, REGIONAL AND NATIONAL ORGANISATIONS WORKING ON HATE CRIME AGAINST LGBTI PERSONS

These are examples of Civil Society Organisations that work on hate crime internationally and nationally. Take some time to explore their websites. You will learn about hate crime against LGBTI persons in other countries, how it is being addressed and how victims are being supported.

International non-governmental organisations working on hate crime

European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA-Europe)
www.ilga-europe.org/

ILGA-Europe aims to make sure there is consistency at European and international level on hate crime and hate speech. The organisation monitors the way Council of Europe member states implement their various commitments, and works with its members at national level to promote evidence-based advocacy that supports the adoption of legislation and policies by national law-makers and governments.

ILGA-Europe works with professional organisations to encourage training of police staff, prosecutors, judges and lawyers. It promotes the collection of evidence of hate crimes and incidents by its membership organisations, and helps members to build their capacities in this respect. Finally, the organisation supports and assists with litigation of cases in the European courts.

OII Europe (Organisation Intersex International Europe)

<https://oiieurope.org/about/>

OII Europe is the umbrella organisation of European human rights-based intersex organisations. While the organisation does not work directly on hate crime issues, it is an excellent resource to find out more about intersex persons and their experiences. OII Europe can also be contacted for further information and when seeking to make contact with national membership organisations.

Transgender EU (TGEU)

www.tgeu.org

Transgender Europe works with its member organisations and partners to monitor and raise awareness about the serious extent of human rights violations and violence committed against trans persons on a global and European scale. Since 2009, its [Trans Murder Monitoring \(TMM\)](#) project has served as a systematic collection, monitoring and analysis of reported killings of gender-variant/trans persons worldwide. In Europe, TGEU works with partner organisations to record discrimination, hate speech and hate crimes and offers community-based support for victims/survivors of violence in the framework of its [ProTrans](#) project.

Amnesty International

www.amnesty.org

Amnesty International has conducted a series of national investigations into hate crime, including against LGBTI persons. Their reports include case studies, an analysis of national legal and policy frameworks, and recommendations for improvements.

Search for "Hate Crime" on their website and you will find a range of reports on various countries.

Human Rights Watch

www.hrw.org

Like Amnesty, Human Rights Watch conducts research into hate crime including crimes against LGBTI persons. Their reports include case studies, an analysis of national legal and policy frameworks, and recommendations for improvements.

Search for "Hate Crime" on their website and you will find a range of reports on various countries.

National organisations working on hate crime against LGBTI persons

Name

Website

Contact point

Short description about the organisation's activities (training, monitoring, victim support, etc.)

ACTIVITY 5.2 “WALKING IN THEIR SHOES: WHAT DO I NEED AND WHAT CAN I DO?”

This session should be conducted with CSO involvement. It can take place directly after the CSO presentation.

1. Before the session, take five pieces of flipchart paper and write the following:
 - ▶ Page one: “What do victims need?”
 - ▶ Page two: “What do police need?”, “What can police do?”
 - ▶ Page three: “What do Civil Society Organisations need?”, “What can CSOs do?”
 - ▶ Page four: “What do prosecutors need?”, “What can prosecutors do?”
 - ▶ Page five: “What do government ministries need?”, “What can government ministries do?”
2. Put the pages up around the room and make pens available.
3. Introduce the session. Explain that the purpose of this session is for participants to:
 - ▶ understand the perspectives of the range of individuals and organisations that work to address hate crime against LGBTI persons; and
 - ▶ to specifically consider the victim perspective.
4. Split the group into five smaller groups. Instruct them to spend 5-7 minutes completing the charts in the first person. For example, for the victim chart, they would say, “As a victim I need...”/“As a police officer, I can...” Emphasise that although there are things that victims can do to help improve responses to hate crimes against LGBTI persons (e.g. report and stay engaged in the criminal justice process), they should never be put under pressure to do anything they are not comfortable with. Point out that in this sense their role is completely different from that of the police, CSOs and government ministries, who each have responsibilities to take specific action. Explain that this is why the victim page is different from the other pages.
5. Tell them that after the 7 minutes are over, one member of the group will stay and the rest of the group will move on to the next flip chart. The group will spend 5-7 minutes at the next flipchart and the person who remains will explain what his/her group wrote, staying with the same language. “As a victim I need...”/“As a police officer I can...” etc. The group will then identify anything that is missing, and add it to the list.
6. After the 7 minutes are up, a different person will remain and the rest of the group will move on. The group will spend another 5-7 minutes at the flipchart and listen to the remaining person explain what is written on the chart. The group will add to the list and a different person will remain to explain to the next group. Continue this until all groups have visited all flip chart papers.
7. Ask everyone to come back to the large group to debrief. Ask them what they learned from this activity, what surprised them, what they will take away. Identify and record key actions that can be taken in the near to medium future to meet the needs that have been identified, in partnership between police, CSOs and other agencies.

ACTIVITY 5.3 BUILDING EFFECTIVE RELATIONSHIPS WITH COMMUNITIES (1 HOUR)

This activity has two parts. Part one involves reviewing a case study to identify lessons learned and what could be done differently. Part two is a brainstorming activity in which participants identify specific actions that can be taken at the national level to improve relations between the police and LGBTI communities. As with the other activities in this module, it is highly recommended that CSOs take part in these activities.

5.3a Policing International Day Against Homophobia, Romania: the European Court of Human Rights case of M.C. and A.C. v Romania

1. Before the session take two pieces of flipchart paper. On paper one write, “What went wrong?” On paper two write, “What could have been done differently?”
2. Divide the participants into small groups. If civil society organisation representatives are in attendance, ensure that they are mixed with police participants. Ask the participants to read the case study with these questions in mind. Explain that the purpose of the activity is not to allocate blame. Point out that

many countries in the Council of Europe region have had similar challenges. Emphasise that the reason that you are focusing on this case is because it actually happened and because it raises common issues facing police and communities.

3. Allow participants 5-7 minutes to read the case study. Ask participants to provide short answers to the two questions.
4. Bring participants back into the larger groups to share their answers. When discussing what went wrong, ensure that the following issues are highlighted:
 - ▶ Participants were injured after the march even after following instructions about dress and routes.
 - ▶ The response of the police towards the victims was inappropriate (e.g. expressing surprise that the victims were “affluent” and discouraging them from going further with their case).
 - ▶ Poor communication with the victims about the case, which is also likely to damage the confidence of the wider LGBTI community (e.g. ACCEPT having to contact the police on three separate occasions to find out what was happening in the case).
 - ▶ There is evidence of insufficient planning prior to the event in relation to the protection of the participants before, during and after the event.
 - ▶ When discussing what could have been done differently, ensure that the following points are highlighted:
 - ▶ Review of safety procedures before the event to ensure that participants would be safe before, during and after.
 - ▶ Training of police about how to sensitively and effectively interview and engage with victims of homophobic attacks.
 - ▶ Improved evidence-gathering for potential prosecutions in relation to the attackers (note to trainer: ensure that this discussion does not go too much into the detail of investigation issues, which are dealt with in Module Four).
 - ▶ Improved communication with victims and affected communities following the incidents.

HANDOUT 5.3: OVERVIEW OF ECTHR CASE M.C. AND A.C. V. ROMANIA

This hand-out gives an overview of the case of M.C. and A.C. v. Romania for training purposes. For full details of the case, visit the Court's website <https://goo.gl/sHMXb4>.

What happened

On 3 June 2006, the applicants participated in the annual gay march in Bucharest. It was organised by ACCEPT, a non-governmental organisation whose goal is to provide information and to assist the LGBTI community. The march was given police protection. Several individuals who had actively expressed their disapproval concerning the gay march were stopped by the police, their pictures were taken and their identity papers were checked and noted.

At around 7 p.m., at the end of the march, the applicants and four other participants left the area using the routes and means of transport recommended by the authorities in the guidelines prepared by the organisers for participants in the march. As recommended in the same leaflet, they wore no distinctive clothing or badges that would identify them as having participated in the march.

After boarding a metro train, they were attacked by a group of six young men and a woman wearing hooded sweatshirts. The attackers approached the victims directly and started punching them and kicking their heads and faces. They also swung from the metal bars above their heads, kicking the victims. During the attack they kept on shouting: "You poofs go to the Netherlands!" (*Poponarilor, duceți-vă în Olanda!*)

The victims were pushed into a corner of the carriage. One of them tried to protect the others with his body, but the second applicant remained exposed and suffered several blows.

The attack lasted for about two minutes. On their way out of the carriage, the attackers punched the first applicant again in the face.

The other passengers withdrew to the opposite side of the carriage during the attack. Among them was a photographer who had also been at the march. The victims asked him to take pictures of the incident, which he did. As a consequence, the attackers hit him as well.

The police investigation

Later that night of 3 to 4 June 2006 the victims, including the applicants, and a representative of ACCEPT went to the police. They filed a criminal complaint against the attackers and stated that the assault was based on the victims' sexual orientation. They reiterated that they had not worn any visible signs that could have given away the fact that they were returning from the gay march. They argued that the attackers had identified them at the march (as they had not worn masks) and followed them afterwards, with the intention of harming them. They informed the police about the offensive remarks made during the attack.

According to the applicants, the police officers were surprised when they realised that the applicants and the other victims, although gay, were affluent individuals with regular jobs and positions of responsibility. They tried to dissuade them from pursuing their complaint, warning them that they would have to confront their aggressors in court.

Due to a reorganisation within the police force, the case file was moved from one police station to another, and on 4 April 2007 it was registered at the Metro Police Station.

As it appeared that nothing was happening in the case, the applicants sought information on the progress of the investigation by means of letters sent by ACCEPT on 25 September 2006, 28 March 2007 and 20 July 2011. On 19 March 2007 they also complained to the Ministry of Internal Affairs about the lack of an effective investigation into the case, but to no avail.

On 9 August 2011, in response to a request from the applicants for information, the Metro Police informed them that their intention was not to institute a criminal prosecution (*neînceperea urmăririi penale*) as the alleged crimes had become statute-barred (*s-a împlinit prescripția specială*). The police explained that the investigation had been rendered more difficult by the fact that the file had arrived at the Metro Police office one year after the events. Moreover, all the actions undertaken by police in order to identify the alleged culprits had failed.

On 4 October 2011, the prosecutor's office attached to the Bucharest District Court of the Fourth Precinct endorsed the police proposal and decided to terminate the investigation. The decision was sent to the first applicant's home on 27 February 2012.

Questions:

What went wrong?

How could the situation have been handled better?

5.3b: Building positive relationships between the police and LGBTI communities

Important note: Not all of these ideas will be appropriate in every context, and it is important to tailor ideas appropriately. For example, it may be that there is no LGBT association within the police and there may be no openly gay police officers. It may be that only very small steps towards improving relationships between the police and civil society are realistic at this stage. This is not a problem. Identifying and implementing even one small step can be a significant achievement and can lay the ground for more significant improvements in the future.

Step one: Assess

1. During this step, participants assess current relationships between the police and LGBTI communities. This is one of the more difficult steps and takes openness and honesty. If the previous two sessions have gone well, then the chance of getting an accurate and constructive assessment of the state of relations between the police and the LGBTI community is higher.

Step two: Plan

2. Ask participants to review handout 5.3b and agree at least two steps that can be taken in the immediate future.

Step three: Deliver

3. Ask participants to articulate how the steps will be taken and by whom. If participants have identified barriers that are out of their control (e.g. lack of legal framework, insufficient political support) encourage them to identify how they might be overcome and remind them that this is something that will be looked at again in the next module.

HANDOUT 5.3B: BUILDING RELATIONSHIPS BETWEEN THE POLICE AND LGBTI COMMUNITIES: SOME POSSIBLE PRACTICAL STEPS

Start small

If this is the first time police and CSOs have made contact, start small. For example, arrange an informal meeting so that each side can learn more about the other's work and activities and identify possible ways to work together.

Stay practical and focus on mutually beneficial activities

Agree points of contact from both sides and a short description of what they can do.

Agree CSO input into police training, focusing on areas of expertise including victim support and understanding the impact of hate crime and victims' needs. CSOs also often have a unique perspective on LGBTI bias indicators that are essential for investigation and evidence gathering.

Visit the offices of a national or local CSO that works with LGBTI communities

Visit local gay-friendly businesses such as gay-friendly bars and other social venues. Plan the visit beforehand, emphasising that you are interested in finding out how things are going and if there have been issues that have worried the community.

Ask for a meeting to talk about specific incidents that have come up and impressions about whether the frequency of incidents has increased or changed.

Ask for CSO input into the development of police guidance or protocols. This is an excellent way to improve the relevance and quality of these documents in terms of victims' needs, understanding the impact of hate crime and getting a fresh perspective on bias indicators.

Stay regular

Regular engagement is important and builds strengths in relationships which can be drawn upon during challenging times (see below).

Arrange a debrief after a specific, sensitive or high profile incident

Mistakes happen and lessons need to be learned. Avoid closing down after a difficult incident such as violence at a Pride event, an incident of poor policing or police violence. Keep the lines of communication open even if there has been tension in relation to specific incidents. Consider holding informal meetings where incidents are discussed in confidence, with the agreement that the press will not be involved in the first instance. Work with CSOs to facilitate victim or family or community support in relation to specific incidents.

Build on your achievements

Although you may have started small, always look for opportunities to build engagement. Perhaps the points-of-contact system is going well. Now may be the time to consider cooperating more closely on discussing incidents and responses. You may be ready to discuss sharing data and information anonymously. Perhaps you can agree a victim support referral system.

Ensure that this work is properly resourced

For example, CSOs often find that while their work on monitoring and victim support is indispensable, it is also under-resourced. Where possible, it is important for the police to find financial resources for the work that they rely on.

Be clear about what can and cannot be achieved on both sides

For example, a civil society organisation cannot guarantee that a victim will report a crime or take part in the criminal justice process. Equally, the police cannot guarantee that a prosecution will be taken forward.

Going further: Mapping hate crime investigation in your context: the policy framework

BACKGROUND AND RATIONALE

While effective training can measurably improve the ability of the police to effectively investigate hate crimes against LGBTI persons, it is only one piece of the puzzle of a comprehensive approach to tackling hate crime. For example, hate crime laws may only cover sexual orientation and not gender identity, making it difficult to investigate and prosecute transphobic hate crimes. Police recording forms may not allow the police to record all aspects of hate crime against LGBTI persons, so important information that the police now have the skills to capture simply disappears without being reflected in official statistics. The investigative procedures learned in this training session may not be reflected in official protocols and guidelines. The prosecution service may not have undertaken the same training on hate crimes against LGBTI persons, and might therefore be less informed about the type of evidence that can prove bias motivation in these crimes.

Throughout the training session, participants may well have identified these and other barriers to implementing improvements in their investigative practice and support to LGBTI persons as victims. The purpose of this exercise is to support participants in bringing together these issues and in taking a solution-focused approach to addressing them. It is recommended that a senior member of the police and possibly a representative from the relevant government ministry or ministries attend these sessions. It can also be very useful to have CSOs present. This will increase the chances of understanding important issues and making decisions about implementing improvements.

In this module, participants will be encouraged to map their own national context according to the key elements necessary for a comprehensive approach to hate crime. These are:

- ▶ The legal framework: do hate crime laws include sexual orientation and gender identity as protected categories?
- ▶ Hate crime recording framework and system: do police recording forms include the necessary “tick boxes” and fields to record LGBTI bias indicators, evidence of bias motivation, and victim perception?
- ▶ Guidance and guidelines: do the police have clear instructions on how to investigate hate crime against LGBTI persons, how to ensure that victims get support and how to work with prosecutors to build successful cases?
- ▶ Training: are there regular training sessions for police on investigating hate crimes against LGBTI persons? Are they available to all police elements?
- ▶ Support services: Are there support services for hate crime victims? Do they cater for LGBTI persons?

It is important to note that no country has fully implemented each element of the comprehensive hate crime approach, as described above. Therefore, this exercise is likely to reveal significant gaps in implementation. This should not be a barrier to completing this exercise. Its purpose is for participants to take the lead in mapping the gaps and identifying practical steps that can be taken to address gaps in one area or more. It is a chance to move forward constructively at the national level.

LEARNING OUTCOMES

Participants will:

- ▶ build a picture of their national hate crime context (law, data, policy, training, etc.) and identify current gaps;
- ▶ identify and understand the barriers to implementing what has been learned during the training session and steps to address these barriers.

OVERVIEW OF ACTIVITIES

- ▶ 6.1 Map the gaps
- ▶ 6.2 Taking action

6.1: MAP THE GAPS

1. Before the training session, print out the sheet below. Make several copies. Cut out the terms and have them ready for the training session.

Legal Framework
Guidance and guidelines
Hate crime recording framework
Training
Support services
Other

2. Take a piece of flip chart paper and replicate the chart in handout 6.1. In addition, make one paper copy per participant so that they can take notes as they go along.

3. Welcome the participants to the session and explain that the purpose of the session is to map out the national context using the knowledge that has been gained during the training session, as well as their existing knowledge.
4. Explain that each participant will be asked to read out their slip of paper and give their assessment of the national context in relation to the term. Illustrate this instruction using one term, for example, “legal framework,” giving your assessment of the gaps in the hate crime legal framework. Explain that more than one person in the group may have the same term. This means that the second person should add further detail or missing information to the first contribution.
5. Split the large group into smaller groups as needed (you may also want to carry out this activity in one large group, it is up to you). Hand out the small slips of paper (chart one above) making sure that each participant has one. If you are dividing participants into smaller groups, make sure that the full set of terms is included in each group.
6. Direct participants’ attention to the large chart (if you have more than one group, tell them that they will need to re-create the chart when the activity starts). Go over the terms, to make sure that everyone understands them. Ask if participants would like to add any terms. Talk them through as a group and agree whether they should be added.
7. Tell participants that this is their chance to identify what needs to be done to support the implementation of everything that they have learned during this training session. Tell them that there is no right or wrong answer; this is their chance to map what they know and what needs to be done.
8. Tell them to keep the last column empty and explain that this will be completed during the next session.
9. Give participants 20-25 minutes to discuss and complete the table.
10. If participants were split into groups, bring them back together.
11. Ask each group to feed back what they agreed to write on their table. Facilitate a short discussion to agree a group assessment and add any additional points that come up in the group discussion. Try to reach agreement about each category as you go along.
12. Encourage participants to make a record of the table. This could be by taking a photograph of the table or filling in the paper version.

6.2: TAKING ACTION

1. This session closes Module Six. Begin by explaining that the purpose of this session is to identify concrete and constructive actions to improve on each element of the comprehensive approach to hate crime. Acknowledge that some actions lie outside the mandate or competence of the participants; however, the work done here can serve as a good record for senior management, government ministries, etc. At the same time, emphasise that just because one element of the comprehensive approach is missing (e.g. hate crime laws) does not mean that no action can be taken.
2. Start the discussion with the group, going through each element. Depending on the size of the group, you can do this work in breakout groups. Aim to move through the actions quite quickly, encouraging participants to identify actions that they can personally take. If senior management or government representatives are present, encourage them to take part and commit to actions, however small.
3. Close the activity by explaining that this chart can be used as the basis for an action plan at the national level. Encourage participants to return to the chart together to monitor progress or make changes to ensure that it stays relevant. Thank participants for taking part in the activity. Acknowledge that it can be challenging for all police in many countries, but that it is an essential step to take if progress is to be made.

HANDOUTS

Handout 6.1: Map the gaps

Area	Assessment	Issues What are the barriers to achieving this?	Action What can be done now? By whom?
Legal framework	Do hate crime laws include sexual orientation and gender identity as protected categories?		
Guidance and guidelines	Do the police have clear instructions on how to investigate hate crime against LGBTI persons, how to ensure that victims get support and how to work with prosecutors to build successful cases?		
Hate crime recording framework	Do police recording forms include the necessary "tick boxes" and fields to record LGBTI bias indicators and victim perception?		
Training	Are there regular training sessions for police on investigating hate crimes against LGBTI persons? Are they available to all police?		
Victim support services	Are there support services for hate crime victims? Do they cater for LGBTI persons?		
Other			

EVALUATION

Pre- and post-training evaluation with the participants.

Annex One: Model agendas for one-day and two-day training sessions

This annex sets out model agendas for one- and two-day training sessions. In order to ensure sufficient time and engagement for the key learning outcomes to be achieved, it is strongly recommended that the two-day agenda be followed. It is also recommended that trainers review the manual before they finalise the agenda in order to ensure that the most appropriate modules and activities are chosen for their context.

Please read through the full notes and guidance in the manual that corresponds to each section of the training. They contain essential information about preparation that needs to be undertaken before the training and give detailed explanations of the activities.

POLICING HATE CRIME AGAINST LGBTI PERSONS: TRAINING FOR A PROFESSIONAL POLICE RESPONSE

Two-day agenda

9.15-9.30 Introduction and overview of the training

Participants introduce themselves and express their hopes for the training. The trainer gives an overview of the aims and content of the training.

9.30-11.15 Why are we here?

These activities set the scene for the training. The first activity includes input from a senior leader in the police service that sets expectations about participation in and future implementation of the training. The second includes input from a civil society organisation that works closely with victims of hate crimes against LGBTI persons and explains the nature and impact of hate crime.

Activity list:

- ▶ Activity 1.1: Input from senior leader to set the scene and expectations for the training
- ▶ Activity 1.2: Input from national/ local civil society organisation on the impact and context of hate crime.
- ▶ Activity 1.3: Hate crimes against LGBTI persons in context

11.15-11.30 Coffee break

11.30-13.00 Key concepts: who are lesbian, gay, transgender and intersex communities and what is hate crime?

These activities introduce the groups affected by hate crimes against LGBTI persons and explore the concept of hate crime internationally and within the national context.

Activity list:

- ▶ Activity 2.1: Understanding the key terminology relevant to the LGBTI community. Plenary presentation by course facilitators (30 minutes)
- ▶ Activity 2.5: What is a hate crime? Presentation and group discussion
- ▶ Activity 2.7: Map the national hate crime context (please also explore the “going further” section for more examples of how to map the national context).

13.00-13.45 Lunch

13.45-14.45 Understanding underreporting

This activity supports participants to understand and explore why LGBTI persons do not report hate crimes.

Activity list:

- ▶ Activity 3.2: Identifying specific barriers to reporting hate crime faced by LGBTI communities; reading FRA report.

14.45-15.45 Human rights and the role of the police officer

This activity reviews key judgments of the European Court of Human Rights and applies them to the role of the police officer when investigating hate crimes against LGBTI persons.

Activity list:

- ▶ Activity 3.3: Understanding key Council of Europe standards, other human rights standards and national standards relevant to hate crimes against LGBTI persons.

15.45-16.00 Coffee break

16.00-17.30 Hate crime investigation

These activities encourage participants to consider how to effectively investigate hate crime against LGBTI persons and the importance of taking a victim-centred approach.

Activity list:

- ▶ Activity 4.2a: Investigation of hate crimes against LGBTI persons: A victim-centred approach (30 minutes)
- ▶ Activity 4.2b: Investigation of hate crimes against LGBTI persons: A victim-centred approach

Day Two

9.00-9.15 Welcome, review of day one and overview of day two

9.15-11.30 (including coffee break) Collecting the evidence

These activities support participants in identifying common bias indicators in hate crimes against LGBTI persons and in using this evidence to build successful hate crime investigations.

Activity list:

- ▶ Activity 4.4: Collecting the evidence: Bias Indicators – Proving bias selection/motive
- ▶ Activity 4.5: Collecting the evidence: Bias Indicators – Identifying hate crimes against LGBTI persons

(It is also recommended that handout 5.1 is distributed to participants)

11.30-12.30 Supporting LGBTI Communities: an effective police response

This activity uses case studies to explore how to respond to specific incidents in a community-sensitive manner. It is interactive and presents an opportunity to sensitively and practically explore stereotypes.

Activity list:

- ▶ Activity 4.7: Supporting LGBT Communities: An effective police response

12.30-13.30 Lunch

13.30-14.45 Working with civil society organisations

This activity uses a key European Court of Human Rights judgment to examine how police and CSOs can work together to improve policing in the context of a gay pride event and to support the right of freedom of assembly without discrimination.

- ▶ Activity 5.1: What are civil society organisations (CSOs) and how can they help?
- ▶ Activity 5.2: "Walking in their shoes: what do I need and what can I do?"

14.45-15.00 Coffee break

15.00-16.30 Working with civil society organisations (continued)

These activities support participants, ideally in partnership with civil society organisations, to identify and implement specific steps that can be taken to work together to support victims and to improve hate crime monitoring.

List of activities:

- ▶ Activity 5.3: Building effective relationships with communities

16.30-17.00 Close and evaluation

During this session, the trainer closes the training and invites participants to complete an evaluation.

POLICING HATE CRIME AGAINST LGBTI PERSONS: TRAINING FOR A PROFESSIONAL POLICE RESPONSE

One-day agenda

Trainer's notes: A one-day session can only focus on the fundamental issues relating to policing hate crimes against LGBTI persons. Time constraints mean that information is more likely to be conveyed through presentation as opposed to group work. As a result, participation, one of the most successful learning techniques, will necessarily be limited. If possible, it is better to hold a training session over at least two days.

9.15-9.30 Introduction and overview of the training

Participants introduce themselves and express their hopes for the training. The trainer gives an overview of the aims and content of the training.

9.30-11.00 Why are we here?

These activities set the scene for the training. The first activity includes input from a senior leader in the police service, setting out expectations about participation and future implementation of the training. The second includes input from a civil society organisation that works closely with victims of hate crimes against LGBTI persons, who will explain the nature and impact of hate crime.

Activity list:

- ▶ Activity 1.1: Input from senior leader to set the scene and expectations for the training
- ▶ Activity 1.2: Input from national/local civil society organisation on the impact and context of hate crime.

11.00-11.30 Coffee break

11.30-13.00 Key concepts: who are lesbian, gay, transgender and intersex communities and what is hate crime?

These activities introduce the different groups affected by hate crimes against LGBTI persons and explore the concept of hate crime internationally and within the national context.

Activity list:

- ▶ Activity 2.1: Understanding the key terminology relevant to the LGBTI community.
- ▶ Activity 2.5: What is a hate crime?
- ▶ Activity 2.7: Mapping the national hate crime context (please also explore the "going further" section for more examples of how to map the national context).

13.00-13.45 Lunch

13.45-14.45 Human rights and the role of the police officer

These activities review key judgments of the European Court of Human Rights and apply them to the role of the police officer when investigating hate crimes against LGBTI persons.

Activity list:

- ▶ Activity 3.3: Understanding key Council of Europe standards, other human rights standards and national standards relevant to hate crimes against LGBTI persons.

14.45-15.45 Hate crime investigation

These activities encourage participants to consider how to effectively investigate hate crime against LGBTI persons and the importance of taking a victim-centred approach.

Activity list:

- ▶ Activity 4.2a: Investigation of hate crimes against LGBTI persons: A victim-centred approach
- ▶ Activity 4.2b: Investigation of hate crimes against LGBTI persons: A victim-centred approach

15.45-16.00 Coffee break

16.00-17.00 Collecting the evidence

These activities support participants to identify common bias indicators in hate crimes against LGBTI persons and to use this evidence to build successful hate crime investigations.

Activity list:

- ▶ Activity 4.4: Collecting the evidence: Bias Indicators – Proving bias selection/motive
- ▶ Activity 4.5: Collecting the evidence: Bias Indicators – Identifying hate crimes against LGBTI persons

(It is also recommended that handout 5.1 is distributed to participants)

17.00-17.15 Close and evaluation

During this session, the trainer closes the training and invites participants to complete an evaluation.

The police are at the frontline of the criminal justice system and the first point of contact for many victims of hate crime. This manual is designed for police trainers, investigators, managers, hate crime officers and frontline police officers working in countries across the Council of Europe region to develop essential skills to identify and investigate hate crimes against LGBTI persons.

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The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, 28 of which are members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.