

Joining forces to combat homophobic and transphobic hate crime

Cooperation between police forces and LGBT organisations in Europe

WELCOME

In the past years, we have witnessed some positive developments of the legal environment to combat discrimination based on sexual orientation in the European Union Member States, although a lot still remains to be done. The social situation of lesbian, gay, bisexual and transgender (LGBT) people, however, continues to be worrying. Homophobic and transphobic hate speech and hate crime are a common phenomenon in the European Union today. Derogatory or offensive remarks, as well as verbal and physical assaults testify to the widespread persistence of homophobia in our societies. We have to take a stand against such crimes. They do not only cause harm to the lives of the individuals concerned but to society as a whole.

This handbook shows that there are a number of ways in which different actors can work together to make Europe's cities and communities safer for LGBT people. Little by little, steps can and should be taken by NGOs and state authorities alike, regardless of whether or not they are explicitly obliged to combat homophobic crime by relevant laws. This inspiring publication shows the important role of fostering prevention, assistance in reporting and adequate recording of homophobic and transphobic incidents, as well as raising awareness among law enforcement authorities and their proper training. These are key elements in ensuring that homophobic and transphobic crime is investigated to the same high standard as other forms of crime.

Finally, the handbook highlights how, through the involvement and support of LGBT organisations, it is possible to achieve significant change. It is therefore particularly important that serious and professional organisations such as ILGA-Europe and the many more throughout Europe are acknowledged by public authorities as key partners in their work.

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Introduction

Right to life; Prohibition of torture; Right to liberty and security; Freedom of expression; Freedom of assembly and association; Prohibition of discrimination... All these rights and freedoms are Articles of the first section of the European Convention for the Protection of Human Rights and Fundamental Freedoms. All of them can be weakened or denied when national authorities fail to protect citizens from acts of violence triggered by prejudice or committed with a bias motive.

Public authorities, and in particular law enforcement bodies such as the police, have therefore to take their mission to attend and support victims seriously, and to prosecute and sentence perpetrators. By doing so, they actively and effectively fight prejudice. They contribute to ensuring equality and inclusiveness and guaranteeing fundamental rights and freedoms.

In recent years hate crime has moved up on the political agenda in Europe. Several national governments in Europe and European organisations such as the European Union (EU), the Organisation for Security and Cooperation in Europe (OSCE) and the Council of Europe (CoE) are dealing increasingly with the issue of hate crime. Some countries and organisations have initiated legislative acts or started to develop practical tools for law enforcement authorities to better combat hate crime. Still, a lot remains to be done. Specific motives of hate crime, such as homophobia and transphobia, are not yet sufficiently well addressed by legislation and policies across Europe.

ILGA-Europe and its membership strongly believe that combating violence, and in particular hate crime against LGBT people, is a crucial priority across Europe. In recent years, ILGA-Europe has developed tools to enable LGBT organisations to prevent homophobic and transphobic hate crime from going unnoticed, as is all too often the case. A strong focus of our work has been directed towards the need to ensure reporting and monitoring of violent incidents. They are essential to better understand the issue of hate crime, to raise public awareness

and awareness of law enforcement authorities and to be able to adopt comprehensive policy responses to prevent and tackle hate motivated incidents.

In the framework of a project called “Working with the police and challenging hate crimes in Europe 2008-2012”, ILGA-Europe has conducted research on existing good practices and needs in this area. The project is supported by the Dutch government.

This handbook, which results from the research, has been designed as a resource for capacity building of LGBT NGOs and police forces, which are both key players in the fight against homophobic and transphobic hate crime.

The first part of the publication is a summary of the disturbing context we still face as this document goes to print. It includes recommendations addressed to public authorities calling for inclusive European societies which are committed to refusing to tolerate hate crime and to finding appropriate and efficient ways of preventing and tackling it.

The rest of the document describes inspiring practices in five areas where dialogue and co-operation between LGBT organisations and police forces can trigger a real change in the fight against hate crime: (1) raising awareness and building capacity, (2) reporting incidents and supporting victims, (3) improving monitoring and data collection strategies, (4) preventing hate incidents, and (5) enforcing hate crime legislation and policies.

ILGA-Europe believes that the handbook will provide law enforcement authorities and LGBT organisations across Europe with a set of useful suggestions and methodological tools to develop and/or to further strengthen joint actions to fight hate crime more efficiently.

Terminology

Bias violence refers to incidents triggered by prejudice and to offences committed with a bias motive.

Hate crime is often used to refer to aggression and violence targeting people because of their belonging or perceived belonging to a particular group or category. The use of this term supposes two elements:

- The existence of legislation recognising a crime;
- The consideration that the hatred element is a determining motive of the perpetration.

Hate crime legislation consists in criminal law provisions allowing the hatred element to be taken into consideration in the definition of the crime (i.e. a hate crime with specific sentencing of the perpetrator) or in the sentencing of the crime (i.e. aggravated sentence for the perpetrator).

Legal definitions of hate crime vary a great deal from one State to another and do not necessarily include all violent acts based on homophobia or transphobia. This is why we are encouraging the use of more specific terminology to refer to violence targeting LGBT people.

Homophobic incidents include all acts motivated by hatred towards individuals or groups because of their real or perceived sexual orientation. The violence can take a multitude of forms including physical, sexual or psychological violence, attacks towards individuals or groups or their belongings. The **threat of violence** can also be reported, especially when it is repetitive and creates fear in the victim.

Lesbophobia refers to incidents targeting specifically lesbian and bisexual women on account of both their gender and sexual orientation.

Transphobic incidents refer to acts motivated by hatred towards individuals or groups because of gender identity or gender expression.

LGBT-phobia is used in this publication as a generic concept referring to hatred and incidents targeting lesbian, gay, bisexual and trans people.

LGBT-phobia also manifests itself through:

- Bullying in settings like schools, the workplace, or private settings which often goes unnoticed, and includes a wide spectrum of negative experiences from name calling and verbal abuse to ostracism and physical attacks.

- Hate speech by political or religious leaders and organised groups (e.g. extreme right groups). New means to convey violence have developed through the Internet and constitute cyber-crime. One illustration is the creation of websites which incite to hatred and violence and provide details about people's sexual orientation, gender identity or expression and their places of residence or work.

I. Joining forces to combat homophobic and transphobic hate crime

Homophobic and transphobic hate crimes are direct violations of the principles of liberty, democracy, the rule of law and respect for human rights and fundamental freedoms. However, in Europe, hate incidents against lesbian, gay, bisexual and trans people (LGBT) are still an everyday reality. In some countries there is an increase in the reported number of hate attacks against LGBT people over the last few years. In others, no decrease in hate crime has been registered, including in countries where legislative changes have brought equal rights to LGBT people in all fields of social life. Murderous attacks based on homophobia and transphobia regrettably continue to occur.

In recent years European institutions have published significant research and reports on discrimination on grounds of sexual orientation and gender identity in Europe, including reports on homophobic and transphobic hate crime¹. These first institutional studies have highlighted a number of issues of great concern and have also put forward proposals on how to tackle hate crime efficiently.

On the basis of its experience, ILGA-Europe aims to list and to address the main concerns of LGBT organisations across Europe as regards homophobic and transphobic hate crime. Taking into consideration our members' experiences in the field of policing, this publication proposes a set of recommendations to ensure that public authorities take prompt steps to prevent and respond to hate crime effectively.

¹ Reports of the EU Fundamental Rights Agency (FRA) and of the Organisation for Security and Cooperation in Europe (OSCE)
FRA, Homophobia and Discrimination on Grounds of Sexual Orientation in the EU Member States, Part I – Legal Analysis, 2008:
http://fra.europa.eu/fraWebsite/products/publications_reports/pub_cr_homophobia_0608_en.htm
FRA, Homophobia and Discrimination on Grounds of Sexual Orientation and Gender Identity in the EU Member States Part II - The Social Situation, 2009:
http://fra.europa.eu/fraWebsite/products/publications_reports/pub_cr_homophobia_p2_0309_en.htm
OSCE, Hate Crime in the OSCE region – incidents and responses. Annual report for 2008. ODIHR, 2009:
http://www.osce.org/odihr/item_11_41314.html

A worrying situation...

Several issues linked to homophobic and transphobic incidents are of key concern to LGBT associations across Europe:

- **Lack of support to victims, significant underreporting of hate incidents and lack of official data**

In many countries across Europe, LGBT victims are still afraid to disclose their sexual orientation or gender identity to the police, as a result of fear or assumption that officers will not ensure proper support to victims who wish to report a hate incident. All too often no efficient support mechanisms are in place to protect victims and ensure they receive the psychological and legal support they need.

As a result there is a high level of underreporting of homophobic and transphobic crime across Europe. In many countries, the necessary tools have not been put in place to ensure reporting of such incidents to the police. The lack of a clear legislative framework obliging public authorities to record and monitor homophobic and transphobic violence certainly contributes to underreporting. However, the fact that in most countries law enforcement officers are rarely trained to provide support victims and identify and tackle homophobic and transphobic crime also limits their capacity to provide appropriate responses.

Official statistics on police reports and court procedures are rare, even in those countries where hate crime laws explicitly include provisions against homophobia. There is a dramatic lack of data and research about the number and character of the assaults, the profile of the perpetrators and the victims. This lack prevents public authorities from properly assessing the real extent of hate crime against LGBT people and from adopting appropriate and effective policies to prevent and tackle it.

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

“Hate crimes” and other hate-motivated incidents

“3. Member states should take appropriate measures to ensure that victims and witnesses of sexual orientation or gender identity related “hate crimes” and other hate-motivated incidents are encouraged to report these crimes and incidents; for this purpose, member states should take all necessary steps to ensure that law enforcement structures, including the judiciary, have the necessary knowledge and skills to identify such crimes and incidents and provide adequate assistance and support to victims and witnesses.

[...]

“5. Member states should ensure that relevant data are gathered and analysed on the prevalence and nature of discrimination and intolerance on grounds of sexual orientation or gender identity, and in particular on “hate crimes” and hate-motivated incidents related to sexual orientation or gender identity.”

Opinion provided by the EU Fundamental Rights Agency in its report on "Homophobia and Discrimination on Grounds of Sexual Orientation and Gender Identity in the EU Member States: Part II - The Social Situation"

Combating hate crime

“8. Member States should consider developing simple and inclusive operational definitions of hate crime for use by the public in reporting such crimes, and for the police in recording them. In addition, effective tools should be developed to facilitate reporting, such as self-report forms and third party reporting facilities, giving the public the ability to report hate crime at locations other than police stations.”

- **Lack or unsatisfactory enforcement of protective hate crime legislation**

Some countries in Europe have introduced provisions in their criminal laws that consider incitement to hatred, violence or discrimination on grounds of sexual orientation a criminal offence. However, this is not the case everywhere.

The issue of transphobia is of particular worry. The number of reported transphobic murders continues to increase, but virtually no country has adopted targeted measures to protect people from transphobic incidents and support victims of such crimes, Scotland being the only exception.

As a result, although violence against the person is usually considered as an offence in the majority of European countries, incitement to hate crime against LGBT people is often not punishable, nor is the motive of homophobia and transphobia explicitly defined as constituting a criminal offence. Only a minority of national criminal laws consider homophobic intent as an aggravating factor in common crimes. Either hate speech is not considered unlawful in many places in Europe, or it remains unpunished or it is played down.

In the absence of criminal laws which explicitly recognise a bias motive related to sexual orientation or gender identity, at least as an aggravating circumstance, hate crime against LGBT people cannot be efficiently tackled by public authorities and thus the full respect of human rights for LGBT people is not ensured.

Another critical issue are the shortcomings in efficiently enforcing hate crime legislation in those countries where such legislation exists. Police and prosecutors correctly implement hate crime legislation only where appropriate training efforts have been made to increase the capacities of law enforcement agents to deal with LGBT-phobic hate crime, where consistent enforcement tools have been developed and where strong co-

operation has been set up with local LGBT organisations engaged in tackling hate crime. This in turn requires a firm political will. Without it, many cases of hate incidents across Europe remain unpunished. In short, the adoption of an inclusive hate crime law is an important step, but it is not enough and proactive measures need to be adopted to ensure that implementation becomes effective.

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

“Hate crimes” and other hate-motivated incidents

“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.”

Opinion provided by the EU Fundamental Rights Agency in its report on “Homophobia and Discrimination on Grounds of Sexual Orientation in the EU Member States Part I – Legal Analysis”

Approximation of criminal law combating homophobia

“[...] Homophobic and transphobic hate speech and hate crime are phenomena which may result in serious obstacles to the possibility for individuals to exercise their free movement rights and other rights in a non-discriminatory manner. These phenomena need to be combated across the European Union ensuring minimum standards of effective criminal legislation.”

- **Insufficient action to prevent physical and verbal attacks**

Homophobia and transphobia can happen in public spaces or private settings and affect LGBT people in various ways, from

verbal aggression and hate speech to physical attacks. Homophobia and transphobia occur on the street, but also at the workplace, in educational settings, in sporting contexts and any other place where LGBT people meet. It can potentially affect people at all times and places.

All too often there are no comprehensive national or local policies in place to prevent hate incidents. Actions to raise awareness among law enforcement authorities, LGBT communities and the wider public are not systematically put in place. In many European countries, a lot remains to be done to set up policies primarily aimed at preventing physical attacks, including measures to ensure that LGBT communities can safely organise public events, meet peacefully in venues and fully enjoy their fundamental freedom of assembly.

There is also evidence that hate speech against LGBT people is very frequent across Europe. It appears in political debates, during counter-demonstrations at public LGBT events or in the media, reporting statements of political and religious figures. The publication of hate speech on the internet is of serious concern. Again, few countries in Europe have clear strategies on how to prevent hate speech efficiently.

Finally, many hate crimes are committed in private settings, including by relatives, sometimes even by partners. However, there are no examples yet of countries having adopted specific measures to prevent and guarantee support and protection for victims of hate incidents in private and domestic settings.

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

“Hate speech”

“6. Member states should take appropriate measures to combat all forms of expression, including in the media and on the

Internet, which may be reasonably understood as likely to produce the effect of inciting, spreading or promoting hatred or other forms of discrimination against lesbian, gay, bisexual and transgender persons. Such “hate speech” should be prohibited and publicly disavowed whenever it occurs. All measures should respect the fundamental right to freedom of expression in accordance with Article 10 of the Convention and the case law of the Court.”

“7. Member states should raise awareness among public authorities and public institutions at all levels of their responsibility to refrain from statements, in particular to the media, which may reasonably be understood as legitimising such hatred or discrimination.”

Calling for efficient responses!

ILGA-Europe considers that an efficient response to homophobic and transphobic crime includes the adoption of inclusive and explicit criminal law provisions to tackle hate violence, as well as the implementation of the already existing criminal legislation. This in turn requires non-legislative initiatives to be undertaken, to ensure that public authorities develop the capacity to effectively and efficiently combat homophobia and transphobia.

ILGA-Europe welcomes the Ministerial Decision of the OSCE on combating hate crime², the recently adopted Recommendation of the Committee of Ministers of the Council of Europe on measures to combat discrimination on grounds of sexual orientation or gender identity³, and the opinions provided in the reports of the European Union Fundamental Rights Agency (FRA) on Homophobia and Discrimination on Grounds of Sexual Orientation and Gender Identity⁴. ILGA-Europe calls upon the

² OSCE, Ministerial Decision no. 9/09 Combating Hate Crimes, December 2009: http://www.osce.org/documents/cio/2009/12/41853_en.pdf.

³ Council of Europe, 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, March 2010: [https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec\(2010\)5&Language=lanEnglish&Ver=original&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec(2010)5&Language=lanEnglish&Ver=original&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383)

⁴ See footnote 1.

governments of all European countries to seriously implement these important instruments. ILGA-Europe also calls upon the EU, the Council of Europe and the OSCE to encourage, support and complement initiatives of European countries in combating homophobic and transphobic crime.

Specific tailored and comprehensive legislation is needed to combat homophobic and transphobic crime, providing effective penalties that take the seriousness of such crimes into account. This includes in particular physical or verbal attacks and any public incitement to violence or hatred directed against LGBT people. National criminal laws must ensure that homophobic and transphobic intent is considered as an aggravating circumstance in common crimes. Particular emphasis needs to be put on fighting hate speech on the internet and in the media. International organisations should promote legislative actions targeting specifically homophobic and transphobic violence. For the European Union, this should include new measures complementing the existing Council Framework Decision on combating certain forms and expressions of racism and xenophobia by means of the criminal law⁵.

Decision No. 9/09 of the Ministerial Council of the Organisation for Security and Cooperation in Europe on combating hate crimes

“The Ministerial Council [...] calls on the participating states to [...]:

2. Enact, where appropriate, specific, tailored legislation to combat hate crimes, providing for effective penalties that take into account the gravity of such crimes”

Law enforcement is of particular importance to ensure criminal legislation does not remain on paper only. Hate incidents targeting LGBT people need to be investigated

⁵ Council Framework Decision 2008/913/JHA

promptly and properly by the law enforcement authorities responsible. This also means that crimes should be condemned publicly by the relevant authorities and by political leaders, even in contexts where the legislation does not yet include explicit provisions against homophobia and transphobia.

To promptly step up the fight against homophobic and transphobic crime, ILGA-Europe calls upon the relevant public authorities to adopt the measures described below.

Regardless of the existence of an inclusive hate crime law, hate crimes require particular responses, to acknowledge their dehumanizing nature and to explicitly condemn their motivations. It is highly important that public authorities, when implementing measures to fight homophobic and transphobic violence, establish close cooperation with LGBT associations to ensure measures are targeted and respond to the needs of victims. The diversity inside LGBT communities calls for particular measures to ensure the needs of specific groups of LGBT people are met, such as older and younger LGBT and transgender persons.

Opinion provided by the EU Fundamental Rights Agency in its report on "Homophobia and Discrimination on Grounds of Sexual Orientation and Gender Identity in the EU Member States: Part II - The Social Situation"

Combating hate crime

“9. Member States should take practical measures to raise awareness among law enforcement authorities on LGBT issues, and to provide adequate training to police in dealing effectively with hate crime incidents, particularly concerning victim support and the systematic recording of incidents. [...]

10. Member States should ensure that law enforcement officers investigate homophobic crime to the same high standard as other forms of crime. Closer cooperation through, for example, multi-agency partnerships actively involving LGBT organisations,

especially in victim support, will facilitate policing by building up the trust needed to improve reporting of homophobic crime.”

In the five areas addressed in this handbook, dialogue and partnerships between civil society organisations and police authorities have the potential to deliver on promising strategies. For each of these fields, the good practices portrayed in the second part of the publication illustrate how innovative and fruitful this co-operation can be. ILGA-Europe believes that they will provide inspiration, new ideas and concrete tools for all those engaged in fighting hate crime.

1. Increased awareness-raising and capacities to deal with LGBT-phobic hate crime

The wider public and LGBT communities need to be properly informed about hate crime issues. The media have a particular responsibility in ensuring that the wider public is informed accurately about the unlawful nature of LGBT-phobic hate crime, including hate speech. Specific awareness-raising actions need to target law enforcement authorities such as the police, prosecutors and judicial officers, and also public health authorities. Across Europe there is an urgent need to increase the capacities of law enforcement officers through training to ensure that they know how to efficiently deal with LGBT-related hate crimes, and that they behave respectfully towards victims.

2. Efficient support to victims and improved mechanisms for reporting LGBT-phobic hate crime

Public authorities need to ensure that support for victims is complete and includes psychological support, counselling, medical care and legal advice. They must treat victims with respect and guarantee full enjoyment of their human rights.

Underreporting prevents European countries from devising efficient policies to tackle hate crime. These countries have to

take pro-active measures to encourage LGBT victims to report hate crimes. This includes exploring measures and methods to facilitate reporting, including self-reporting forms, and third party and assisted reporting. Particular focus needs to be put on the staff in police stations that have to ensure a safe and entrusting environment in order to encourage reporting by LGBT-phobic hate crime victims and guarantee respectful and appropriate support for victims.

3. Enhanced monitoring of hate crime through reliable data collection on LGBT-phobic hate crime

Reliable data and statistics on LGBT-related hate crime must be collected and made public in sufficient detail, including the numbers of actual incidents, the number of cases reported to law enforcement authorities, and the number of those prosecuted, convicted and sentenced. Detailed data is also needed as regards the character of assaults, and the profile of perpetrators and victims of hate crimes. Data collection and statistics need to respect the data-protection rights of victims.

4. Comprehensive prevention policies to combat and avoid LGBT-phobic hate crime

Efficiently preventing hate crimes involves activities in various social settings, including at the workplace and in private settings. Civil society organisations play a key role in prevention and have to be supported and associated for any activities linked to prevention. Prevention activities have to target schools to properly inform young people about hate crime and applicable legislation. Specific actions also need to include appropriate training of law enforcement officials, in particular the police, as well as other professionals, such as those working in health care. To ensure that LGBT communities can exercise their right to free assembly, law enforcement forces such as the police must cooperate with civil society and put in place specific prevention measures to guarantee peaceful and safe public LGBT events.

When needed, the same co-operation is needed to protect LGBT communities' venues.

5. Sustainable co-operation and dialogue between public authorities and civil society

Civil society organisations play a vital role in assisting victims of hate crimes and in reporting and monitoring hate crimes. To ensure LGBT-phobic hate crime is successfully dealt with and the above-mentioned measures efficiently implemented, public authorities (and in particular law enforcement authorities) and civil society groups defending the rights of LGBT people must be engaged in sustainable co-operation and dialogue. This means also involving civil society groups in investigating and prosecuting hate crimes. Civil society organisations have to be properly supported to be able to perform their tasks and participate in sustainable dialogue structures and co-operation.

II. Index of the good practices and important cross-cutting issues

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Note: The following table (in a separate Excel sheet) aims at facilitating the reader’s approach to this handbook, by identifying the main cross-cutting issues covered by the different good practices. It further illustrates the diversity of the initiatives undertaken by LGBT organisations and the police to tackle hate crime, in different national and regional contexts.

The table does not aim to deliver a comprehensive picture of all existing initiatives in Europe, neither does it deliver an integral description of all the actions run by the organisations mentioned in the handbook.

III. Good practices

CHAPTER 1. Raising awareness and building capacities to tackle LGBT-phobic hate crime

Awareness-raising is crucial in order to draw attention to the need to tackle homophobic and transphobic crime. It can address particular problems such as underreporting or the lack of efficient policies to prevent and respond to hate crime incidents.

Awareness-raising targets different publics: the wider public which frequently is not aware of the existence of LGBT-phobic hate crime or its extent; LGBT people and communities who often are not sufficiently well informed about their rights and how to behave in cases of hate incidents; specific groups in society, such as young people who are often involved in hate crime, either as victims or as perpetrators.

Raising awareness and disseminating information on LGBT-phobic hate crime requires powerful advocacy and lobbying strategies towards public authorities, specialised institutions (such as equality bodies or anti-discrimination ombudsmen) and law enforcement officials (such as police officers and prosecutors). Different activities such as communication campaigns, or national and international conferences, can draw the attention of the media, the general public and politicians to the need to address hate crime against LGBT people.

Awareness-raising can go hand in hand with specific capacity-building measures such as education and training targeted towards LGBT communities and law enforcement agents. The aim of capacity building is to enable law enforcement officials to prevent hate crime, respond to incidents more successfully in co-operation with civil society and deal with victims in a more professional and respectful way. Capacity-building measures for police agents on homophobic and transphobic hate crime issues

have already been introduced in several European countries; sometimes they address different types of hate crime such as racist, xenophobic, gender or other bias violence.

The following good practices show in more detail how LGBT organisations and police across Europe increase awareness about hate crime and develop further capacities to tackle it better. The examples described pursue different goals: increase trust towards police and encourage LGBT people to report hate incidents, improve the capacity of police to prevent and respond to LGBT hate incidents, inform public authorities about homophobia and transphobia and convince them to introduce more efficient policies at local and national level.

Good Practice 1: Addressing LGBT-phobic hate crime through raising awareness with the wider public, public authorities and LGBT people – the example of Stonewall

Stonewall is a British gay, lesbian and bisexual equality charity, with offices based in England, Wales and Scotland. It was founded in 1989 and campaigns and lobbies for equality of gay men, lesbians and bisexuals. Awareness-raising about hate crime is part of the organisation's key activities. Several reports and publications have been produced to draw the attention of the public authorities, the criminal justice system and LGB people to the issue of LGBT-phobic hate crime.

In 2008 the organisation published the report *Homophobic Hate Crime: The Gay British Crime Survey*⁶, which explores the extent and nature of homophobic hate crimes and incidents in Britain. The purpose of the report was to fill the gaps in understanding of homophobic crimes within the criminal justice system. The report demonstrates that police forces and their partners need to record homophobic hate crime and should do more to tackle such crimes. Since the publication of the report, the Home Office has

⁶ Stonewall, *Homophobic Hate Crime: The Gay British Crime Survey*, 2008: http://www.stonewall.org.uk/documents/homophobic_hate_crime__final_report.pdf

indicated that the next British Crime Survey will record homophobic hate crimes.

In 2009 the organisation also produced a report for the Equalities and Human Rights Commission entitled *Homophobic Hate Crime and Hate Incidents*. It contains the findings of an online YouGov survey of over 1,700 LGB respondents in Britain regarding their experiences of homophobic hate crimes and incidents.

Stonewall's report *Serves You Right*⁷ underlines that there remains a significant concern about discrimination by the criminal justice agencies, including the police and the judiciary, against lesbian, gay and bisexual people as victims of homophobic hate crimes.

Stonewall's advocacy work proved to be instrumental in removing discriminatory provisions in the law such as the anti-gay sexual offences of buggery and gross indecency, and introducing a statutory aggravation on the grounds of sexual orientation, which came into force in 2005. Over the last few years Stonewall has been advising a number of agencies on the development of policies and practices to improve the experience of lesbian, gay and bisexual people coming into contact with the criminal justice system⁸. The organisation advises these agencies how to implement the recommendations of the *Homophobic Hate Crime* and *Serves You Right* reports. The organisation has worked specifically with the Crown Prosecution Service in the development of their policy and guidance on the prosecution of homophobic hate crimes⁹.

Specific actions also address hate crime victims directly. Through Stonewall's Information Service, the organisation advises individuals on their rights within the criminal justice system, including how to complain to the police, and also in

⁷ <http://www.stonewall.org.uk/documents/servesyouright.pdf>

⁸ Association of Chief Police Officers of England, Wales and Northern Ireland, United Kingdom Home Office, Police Standards Unit, 2005, *Hate Crime: delivering a quality service – Good practice and Tactical Guidance*: http://www.paradigm-uk.org/articles/Hate_Crime_Delivering_a_Quality_Service_/2118/31.aspx

⁹ Crown Prosecution Service (CPS), publications on policy, guidance on prosecuting cases of homophobic and transphobic crime, 2007: http://www.cps.gov.uk/publications/docs/htc_guidance.pdf

specific cases such as same-sex domestic violence¹⁰.

As the majority of homophobic hate crimes and incidents are perpetrated by young people, the organisation also works closely with schools and other education institutions to tackle homophobic bullying. Several awareness-raising campaigns have been organised, including the campaign *Education for All*¹¹, *FIT* - a feature film for schools to tackle homophobic bullying¹² - and a back-to-school ad campaign against homophobia: *Some people are gay. Get over it!*

In 2010 Stonewall published a plain English guide on hate crime for lesbian, gay and bisexual people, entitled *Blow the Whistle on Gay Hate*¹³. It addresses LGB people directly and encourages them to report any homophobic incident to the police. It informs them on why, how and where to report.

In 2007 the Welsh section of Stonewall, Stonewall Cymru Conference¹⁴, published a booklet (in English and Welsh) entitled *Have you experienced homophobic hate crime?*¹⁵ It is intended to help LGB people understand how the Police and Crown Prosecution Service in Wales respond to homophobic incidents. It also includes information about the support that is available from Victim Support and the Court Services and urges victims to report hate incidents. According to Stonewall Cymru Conference the booklet is an opportunity to help all victims of homophobic hate crime in Wales to understand and have confidence in the Criminal Justice System. All four local Criminal Justice Boards in Wales are committed to treating LGBT-phobic hate crime victims with respect and fairness. The publication is also available on the website of the North Wales Police and the Welsh Assembly Government.

¹⁰ http://www.stonewall.org.uk/at_home/hate_crime_domestic_violence_and_criminal_law/default.asp

¹¹ http://www.stonewall.org.uk/education_for_all

¹² http://www.stonewall.org.uk/at_school/fit/default.asp

¹³ Stonewall, *Blow the Whistle on Gay Hate*, 2010:

http://www.stonewall.org.uk/documents/stonewall_gay_hate.pdf

¹⁴ <http://www.stonewall.org.uk/cymru>

¹⁵ Stonewall Cymru Conference, *Have you experienced homophobic hate crime?*, 2007:
http://www.stonewall.org.uk/cymru/english/media/current_releases/3112.asp

Good Practice 2: Swedish police raising awareness and encouraging reporting of LGBT-phobic hate crime victims and witnesses

In 2009 the Stockholm County Police in Sweden published a leaflet addressed to LGBT people, explaining what distinguishes a hate crime, how the Stockholm police work on issues of homophobic and transphobic hate crime and what help is available¹⁶.

The leaflet includes the issues of crime within the family, when LGBT people are attacked or threatened because of their being homosexual, bisexual or transgender, also including violence by a partner in same-sex couples. The publication insists on the fact that LGBT people can be particularly vulnerable to violence and gives clear advice on how to report an incident as victim or witness to the police.

The website of the Swedish police contains further detailed information to raise awareness about hate crime, including LGBT related hate crime¹⁷:

Good Practice 3: Raising awareness in Belgium to better tackle hate crime

The Rainbow House in Brussels hosts different French-speaking and Dutch-speaking organisations defending the interests and rights of LGBTQI people (Lesbians, Gay, Bisexual, Transgender, Queer, Intersex) in the Brussels region. It offers an information point for the LGBTQI community and a permanent contact point to guide people towards other structures offering legal, social, psychological or medical assistance. In terms of tackling hate crime, the Rainbow House has undertaken several actions to

¹⁶ Stockholm County Police, Being yourself is not a crime (in Swedish and English), 2009: http://www.polisen.se/Global/www%20och%20Intrapolis/Informationsmaterial/01%20Polisen%20nationellt/Engelskt%20informationsmaterial/being_yourself_hatbrott_09.pdf

¹⁷ <http://www.polisen.se>

raise awareness about hate crime with LGBTQI communities and local authorities, including the police.

In 2006, the University of Brussels, the Belgian Ministry of Justice and the Centre for Equal Opportunities and Fight against Racism held a survey on homophobic assaults in Brussels. The Rainbow House participated actively in the survey by consulting its members and organisations to get as many answers as possible to the questionnaires. The result of this survey was quite shocking; it was also the first time that reliable figures were made public, which allowed the Rainbow House to display evidence that something had to be done to improve the situation.

Since 2003, the Rainbow House, together with other federations, has lobbied the Belgian Minister of Justice to include homophobia as an aggravating factor in the law on hate and violence. In the end the change in law was achieved. In 2006 the Minister of Justice sent out a circular reminding police officers to mention the homophobic character of a hate crime when reporting an incident, thus enforcing Belgian law.

The Rainbow House also published a brochure on Homophobic Violence, aimed at raising awareness within the LGBT communities in the Brussels region. The brochure explains the rights of victims and where to go to seek help. It also describes the importance of reporting any hate crime incident to the police. The municipal councillor for equal opportunities of the Brussels City funded the publication and it was distributed within the LGBT communities, but it was also sent to social workers, hospitals, police stations and any place where a victim could go after having been attacked.

As the number of incidents reported to the police and the LGBT associations was still very low, the Rainbow House considered that victims could be better reached where they might seek help. As a result, in 2009 the Rainbow House initiated a new campaign to raise awareness amongst people offering first line aid such as social service providers in hospitals, people in

charge of victim aid within the police, youth organisations, helplines like Holebifoon and social workers.

According to the Rainbow House, there is a shared understanding within the LGBT community that good contacts with the local police are essential as they receive most victims of homophobic and transphobic assaults. The Rainbow House systematically tries to have posters at the local police station during pride events hoping that victims of LGBT-phobic violence will feel more comfortable to report incidents. However, although the Rainbow House tries to develop privileged contacts with individual police officers, it is not easy to establish a sustainable form of co-operation between the police and LGBT associations.

Thanks to the City of Brussels, the Rainbow House has had some meetings with the police with the aim to set up training sessions for police forces on LGBT issues, including the specific needs of victims of attacks. Unfortunately, due to a change in the police hierarchy, these sessions have been delayed, and there have been no concrete outcomes so far. Currently the Rainbow House is setting up a new long-term strategy for co-operation with the police, and there are good hopes that it will work out, despite any future internal changes within the different police forces.

The Rainbow House has held its first workshop for the judiciary as part of a study day about diversity and discrimination. In this workshop field information about homophobia was provided and the way the LGBT communities experience homophobia and transphobia. The next steps include establishing training curricula for the police and the judiciary, and identifying experienced trainers willing to train the police on tackling LGBT-phobic crime.

Jochen van der Worp, Rainbow House, Belgium

Good Practice 4: Engaging with public authorities to fight hate crime in Portugal

Created in 1995, ILGA-Portugal is an independent, apolitical and secular association defending the rights of Lesbian, Gay, Bisexual and Transsexual people in Portugal, their full social integration into Portuguese society and the improvement of their living conditions. Its core actions are social and political, addressing LGBT communities, politicians and the wider public. In recent years, ILGA-Portugal has been actively involved in tackling hate crime and has undertaken actions to mobilise public authorities, including the Portuguese police, to take a more active stand in the fight against hate crime.

The legal framework regarding LGBT rights in Portugal has evolved positively over the last decade, although many barriers still need to be overcome. It is worth mentioning two important pieces of law, the Constitution and the Criminal Code: The Constitution explicitly states since 2004 that “No one shall be privileged or favoured, or discriminated against, or deprived of any right or exempted from any duty, by reason of his or her (...) sexual orientation” (no reference to gender identity is made).

The Criminal Code was revised in 2007 and several amendments were introduced, making discrimination on the grounds of sexual orientation, as well as hate speech, criminal offences. Yet no reference to gender identity is made. Homophobic motives also became aggravating circumstances for murder and assault, increasing penalties from 6 months to 5 years.

However, police practices haven't followed. Although police officers have received training in human rights and although some special training programmes on vulnerable groups were set up, there isn't any specific policy or training regarding discrimination on the grounds of sexual orientation or gender identity. After a series of incidents targeting LGBT people in 2005 and 2006, ILGA-Portugal started to develop several actions related to tackling hate crime.

The first material produced by ILGA-Portugal, in 2007, was a report called *Recommendations for Good Practices in the Relationship between the Portuguese Police and the LGBT Community*¹⁸. This report synthesises the main concerns of LGBT communities in terms of hate crime, presents a survey of best practices among police authorities in other countries and introduces a set of recommendations to be adopted by the Portuguese police authorities. The report allowed ILGA-Portugal to structure its position on hate crime and formed a solid basis for further discussions with public authorities. Although ILGA-Portugal didn't immediately succeed in arranging a meeting with the police authorities, a meeting with the Minister of the Interior was organised. During the meeting the Minister agreed to train and work with police authorities on these issues.

No permanent communication platform with the police authorities has yet been set up, however. In March 2009 ILGA-Portugal therefore organised a conference on *Mainstreaming LGBT Anti-Discrimination Policies*¹⁹. One of the panels had representatives of English and Catalan police authorities who presented their experiences. One discussant of the panel was the Director of the Research Centre of the Portuguese Police Academy. It was the first contact established between Portuguese LGBT organisations and a Portuguese police authority. The conference was also widely covered in the media.

More recently, ILGA-Portugal participated in the revision of *Strategic System of Information, Management and Operational Control*, which is used by all police authorities in Portugal. As already stated, the Portuguese Criminal Code explicitly penalises discrimination on the grounds of sexual orientation since 2007. However, the information system has not changed so far. ILGA-Portugal sent to the Ministry of Justice its position about the revision, requiring the introduction of this ground of discrimination in the system in order to make it possible in the future to collect statistical data on LGBT-phobic hate crimes.

¹⁸ ILGA-Portugal, Proposta de boas practicas para o relacionamento entre as forcas e servios de segurana portuguesas e as cidadas e os cidados LGBT(in Portuguese only), 2007: <http://www.ilga-portugal.pt/noticias/Noticias/BoasPraticas.pdf>

¹⁹ <http://www.ilga-portugal.pt/conferencia2009>

Additionally, ILGA-Portugal is currently engaged in the project *Tracing and Tackling Hate Crimes against LGBT people*, which is coordinated by the Danish Institute for Human Rights and includes partners from nine European countries. Within the framework of this project, ILGA-Portugal had the chance to meet with two national police forces, a police union, the Minister of the Interior, the Secretary of State for Equality and another LGBT association which supports victims of hate crime.

As a result of this recent round of meetings, it has been agreed to invest in the training of police authorities and to develop a pilot case in a police station in order to improve the reporting system and also the communication policy with the LGBT population. ILGA-Portugal will support this effort. The Portuguese Police Academies also agreed that ILGA-Portugal would present its proposals to future police officers.

In the coming years, ILGA-Portugal plans to continue its co-operation with the police and public authorities in general and will further propose best practices of how to tackle LGBT-phobic hate crimes.

Miguel Correia Pinto, ILGA-Portugal, Portugal

Good Practice 5: Increasing capacity of police forces in Italy to tackle LGBT-phobic hate crime

CGIL Roma e Lazio (Italian General Confederation of Labour for the Rome and Lazio region) *is the regional section of the largest Italian trade union. CGIL Rome and Lazio has been actively engaged in non-discrimination for several years. It has organised seminars in collaboration with the Women's Committee of the Confederation and the Police Officers' Union (SILP-CGIL) on the issue of gender violence. The Confederation and its federations also carry out an intense activity to prevent discrimination and racism.*

Finally, CGIL Rome and Lazio have played a major role in carrying out training sessions for local police officers on LGBT issues with the aim to prevent and fight homophobic and transphobic hate crime and discrimination.

The idea of training local police forces to better tackle hate crime against LGBT people was first developed in 2005 during meetings of the Coordinating Body of LGBT Associations²⁰ in Rome, initiated by the Deputy Mayor for Equal Opportunities of the Municipality and now under the auspices of the Deputy Mayor for Culture. The first training session addressed public relations officials of the Municipality and included LGBT issues in general. However, after several homophobic and transphobic incidents in Rome, it became clear that local police officers (Polizia Municipale) needed to be trained on LGBT matters. The aim of the training courses was to provide police officers with basic cultural and social knowledge about LGBT issues in a country without any specific legal protection against homophobic and transphobic violence.

Since the training seminars for police officers were set up, the Municipality of Rome has been responsible for financing and coordinating the training courses. The NGOs which are part of the Coordinating Body of LGBT Associations are responsible for setting up the content and for selecting trainers amongst a team of LGBT experts. So far each training session has had a different approach in terms of contents and trainers. In general each training course has around 25 participants. The New Rights Office of CGIL Rome and Lazio (an office which deals with LGBT issues) has been part of a steering committee that agreed upon a training scheme, selected trainers and a tutor.

The most important element of this initiative is the strong partnership between the Municipality of Rome and the NGOs which are part of the Coordinating Body of LGBT Associations. CGIL Roma e Lazio, as a trade union, played an important role in keeping alive the interest of both NGOs and the Municipality in

²⁰ Tavolo Permanente di Coordinamento sull'Orientamento Sessuale e l'Identità di Genere del Comune di Roma.

organising further training sessions, despite major changes due to local elections in spring 2008, a general lack of awareness about the issue and limited funding possibilities. The confederation insisted repeatedly on the importance of education on LGBT issues during the meetings of the Coordinating Body, in order to raise the awareness of the Deputy Mayor, and to emphasise that education and information are among the most effective measures to tackle discrimination and to improve the social and living conditions of LGBT people in Rome. After several LGBT-phobic incidents in Rome, LGBT people generally do not feel that Rome is a safe city.

The first training session was organised in 2005 and the second took place in 2007. Each training scheme had a slightly different organisation. The third set of training courses was organised in the spring of 2010. It included a particularly interesting practice: after each training session, the NGOs which participated in the organisation of the training course meet to analyse the lessons learned from the sessions. The most relevant findings so far include the following:

- the importance of involving highly skilled and professional trainers
- the relatively limited number of training courses (not more than six training courses over a six-week period)
- the importance of having a 'tutor' who can monitor and be present at all times
- the need to monitor the quality of the training session through a questionnaire
- the need to hold a final session with all trainers and representatives of NGOs and the Municipality to assess the usefulness of the course. This final session is held in the presence of the Deputy Mayor in charge, the trainers, the tutor, representatives of NGOs (including the CGIL representative) and the trainees.

There are plans and the political will to extend the training schemes in the future to more participants and organise more parallel rounds of training sessions. Currently the limited financial

resources are the only obstacle. The training courses have also given NGOs a chance to get in touch with local police officers and enable further formal and informal exchanges in case specific needs arise. One of the specific requests that arose at the end of the third session was to organise a separate training scheme aimed only at training police officers by re-shaping the contents according to their specific needs.

Salvatore Marra, CGIL Roma e Lazio – New Rights Office, Italy

CHAPTER 2. Reporting hate crime and support for victims

Many LGBT associations across Europe provide direct support for hate crime victims. This includes emergency telephone and Internet hotlines, psychological counselling, legal advice or practical help for victims who seek medical care or other forms of assistance. They also provide advice for victims who wish to contact the police or other local authorities to lodge formal complaints against the perpetrators of hate crimes.

Reporting LGBT-phobic incidents is crucial to ensure that the perpetrators are prosecuted, and that crime is recorded and ultimately included in official data and statistics. It is vital to have this reliable evidence of hate incidents to push public authorities to adopt appropriate and effective policy responses and effectively prevent and address hate crime.

The level of reported LGBT-phobic hate crimes remains critically low across Europe. There are many reasons for this, including the lack of confidence of victims in the police. This is partly due to historically strained relations between LGBT communities and law enforcement officers. Too many victims fear that crimes against them will not be taken seriously or that the police reaction will be unsympathetic or hostile. Many hate crime victims also prefer to suffer the trauma of victimisation in silence rather than to expose themselves to any risk of being attacked a second time during the prosecution process or trial. Other reasons include the fear of being 'outed' as lesbian, gay, bisexual or trans. Finally, in some countries in Europe 'institutionalised prejudice' still exists, which means that LGBT people can be abused by the police, including sexually. Even in countries where the situation has improved considerably, the fact that such abuses existed in the past still has consequences on the decision of victims not to report.

Across Europe LGBT associations often accompany victims when reporting hate crimes and help ensure that law enforcement officers treat complainants with respect and record

testimony fully and accurately. Many LGBT associations work hard to encourage victims to choose to formally report hate crime incidents to the police. As community-based organisations, they can build innovative tools and methods for reporting hate incidents.

However, no matter how hard NGOs work, it is indispensable that the police as law enforcement agents are doing their job properly. This also includes a supportive and professional approach towards individual victims to make them feel confident enough to report a case and act as prosecution witness. In a few countries in Europe this is already the case and different forms of reporting have been developed, including anonymous reporting, reporting by NGOs representing the victim, assisted reporting or so-called 'multi-agency' reporting, where various public services co-operate to allow victims to report in the place they choose.

The following practices highlight how LGBT associations and police support hate crime victims and encourage them to report incidents. In some countries the police have developed a strong co-operation with LGBT associations to address underreporting.

Good Practice 6: Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights (RFSL) – the example of an LGBT helpline

RFSL - Riksförbundet för homosexuellas, bisexuellas och transpersoners rättigheter (the Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights) is a non-profit umbrella organisation that works for the rights of lesbian, gay, bisexual and transgender people. It is non-partisan and not affiliated with any religious organisation. Founded in 1950, RFSL currently has approximately 4,000 members.

RFSL works to improve the quality of life for LGBT people through political lobbying, information dissemination, and the organisation of social and support activities. The federation operates counselling centres for both women and men in major Swedish cities intended for people who need to talk about coming out, sex, HIV/AIDS and other health issues, and relationships, as well as who need assistance in their contacts with the authorities and healthcare institutions, or who require legal assistance. In addition, the federation maintains websites with general information as well as specific information regarding LGBT health issues.

RFSL also has a specific website addressed to crime victims and operates a helpline for victims of harassment, threats, hate crimes or domestic violence. As regards reporting, RFSL has longstanding experience of cooperating closely with the police.

Victims of crime can contact the helpline either via telephone or email. RFSL also receives direct referrals from the police. After getting in touch with RFSL, an appointment is made to meet the victim. About 50 percent of people contacting the helpline are from Stockholm and the rest are from all over the country. The appointment with the victim either takes place in RFSL's premises in Stockholm or RFSL staff travel to meet them where they live. Counselling can sometimes also take place via telephone and email.

Two people work part-time with RFSL's helpline. People contacting the helpline are victims of all kinds of violence: hate crimes, domestic violence, honour related violence, etc. RFSL generally has ten counselling sessions per week, each lasting about an hour. One of the two people working for RFSL's helpline is a trained trauma therapist taking care of the more severe cases, mostly hate crimes and honour-related crimes.

In November 2009 RFSL set up a shelter where victims can find refuge, if necessary. It is a small flat and shelter can be offered only to one or two people at a time. A large portion of RFSL's work on tackling violence against LGBT people also consists of teaching and training, lectures, assisting researchers and relations with the media.

The helpline began working with the Swedish police in 1998. There was an obvious need for co-operation in order for cases to be referred to court. There was also a need to co-operate with the social and health care systems and other organisations. RFSL provides coordination and insight and support co-operation between the various institutions involved.

After legislative breakthroughs²¹ in 2006, several important research studies on LGBT-phobic hate crime and some lobbying work from RFSL, the Stockholm County Police finally launched its permanent Hate Crime Unit in May 2007²². The Hate Crime Unit consists of six Police Officers: the superintendent Team Leader, the Investigation Leader, and four investigators.

The Hate Crime Units' responsibilities are method support, development and education for the Stockholm County Police. They investigate all Hate Crimes in the Stockholm City Area. The Hate Crime Unit is co-located with the radio car unit and the on-call criminal investigations unit.

²¹ Sexual orientation is included in the law on hate and violence, and is recognised as an aggravating factor:
<http://www.homo.se/o.o.i.s/1212>

²² <http://www.polisen.se/sv/Om-polisen/lan/St/op/Polisen-i-Stockholms-lan/Verksamheten/Brottsutredning/Test-Polisarbete-med-HBT-och-hatbrott/Hatbrottsjouren-i-Stockholm-City/>

The Hate Crime Unit of the Stockholm police refers victims of LGBT-phobic hate crime to RFSL on a weekly basis. At the same time RFSL's helpline staff are present in the police station every Thursday afternoon and evening and offer counselling to victims both before and after they meet the police. In this way more reluctant victims are encouraged to submit an official complaint to the police, which also helps to increase the number of reported LGBT-phobic hate crime cases. In some cases RFSL accompanies victims during the interview with the police. RFSL also offers support to victims during trials and co-operates with prosecutors, legal advisors and the police.

RFSL plans to have more Hate Crime Units set up in Sweden and continues to work closely with the police. This implies a lot of work both at grass-roots level and also on a political level.

More information about RFSL's activities on tackling violence against LGBT people can be found at: <http://www.rfsl.se/boj/>. Victims can contact the helpline by telephone at +46-20-34 13 16 or via e-mail: boj@rfsl.se

Anneli Svensson, RFSL - The Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights, Sweden

Good Practice 7: Reporting transgender hate crime incidents and supporting victims in the Netherlands

TNN - Transgendernetwerk Nederland (*Transgender Network Netherlands*) is an umbrella organisation created by six trans organisations. It takes care of pushing forward the trans agenda in the Netherlands, by lobbying, publicity, advocacy and direct action. TNN works towards empowerment of the trans population in the Netherlands, including through the improvement of legislation. Currently TNN is supported by a structural subsidy from the Emancipation Directorate within the Ministry of culture, education and science of the Netherlands.

A recent project on tackling homophobic and transphobic hate crime initiated by the Dutch police aims to increase reporting by LGB hate crime victims. It quickly became apparent that specific measures are needed to encourage reporting by victims of transphobic hate crime incidents too. The Amsterdam police and TNN have started to co-operate on this issue.

In 2008 the Dutch Hate Crimes Police Project was initiated following a similar British police project called True Visions. This project was started by the police forces of two Dutch regions (Amsterdam-Amstelland and Gelderland-zuid) and has since been expanded to cover the whole of the Netherlands. The idea of the project is to pay more attention to homophobic hate crimes and to encourage victims to report crimes to the police.

The project consists mainly of a website (www.hatecrimes.nl) that offers to LGBT victims of hate crimes the opportunity to make an online report or to ask to make a declaration about a hate crime incident. The aim is clearly to improve the reporting of hate crimes. The project also comprises an information pack with folders and a report form which are distributed to various public bodies, anti-discrimination agencies and police stations. One can also download these materials from the website.

TNN is not a formal partner of the Hate Crimes Police Project, but was consulted at the beginning of the project; unfortunately the police chose to use the term “transsexual” rather than “transgender”. TNN considered this as a problem, since the term “transsexual” does not automatically cover violence perpetrated against other trans people or persons with non-normative gender expression or identity, such as cross-dressers. A new version of the project material is not planned yet and as a result, at least on paper, the incorrect term for transgender people is regrettably still used.

As regards transphobic hate crimes, very few were reported to the police in the pilot regions (at the Amsterdam police only 4 were reported in 2009). The Amsterdam police are particularly actively engaging with the trans community to raise awareness and help encourage victims to declare the hate crime incidents. For the Amsterdam police the manager and a project officer of the Diversity Division are working on the project. The trans community is represented by TNN and its office staff (a policy officer and staff working on communications) and a coordinator from Transvisie²³. Other police regions seem to be less at ease as regards victims reporting transphobic hate crimes.

More recently the diversity division of the Amsterdam police contacted TNN and Transvisie to see how to increase co-operation to combat transphobic hate crime. The staff involved in the Amsterdam police force showed their willingness to raise awareness on transphobic hate crime throughout the force.

TNN will continue to work with the Amsterdam police and work with at least one other region to broaden police awareness on transphobic hate crime. Since it requires a lot of work, TNN cannot work with many regions yet. TNN’s newly launched website (www.transgendernetwerk.nl) contains more adequate information on hate crimes with a transphobic motive. Further meetings between police and the trans community are also planned in the forthcoming months.

²³ <http://www.transvisie.nu>. Transvisie is a centre for gender diversity, working with and for transsexual and transgender people.

Judith Vreer, TNN - Transgendernetwerk Nederland, The Netherlands

Good Practice 8: Support to victims of hate crimes in Croatia

Lesbian Group Kontra is a non-governmental organisation advocating elimination of all forms of violence and discrimination against lesbians, bisexual women and discrimination based on sexual orientation, gender identity and gender expression. It was founded in 1997 in Zagreb, and has a longstanding experience in tackling homophobic and transphobic crime. In 2005 the organisation set up an LGBT legal helpline and started organising regular round tables in Croatia on hate crime. It also undertook research and published brochures on violence against lesbian, gay, bisexual and trans persons in Croatia.

The following article explains in more detail how Lesbian Group Kontra supports victims of hate incidents and how the organisation deals with police forces which seldom show support towards LGBT victims of hate crime, despite the fact that the Croatian hate crime law has included provisions on homophobic violence since 2006.

Lesbian Group Kontra directly provides help for LGBT victims of hate crimes through a hotline offering counselling and legal advice. Victims can contact the helpline via email or telephone. The helpline provides psychological counselling by trained staff, including a psychologist. Victims can also ask for legal advice and receive information about all legal proceedings they can undertake as hate crime victims. Users of the helpline are free to give their names and details but can choose to remain anonymous. Lesbian Group Kontra keeps records of all reported cases and follows the cases at all stages, from the first report to the court proceedings. As LGBT victims of hate crime still

frequently suffer misconduct from the police and other officials, when reporting hate incidents, the organisation also offers assistance to the victim when reporting an incident at the police station or during court proceedings. The organisation can also hire a lawyer to defend the victim.

The organisation deals with some 20 cases of hate crime per year; however the level of underreporting is very high, mainly due to lack of confidence of victims in public authorities. Victims are afraid that their sexual orientation or gender identity will be revealed and that they will be discriminated against. Information about all reported cases is published in the organisation's annual report on discrimination against sexual minorities in Croatia which also includes a description of how public authorities reacted in each case. The information strictly respects the privacy of the victims and never mentions their real names.

Despite the fact that since 2006 sexual orientation has been included in the Croatian law on hate and violence and is recognised as an aggravating factor, co-operation with the Croatian police remains problematic. In most cases criminal charges are not brought against perpetrators and police officers often insult victims when they report hate crimes. In recent years only in two cases was a proper police investigation undertaken and the perpetrators of the LGBT-phobic hate crimes found, prosecuted and convicted. In both cases the media reported the incident extensively and NGOs were mobilised. The Ombudsman also publicly condemned the incidents. In these exceptional cases the criminal police actively involved NGOs in the investigation and showed a professional attitude, including towards the victims of the hate incidents. For this reason NGOs try to get criminal charges brought by the Public Prosecutor's office, whenever a hate crime happens, hoping the criminal police force will be asked to carry out the investigation. The main problem remains however with ordinary police forces.

In 2006 the OSCE organised with the Republic of Croatia the training of trainers at the police academy. Lesbian Group Kontra gave several training sessions. Still in Croatia there are currently

only three police officers in charge of hate crime for the whole country. Although these police officers are well trained (they are officially specialists in ‘extreme violence and terrorism’), there is insufficient communication between these high level police officers and ordinary police forces.

The main problem therefore remains the lack of will at top political levels to deal with LGBT-phobic hate crime, especially at the Ministry of the Interior. In addition, the competent public authorities, at local and national level, have insufficient knowledge of hate crime. Lesbian Group Kontra continues to put pressure on public authorities and addresses the issue of hate crimes in its annual reports which are sent to all relevant public authorities and to international organisations.

Since the Croatian hate crime legislation came into force, and mainly due to the pressure of NGOs and the attention the media give to hate crime, a few cases of hate incidents have been dealt with properly, and some official reports on single crime cases now exist. However this is far from sufficient. The hate crime law is not really enforced and the reality is that most hate incidents are not dealt with at all, or there is no proper investigation. Although the public authorities are now obliged to keep records and collect data, exact figures and data remain difficult to access and the Public Prosecutor still does not include homophobic and transphobic hate crime in its annual statistics. There is still no political will to analyse hate incidents and draw pertinent conclusions in terms of adopting appropriate public policies to better prevent and respond to hate crimes.

Sanja Juras, Lesbian Group Kontra, Croatia

Good Practice 9: Individual support for victims – the example of Georgia

Inclusive Foundation is a non-profit association, based in Tbilisi, Georgia, promoting integration of lesbian, gay, bisexual and trans people in Georgian society. Addressing homophobia in

society is an important area of activity for the organisation and it encompasses many actions: providing counselling, psychological and legal assistance for LGBT people when their rights have been violated, advocating and lobbying for the rights of LGBT people, raising awareness about LGBT rights and violations of rights, disseminating adequate information to LGBT communities, supporting research and conducting seminars and conferences. Specific actions are undertaken in order to support victims. This is particularly crucial, especially in a country where co-operation with the police still proves to be very difficult. For instance, it can happen that LGBT-phobic hate crime victims are also intimidated by the police during investigations.

Inclusive Foundation provides online and direct counselling to LGBT people who require assistance in the case of hate crime incidents. Once the initial information has been collected, the Foundation develops a strategy together with lawyers from the Georgian Young Lawyers' Association (GYLA) and the Ombudsman's office²⁴. The best way to proceed is determined in the light of each specific case.

Inclusive Foundation also collects data for its own reporting activities. Analysed data is disseminated through publication on the organisation's website (www.inclusive-foundation.org), in the Georgian LGBT quarterly magazine *Me*, and during meetings with rapporteurs for various governments and international organisations; it also forms the basis for shadow reporting to specialised bodies.

Co-operation between LGBT organisations and the police is not a straightforward matter in Georgia. There are frequently cases where victims of hate crime are intimidated by investigating police officers. In this case Inclusive Foundation contacts the Main Public Prosecutor's Office. This office operates under the authority of the Ministry of Justice. It is in charge of human rights, controls the police, and reports on any form of misconduct.

²⁴ <http://www.ombudsman.ge>

Inclusive Foundation is not directly involved in strategic litigation. Nevertheless, legal NGOs working on litigation related to sexual orientation and/or gender identity (such as GYLA and Article 42) are ready to take up cases brought to the attention of Inclusive Foundation. Co-operation is thus possible. Unfortunately, none of the cases has yet gone to court. An effort to better prepare joint strategic efforts has been undertaken, by sending a lawyer from GYLA to special seminars on LGBT cases which were organised by Interrights. After the seminars the lawyer met with LGBT community members and explained why strategic litigation is so important. The valid cases for long-term strategic litigation are yet to be identified.

It is also important to underline that so far there have been three cases where the police have acted respectfully towards LGBT-phobic hate crime victims, thus proving how helpful the dialogue with NGOs can be:

- In 2006, the police arrested the perpetrator who bullied and robbed a gay man in the toilets of the central railway station, a well-known meeting place for male sex workers. During the investigation the police made sure that the victim was not intimidated by the perpetrators' relatives, who disclosed the victim's sexual orientation (and his HIV status) through the media.
- In 2007 the head of Inclusive Foundation was kidnapped and robbed. The perpetrators recited religious texts in the car while taking the victim to the place where they robbed him. The police knew about the sexual orientation of the victim but behaved respectfully and successfully completed the investigation.
- In 2007, two people were robbed in Tbilisi, in the proximity of a cruising area that often attracts robbers. The victims complained to Inclusive Foundation that the police officers in charge of the investigation were asking the victims humiliating questions about their sex lives and were

intimidating them. Only after Inclusive Foundation had lodged a complaint with the Main Public Prosecutor's Office did the investigation continue in a more respectful manner towards the victims.

Unfortunately, despite these encouraging signs, relations with the police in Georgia remain highly problematic. In mid-December 2009 police officers broke into the premises of Inclusive Foundation claiming that illicit drugs were hidden in the office. During their investigation the police destroyed posters and other property of the organisation, and insulted the staff, who were present, with homophobic remarks. The case was studied by GYLA and the Ombudsman's office. The police officers finally received a reprimand for making "unethical statements." Following this incident Inclusive Foundation is now developing a new strategic plan. Co-operation with GYLA and the Ombudsman's office will continue. The aim is to introduce hate crime legislation with all necessary supplementary instruments that will enable the organisation to establish a formal and stable relationship with the police to combat homophobic and transphobic hate crimes in Georgia.

Paata Sabelashvili, Inclusive Foundation, Georgia

Good Practice 10: Assisted reporting scheme for LGBT-phobic hate crimes in London

The London-based organisation Galop²⁵ developed the 'assisted reporting' scheme in conjunction with the Metropolitan Police Service (MPS) to increase the level of reporting of hate crime. Clients who do not wish to report directly to the police can report via Galop's website (through an online report form) or its Shoutline, a helpline and casework service providing advice, support and ongoing casework for victims of homophobic and

²⁵ Gay London Police Monitoring Group, <http://www.galop.org.uk>

transphobic crime, sexual and domestic abuse, and those who have issues with the police. Galop can pass details directly to the police, pass on anonymous reports, or act as an intermediary so that the police do not have the victim's details but can follow up via Galop. The organisation also works with people who have been treated unfairly by the police, and can make complaints. Although Galop works with the police it is completely independent from them. Galop never passes on any information to any third party without explicit consent. The Metropolitan Police Service's website also refers to this 'assisted reporting scheme'²⁶

Galop also offers an interactive online service where victims can chat online live with one of Galop's advisors if they would like to talk about any homophobia or transphobia. The service is secure and encrypted which means it is totally confidential.

Good Practice 11: Swedish National Police Board – Guide for the Improvement of Support for Victims of Homophobic Crime

In 2005 the Swedish National Police Board issued a *Guide for the Improvement of Support for Victims of Homophobic Hate Crime*²⁷.

The guide follows a series of projects and strategies of the Swedish National Police to further improve the crime victim support provided by the police. As victims of homophobic crime have been highlighted in several national budget proposals and other government steering documents as a particularly exposed and vulnerable group, the police decided to improve the support for these victims. The guide is primarily intended for police officers but it is explicitly stated that it may also be of use to other

²⁶ http://www.met.police.uk/communities_together/docs/reporting_crime.pdf

²⁷ Swedish National Police Board, *Guide for the Improvement of Support for Victims of Homophobic Hate Crime*, 2005:

http://www.polisen.se/Global/www%20och%20Intrapolis/Informationsmaterial/01%20Polisen%20nationellt/Engelskt%20informationsmaterial/Homophobic_crime_05.pdf

officials in the criminal justice system, such as judges or prosecutors, and also social services and medical staff. The guide also underlines the importance of establishing co-operation between police and all local agencies and organisations providing victim services in order to achieve an acceptable level of protection and support for victims of crime.

CHAPTER 3. Monitoring and documenting hate crime

“Monitoring” is a broad term describing the active collection, verification and use of information to address human rights problems. Human rights monitoring includes observing and gathering information about incidents and events (elections, trials, demonstrations, etc); it has a temporal quality as it generally takes place over an extended period of time²⁸.

In the specific context of homophobic and transphobic crime, the purpose of monitoring is to document violence motivated by hatred against LGBT people and to draw the attention of national authorities or international organisations to the violation of recognised human rights²⁹.

Across European countries there is no uniform way of monitoring LGBT-phobic crime. Many NGOs actively defending LGBT rights, and monitor and document hate incidents on a daily basis, and some have been doing so for many years. Different practices and approaches to monitoring co-exist and the examples of good practices in the following pages highlight the richness of these diverse approaches.

In general monitoring involves the recording of hate incidents based on findings during events such as pride marches, media and press coverage and declarations or interviews of individual victims or witnesses of hate crime incidents. Monitoring can also focus on a specific case (e.g. investigation or trial) or situation (e.g. drafting and passing of legislation; implementation of laws and policies, etc.).

Monitoring ultimately aims to collect sufficient evidence of hate crimes to convince authorities and the public that something has

²⁸ United Nations, Training Manual on Human Rights Monitoring, 2001:
<http://www.ohchr.org/Documents/Publications/training7Introen.pdf>

²⁹ See ILGA-Europe, handbook on monitoring and reporting homophobic and transphobic incidents, Dr Christine Loudes and Evelyne Paradis, 2008:
<http://www.ohchr.org/Documents/Publications/training7Introen.pdf>

to be done to improve the situation. In several countries public authorities and law enforcement officers increasingly take into account the results of monitoring undertaken by LGBT NGOs. In a very small number of countries, public authorities also monitor hate crime themselves. This is much needed, provided it is done correctly.

It is obvious that a thorough monitoring and documenting of hate incidents and thus human rights violations has to follow certain principles to be taken seriously. It needs to gather factual, reliable and credible information. The good practices presented in this chapter show how LGBT NGOs in Europe document and monitor hate crime and try to convince law enforcement authorities to step up the fight against hate crime.

Good Practice 12: Filling in the Blanks - mapping LGBT-phobic hate crime and support services for victims in London

Galop - Gay London Police Monitoring Group is London's lesbian, gay, bisexual and transgender community safety charity³⁰. Established in 1982, Galop has provided over 25 years of research and lobbying around the issue of LGBT policing and offered advice and support to those affected by homophobic and transphobic violence and crime. The organisation is also a driving force in changing the way the police work with LGBT communities and has been involved in training police and offering consultancy on a range of issues. A special project called Trans Development Project aims, amongst others, to improve Galop's service for transgender people and improve the safety and perceptions of safety of trans people, through lobbying for policy change and providing targeted services to trans people.

³⁰ <http://www.galop.org.uk>

*In 2009 Galop published the research report *Filling in the Blanks*³¹, which aims to increase understanding of unreported LGBT-phobic hate crime and to provide information about services available to victims of these crimes, particularly services relating to reporting.*

Filling in the Blanks is the final report of a landmark partnership between the lesbian, gay, bisexual and transgender voluntary sector in London, and the Metropolitan Police Service. The research investigated the nature of LGBT-phobic crime reported to voluntary organisations in London, as well as the range of reporting options in London, and made important recommendations for improving the strategic response to these issues. The partnership sought to increase the understanding of unreported LGBT-phobic crime and of services available to victims of these crimes, particularly services relating to reporting.

The research stemmed from the recognition that a significant majority of LGBT related hate incidents go unreported to the police, but may be either formally reported or informally described to the voluntary sector. Despite the fact that the voluntary sector holds this vital information, it was unclear to what extent it was shared, either within the sector, or with the police. The research partners recognised this potentially important untapped resource, and sought to fill in the blanks in the knowledge and understanding of hate crime in London.

The research was funded by the City Parochial Foundation, the Metropolitan Police Service and the Metropolitan Police Authority, and brought together LGBT voluntary sector partners, Galop, Stonewall Housing³² and London Lesbian and Gay Switchboard.

The Metropolitan Police Service and the Metropolitan Police Authority (the authority in charge of monitoring and scrutinising

³¹ Galop, *Filling in the Blanks*, Peter Kelley, 2009:

http://www.gldvp.org.uk/module_images/Fillin%20Blank_Ful.pdf

For the executive summary: http://www.gldvp.org.uk/module_images/Filling%20Blanks_exec.pdf

³² Stonewall Housing is an LGBT housing charity and is separate and unconnected to *Stonewall*.

the activities of the Metropolitan Police Service) were particularly keen to become involved in the research. They recognise the extent of underreporting of hate incidents by the LGBT community to the police. This lack of crime information resulted in the Metropolitan Police Service having a partial or limited view of this type of hate crime. The research was therefore designed to respond to this through the structured collation of information on homophobic and transphobic incidents by voluntary sector LGBT organisations, to establish levels and patterns of non-police reporting and to try to identify the reasons why members of the community do not approach the police. This information would in turn allow the Metropolitan Police Service to identify key strategies to encourage greater levels of reporting³³ through the development of more appropriate responses to this type of crime.

The research had a number of aims:

- to gain an insight into the range and nature of LGBT-related hate incidents in London;
- to create a shared language in the LGBT voluntary sector on LGBT hate incidents;
- to increase collaboration within the LGBT voluntary sector on homophobic and transphobic hate crime, including sharing information on incidents;
- to systematise the recording of information among partners, whilst also being responsive to the needs of each organisation;
- to create a new set of data on these hate crimes and analyse the range and nature of incidents, comparing this data to Metropolitan Police Service data where possible;
- to find out what services exist for victims of LGBT-phobic incidents, particularly for reporting incidents, and to discover the extent to which these services meet need.

The research involved three phases which together met the aims of the project:

- The first phase was to map current service provision across

³³ London Metropolitan Police Authority (MPA), Report on MPS Service Delivery and LGBT Communities, 2010: <http://www.mpa.gov.uk/committees/equalities/2010/100211/04/#h1000>

- the capital and examine the extent to which information was shared, or was in a sharable format;
- The second phase involved working with three voluntary sector partners to systematise information collection in ways that were effective for each organisation. Data was then collected from each organisation on all incidents recorded for a year, in addition to an analysis of historical data from Galop which was also added to the dataset;
 - The third and final phase of the project was a qualitative analysis of this data as well as a comparison to Metropolitan Police Service data, where possible.

The research led to increased co-operation between Galop and the Metropolitan Police Service. All recommendations of the report were accepted by the Metropolitan Police Service and a Sub-Group was established by the police to take the recommendations forward. In addition, the Pan-London LGBT Strategy Group led by the Metropolitan Police Service expanded its remit to adopt a multi-agency approach. It also expanded its membership to include key partners such as local authorities and transport which will improve joined-up working.

Deborah Gold, Galop, London, United Kingdom

Good Practice 13: Monitoring hate crime in France – the annual reports of SOS homophobie

SOS Homophobie is a French LGBT association tackling homophobia and transphobia. It was created in 1994, and its members are all volunteers. The initial aim of the association was to set up a helpline for gays and lesbians who were victims of hate crimes. SOS Homophobie now also assists victims of transphobic violence. Today SOS Homophobie is engaged in a range of activities, including assistance to victims, public awareness-raising, pressuring public authorities to adopt efficient measures to fight and prevent hate crime and fighting for equality for LGBT people. SOS Homophobie publishes an annual 'report

on homophobia' which is an efficient tool for monitoring LGBT-phobic hate crimes in France.

Since 1996 SOS Homophobie has published an annual 'report on homophobia'. It summarises the situation of LGBT-phobic violence and discrimination against LGBT people (and those who are perceived to be LGBT) within a given year. It's the only publication of this kind in France.

The cases and situations described in the report are based on several sources:

- witnesses and statements SOS Homophobie has received via emails, letters and also its helpdesk "listening and support" (Pôle écoute et soutien), which offers both anonymous and personalised support for victims of homophobic hate crime discrimination;
- events in which SOS Homophobie has participated ;
- different working groups of the associations;
- publicly available information and news within a given one-year period;
- press articles which have been published within the same period.

The witnesses SOS Homophobie receives via its helpdesk provide the most substantial input to the annual report. In 2008, for example, SOS Homophobie received some 1,250 witnesses. The association's helpdesk, whose primary aim is to support victims, has thus also proved to benefit another of the association's activities, i.e. to improve the monitoring of hate crime.

The 2009 annual report analyses in detail different situations in which homophobic incidents occur: provision of goods and services, family and close environment, internet, justice, public places, school, police, politics, religions, health, sport, work, neighbourhood, etc. In addition, certain issues, such as physical assaults and lesbophobia, are dealt with horizontally.

The report is widely disseminated, including to government officials, the National Assembly, the Senate, local authorities, trade unions, companies, researchers and academics, human rights lawyers, and other NGOs. SOS Homophobie has also developed a strong relationship with the French media to disseminate the main findings of its annual reports and to raise awareness of LGBT-phobic hate crimes amongst people in general. The report is increasingly taken into consideration and referred to by politicians and lawmakers.

According to SOS Homophobie the report does not pretend to give an exhaustive view of all homophobic and transphobic incidents that have occurred within a one-year period in France, but rather a vision of LGBT-phobia as experienced by the association in its daily work. The report is part of the association's overall strategy to fight hate crime and discrimination and complements the actions undertaken to support people or take legal action in cases involving hate crime or hate speech.

Future challenges involve improving reporting and the efficiency of monitoring hate crimes. This requires increasing the reporting of all hate crime cases and a more careful use of quantitative statistics. SOS Homophobie has also decided that the findings of the annual reports need to be disseminated more widely. As a result, the annual report 2010 will also be published in English.

In the past the annual report was considered by public authorities to be too 'political' and although the different ministries know of it, it is never quoted. The French Equal Opportunities' Body (Halde), however, refers frequently to the report when making policy proposals and it also quotes the report on its website. Similarly, many local public authorities know of the report and ask SOS homophobie to advise them as regards local prevention policies on LGBT-phobic hate crime.

The main objective of the report is to push political leaders and public institutions in France into acknowledging the reality of hate crime in general, and LGBT-phobic hate crime in particular.

Since homophobic crime is punished, public authorities should be obliged to publish official statistics, although they don't do so. If public institutions openly recognised the existence of hate crime, it would be much easier for NGOs to co-operate on prevention and policies addressing hate crime (such as training, support for victims, etc.)

Jacques Lizé, SOS-Homophobie, France j

Good Practice 14: When Words are Weapons - monitoring hate speech and discrimination in Poland

Campaign Against Homophobia (KPH) is a Polish non-governmental organisation working for the equal rights of lesbian, gay, bisexual and transgender people. It was set up in 2001 and conducts a wide range of activities in order to tackle stereotypes and prejudice and increase tolerance towards and acceptance of the LGBT community. Activities include empowering members of the LGBT community, education, research and writing reports, social awareness campaigns as well as combating sexism and working towards gender equality. In 2008 KPH started a three-year project on monitoring discrimination against LGBT people. As part of the project a report on hate speech and discrimination was published in 2009.

Monitoring Discrimination of LGBT People in Poland Project is a three-year project run by Campaign Against Homophobia (KPH) and financed by the Open Society Institute's Human Rights and Governance Grant Program. The aim of the project is to find long-term legal solutions to improve the situation of LGBT people in Poland, where they still face many legal and social challenges to experience true equality and tolerance. The goals of the project are to increase tolerance in the Polish society and to reduce discrimination against LGBT people, to build the capacity of NGOs working on this issue by increasing their expertise in the field of legal monitoring, to improve legislation to reduce violations of human rights by public authorities, and to support victims of human rights violations through monitoring hate crime

incidents and by offering legal advice.

The project includes several activities, such as providing legal advice for victims of discrimination and hate crimes, selecting specific cases for strategic litigation and lobbying for legislative reforms to improve the standards of human rights and non-discrimination. All actions undertaken in the field of monitoring closely support these activities. Monitoring activities cover all Polish press articles concerning LGBT issues, legislation and any new legislative proposals dealing with LGBT issues, as well as incidents of hate crime.

The expected outcomes of the project include an increase in the number of those who seek advice from KPH thanks to an increased visibility of the legal advice service, an increase in the professionalism of the legal advice provided by KPH, and an increased number of strategic litigation cases per year to serve as a precedent to advance non-discrimination rights. The project also seeks to achieve steps towards legislative reform to improve LGBT rights in Poland, and to provide law professionals (such as judges, prosecutors, lawyers and students) with more reliable publications and resources on the situation of LGBT people in Poland.

Among other actions, KPH publishes a quarterly bulletin featuring the most pressing issues detected through monitoring as well as legal analysis. The bulletin is distributed widely both electronically and in print.

In addition, there is an annual report which contains the findings of the monitoring, an expanded chapter on an issue of particular importance and a chapter with a legal analysis of the situation of LGBT rights. The annual report published in autumn 2009 is entitled *When Words are Weapons*. It is the first comprehensive report on hate speech against LGBT people in Poland. It includes reports of incidents of intolerance, discrimination and homophobic hate speech which occurred in 2008 as well as proposals on how to amend hate speech and hate crimes related provisions in the Criminal Code in Poland. The report is also

available in English³⁴.

Following the recommendations of the report, a working group was established to advocate for the implementation of the recommendations of the report. The group has met with Members of Parliament. The report was also sent to the Ministry of Justice, the Ombudsman and to all Members of the Polish Parliament with a proposal for legal changes in the Criminal Code. KPH has received several encouraging answers. In particular the Ombudsman welcomed the proposed changes and openly supports them. Further to this, in May 2010 KPH launched a project of co-operation with the police on monitoring hate crimes. It includes police training, workshops, reports, and other activities.

The outcome of the report will be used for further advocacy to achieve the requested legal changes in the Criminal Code and conduct other activities. A new report on the situation of LGBT people will be prepared, including the outcomes of the *When Words are Weapons* report. Both reports will be used in activities targeting the Polish Parliament, the government, the EU, the Council of Europe, the OSCE and the UN. Finally, the report will also be used as a supporting document in litigation cases on discrimination before national and international courts.

Greg Czarnecki, Tomasz Szypuła, Campaign Against Homophobia (KPH), Poland

CHAPTER 4. Preventing LGBT-phobic hate crime

Preventing homophobic and transphobic crime is as important as prosecuting hate incidents. It needs to be part of any comprehensive policy on combating hate crime.

In many countries in Europe, targeted actions are particularly dedicated to prevention. They include training initiatives for law enforcement officials in the area of hate crime, and specific

³⁴ <http://www.monitoring.kampania.org.pl>

education and communication work with groups who are most frequently represented amongst the perpetrators of hate crime, such as young men. Specific preventive measures also have to be addressed as regards the protection of LGBT visibility events or venues. In these cases the need for increased communication and co-operation between LGBT organisations and the police is even more crucial.

Some of the actions which are addressed in detail in other sections of this handbook are also part of comprehensive prevention strategies: raising awareness, monitoring and reporting all contribute to preventing further hate crime from happening.

In the long run, eradication and prevention of hate crime can be achieved only in an inclusive society which ensures and fully integrates equality of LGBT people in all areas of life and guarantees their full protection. This obviously includes a clear legal framework punishing homophobia and transphobia, and actually sentencing perpetrators of violence, which sends a strong message to society.

The following good practices from Bulgaria and the United Kingdom highlight how LGBT organisations and police can co-operate to efficiently prevent LGBT-phobic hate crime.

Good Practice 15: Preventing hate crime by ensuring safe pride events - the experience of Bulgaria

The Bulgarian Gay Organization Gemini (BGO Gemini) has long been the main organisation for LGBT rights in Bulgaria. Established in 1992, the organisation started to provide social support and information materials about HIV/AIDS. Over the years BGO Gemini expanded its activity to more general LGBT issues, with a strong focus on enforcing the Bulgarian anti-discrimination law. Tackling hate crime is another important area of activity of BGO Gemini. The organisation set up strong co-operation with the police to ensure safe pride events and thus prevent hate crime incidents.

BGO Gemini has a confirmed experience of good and respectful co-operation with the Bulgarian police. The organisation's first contact with the police was in 2004, when a neighbour attacked a staff member. Following this incident BGO Gemini promoted the police's new communication strategy on its website and recommended to the LGBT community to rely on the police as a "friendly and responsive authority". Since then, BGO Gemini has always been satisfied with police co-operation (not only in Sofia) as regards the safety of its public events. For the organisation of the first Bulgarian prides in 2008 and 2009 BGO Gemini and the police worked closely together, in particular with the "special forces" who protect football games and have many years of experience with football hooligans. BGO Gemini and the "special forces" developed a joint strategy, shared concerns and observations, including information about possible attacks. The major part of the preparation consisted of preventive tactics based on this exchange of information. BGO Gemini did not just request protection for pride participants, but co-operated with the police to develop sustainable safety plans.

BGO Gemini's philosophy is to consider the position and the point of view of the police, in the light of legislative and hierarchical limitations. Based on its good communication with the police about the needs and problems faced by police officers

as regards LGBT matters, BGO Gemini initiated actions to provide more information and raise awareness amongst police officers about LGBT issues in general and hate crimes based on sexual orientation or gender expression in particular. Homophobia and transphobia are currently still not criminal offences in Bulgarian law.

The organisation has run one-day training sessions for approximately 100 police officers aiming mainly at two objectives: to provide appropriate and complete information about LGBT issues and to position BGO Gemini as a resource for additional support and information, when the police authorities deal with victims/perpetrators of LGBT-phobic crime. Training included an overview of LGBT terminology, anti-discrimination legislation in Bulgaria, and a detailed focus on hate crime, including the applicable legislation, definition, examples, discussion and feedback. The question of why homophobia-based crimes differ from other crimes was also addressed as well as how they should be reported and what the exact role of the police and NGOs is to tackle hate crimes against LGBT people. The course also included an overview of the media coverage of hate crimes and the “pyramid of hate”. The sessions were part of the project *SMILE - Sustainable Mobility Initiatives for Local Equality*, supported by the Democracy Commission of US Embassy in Bulgaria³⁵.

Today, the Bulgarian LGBT groups and organisations prioritise tackling LGBT-phobic crime as one of the most urgent issues. More consistent and nation-wide training for police officers is needed to raise awareness and knowledge about LGBT issues. Equally important is the need to criminalise homophobic hate crime and/or to abolish the current limitation in the Bulgarian criminal code (which considers hate crimes as such only on religious, ethnic or political grounds).

In 2010, the Bulgarian LGBT activists started to work in close co-operation with the Sofia police forces to ensure efficient

³⁵ <http://www.bgogemini.org/eng/page.php?id=91>

protection of the LGBT pride scheduled in June. BGO Gemini's experience shows a responsiveness and willingness on behalf of the police to take LGBT inclusiveness on board and participate in awareness-raising programmes. For the future, two major obstacles have to be faced: the poor financial capacity of LGBT groups to deliver training and the lack of a sound legislative base to better tackle hate crimes.

Aksinia Gencheva, former director of BGO Gemini, Bulgaria

Good Practice 16: The role of LGBT community liaison officers in the combat against LGBT-phobic hate crime

To improve their dialogue with LGBT communities, an increasing number of police forces in Scotland and the United Kingdom are appointing LGBT liaison officers. Liaison officers work with the communities, acting at the same time as spokespersons for the police forces, and as their focal points for all community organisations. They have a key role in identifying priorities and concerns, and thus in designing appropriate responses by the police. They also facilitate contacts in case of emergencies³⁶. The Scottish police forces were among the first to have LGBT liaison officers. There are eight police forces in Scotland, all of them developing their own policing model. The following interview with Hazel Leslie, Liaison Officer at the Safer Communities Department, Lothian and Borders Police Head Quarters in Edinburgh, explains in more detail the task and work of an LGBT Liaison Officer.

When were the first LGBT community liaison officers appointed in your police force?

As LGBT Liaison Officer I am based within the Force Diversity Unit. The Unit was initially established to ensure that Lothian and Borders Police fulfil our legal duties as prescribed through the Race Relations Amendment Act 2000, the Disability

³⁶The London Metropolitan Police Service has recently published an *LGBT Liaison Officer's Manual of Guidance*.

Discrimination Act 2005 and the Equality Act 2006. However, the Force has long since recognised the need to go beyond the legal requirements to fully commit to equality and diversity and so all the strands of diversity have a dedicated officer.

How has this function developed since then? How are liaison officers trained?

All police officers in Scotland receive diversity training in their probationary period. On top of this Lothian and Borders Police invest heavily in diversity training in that each officer and police staff member receives three days dedicated diversity training. The LGBT Liaison Officer expands their knowledge through attending training/development days and seminars run by various partners including LGBT Youth Scotland, Scottish Transgender Alliance, Stonewall Scotland, Equality Network and LGBT National Forum and incorporating this into specific LGBT diversity training targeted at staff carrying out specific roles such as custody staff and community officers.

How could you describe your role in terms of day-to-day contact and communication with LGBT people and their organisations? What kind of support do you bring them?

Divisional LGBT Liaison Officers liaise with LGBT people and organisations at local level. As the Force LGBT Liaison Officer I work with national LGBT organisations (including Stonewall Scotland, Equality Network, LGBT Youth Scotland, and Scottish Transgender Alliance). I represent the Force on the ACPOS (Association of Chief Police Officers Scotland) LGBT reference group. The group sits within the ACPOS Equality and Diversity Business Area. It works to oversee the interaction of the police and LGBT people across Scotland and improve the quality of policing services for LGBT people, by facilitating discussion and learning around policy; demonstrating and providing leadership on LGBT issues and identifying and disseminating best practice, in terms of employment and service provision. The Group meets quarterly and comprises representatives from each of the Scottish Police Forces, the Scottish Police College, Her

Majesty's Inspectorate of Constabulary, the Scottish Police Services Authority and British Transport Police, along with representatives from LGBT organisations and agencies, including Stonewall Scotland, the Equality Network, the Transgender Alliance, LGBT Youth, the Gay Police Association, the National Trans Police Association, ROAM, Highland Swans and the LGBT Centre for Health and Wellbeing.

Recent work includes the following:

- Training for LGBT Liaison Officers in police forces in dealing with LGBT domestic abuse
- The creation of guidelines relating to the care of Transgender people in police custody, and the provision of training to officers and staff in the application of those guidelines
- The creation of guidelines relating to the policing of public sex environments³⁷
- The creation of a Hate Crime Manual for Scottish Forces
- Full diversity monitoring of officers and staff in all Scottish Forces

These issues are discussed at a national level at the reference group and brought back to the local level by members of the reference group, ensuring they are delivered at Force level. The reference group recently hosted a biennial conference where the issue of LGBT community safety was discussed.

I also have a profile on Gaydar and contribute frequently to LGBT publications as well as hosting "drop in" surgeries at various LGBT premises where people can come to discuss issues in confidence.

³⁷ See also (for England, Wales and Northern Ireland): Association of Chief Police Officers (ACPO), Guidance on the policing of public sex environments, 2006: <http://www.met.police.uk/dcf/files/LGBTacpo.pdf>.

What is the added value for your police force and for other stakeholders of the anti-hate crime strategy (multi-agency system)?

ACPOS has recently published its manual on recording and investigating hate crime, which sets out the template for best practice. At a local level Lothian and Borders Police have robust systems in place to address hate crime. Much of the ongoing work is dedicated to encouraging people from all strands of diversity to report hate crime. It is recognised that this is not the sole responsibility of the police and so local authorities, community safety partnerships³⁸ and community organisations are also involved.

Lothian and Borders Police have the facility to remotely or third party report a crime or information³⁹. This enables a person who for whatever reason does not want to contact the police directly in the first instance to report a crime or give information to a trained partner organisation who will pass the information on to the police on their behalf. There are at present about 100 Remote Reporting Agencies in the force area. The Force is also developing 'online' hate crime reporting, due to be launched in late spring 2010. This will work along the same lines as remote reporting allowing people to report a crime or give information on line. Remote Reporting and online reporting are victim led; after discussion the victims can decide what they want the police to do with the information given.

The Aggravations by Prejudice (Scotland) Act passed in 2009 will make hate crime motivated by gender identity or sexual orientation aggravated. This means that the court will consider the aggravation element of a hate crime when deciding on the sentence. The act will no doubt assist in sending out the message that LGBT-phobic hate crime will not be tolerated.

³⁸ For a definition of this concept, see in particular: <http://www.communitysafetyni.gov.uk/partner.htm>

³⁹ see: <http://www.lbp.police.uk/takecontrol>

CHAPTER 5. LGBT associations and police – towards sustainable co-operation to implement policies to better tackle hate crime

Violence against LGBT people carries a message which is contrary to fundamental rights and to Europe's values of an inclusive society. Parliaments and Governments therefore have to reassert these values and actively promote them, by enacting and efficiently enforcing hate crime laws. In a recent publication, "*Hate Crime Laws: A Practical Guide*", the OSCE states that "*contemporary social problems (...) and the incidence of particular kinds of crime*" are factors to be considered for inclusion in a hate crime law⁴⁰. This means that hate crime legislation should take into account a bias motive related to sexual orientation, gender identity or other discriminations, at least as aggravating circumstances to offences already existing in criminal law. In fact, many countries in Europe already have legal provisions to combat LGBT-phobic crime. One of the last bills adopted was passed in 2009 by the Scottish Parliament. It is one of the only existing pieces of legislation in Europe to fully protect transgender people against hate crime. In many European countries, however, there is still no legislation tackling specifically LGBT-phobic crime. In other countries there is no political will to enforce existing legislation or put in place broad policies tackling hate crime against LGBT people.

A basic requirement for successfully implementing hate crime legislation and policies is an efficient partnership between LGBT organisations, and local, regional and national authorities, including police forces, prosecution services and health professionals at all levels. The aim of such a 'multi-agency' partnership is to build a comprehensive response and prevention system against violence. Only LGBT organisations can provide law enforcement agents, such as the police, with quality expertise on LGBT communities and identities. Only public

⁴⁰ OSCE, *Hate Crime Laws: a Practical Guide*, ODIHR, 2009: http://www.osce.org/odihr/item_11_36671.html

authorities have the means to deliver policies eliminating or successfully preventing hatred in society. Together, in on-going dialogue and close co-operation, they can generate a change.

The experience of many ILGA-Europe members shows that strategic networking, long-term co-operation and partnerships between LGBT associations and law enforcement agents – and in particular police – is necessary where hate crime legislation has been adopted, as well as where this is not the case. The adoption of legislation can be seen both as an achievement and as a facilitating factor of such long-term strategy.

The good practices presented in this chapter show how LGBT associations and police forces managed to build mutual trust and co-operate strategically and with a long-term perspective with the aim to enforce hate crime legislation. The examples of Scotland and Catalonia show how prolific co-operation can be established within permanent dialogue structures that help to better create synergies between all players. They show that words in a piece of legislation can be enforced effectively through tangible actions that can make a difference and bring about change: improved support for victims, enhanced reporting, better prevention and more efficient prosecution of hate crime.

Good Practice 17: Institutionalised co-operation between public authorities and LGBT communities in Scotland

The Equality Network was founded in 1997 and works for lesbian, gay, bisexual and transgender (LGBT) equality and human rights in Scotland. The organisation follows a strategic and balanced approach on all levels: At national level the Equality Network seeks to ensure the best possible approach to LGBT equality from the Scottish government and other national bodies by being an authoritative provider of information, advice and consultancy on LGBT equality and rights in legislation, policy and strategy. At community level the organisation aims to engage and empower LGBT communities to promote equality and rights through community engagement and developing the capacity and skills of LGBT groups and organisations. At an individual level the Equality Network seeks to ensure that LGBT people are informed about and are empowered to access their rights. Transgender rights are specifically promoted through the housing of the Scottish Transgender Alliance within the Equality Network. In terms of tackling hate crime the Equality Network has made significant efforts in order to make the case for new legislation in Scotland on hate crime on grounds of sexual orientation and transgender identity. Early co-operation with police proved to be important to ensure the new legislation will be implemented as effectively and appropriately as possible.

In 2002 the Scottish Parliament discussed extending legislation on racist hate crime to include religious hate crime. The Equality Network took the opportunity to work with a member of the Scottish Parliament to submit an amendment to extend this legislation to cover prejudice on grounds of sexual orientation, disability, gender and age. The Scottish Government did not accept the amendment, mainly because they were not convinced that gender and age should be included, but in response, the Government set up a *Working Group on Hate Crime*⁴¹ to look at this. The Equality Network and two other national LGBT organisations, together with disability, gender and age equality

⁴¹ Working Group on Hate Crime: <http://www.scotland.gov.uk/Topics/Justice/crimes/8978/17915/10697>

organisations, the police, the prosecution service and the Government, were members of this Working Group. The group took evidence over 18 months, and then in 2004 recommended extending the law to cover hate crime on grounds of sexual orientation, transgender identity, and disability.

Unfortunately the Scottish Government rejected this recommendation in 2006, but the Equality Network and our colleagues in the other national LGBT organisations lobbied the political parties, and in 2007, three parties included the recommendation in their election manifestos. After the election, those parties had a majority in the Scottish Parliament. The Equality Network then worked with a Member of Parliament, Patrick Harvie MSP, on drafting and introducing the legislation, which the Government then supported. During the passage of the legislation, the Equality Network gave evidence to members of the Scottish Parliament, and did media work. The Equality Network was able to put forward a number of case studies to the press of victims of hate crime, making clear the case for new legislation. The legislation was passed by the Scottish Parliament unanimously, and became the Offences (Aggravation by Prejudice) (Scotland) Act 2009⁴². It came into effect on 24th March 2010.

In the process of revising the Scottish hate crime legislation, early co-operation with police proved to be crucial. Prior to the adoption of the new law, for many years the main co-operation between the Equality Network and the police has been as a member of the ACPOS LGBT Reference Group – ACPOS is the Association of Chief Police Officers in Scotland⁴³. This group meets six times a year and brings together national LGBT organisations with representatives of ACPOS and of the eight police forces operating in Scotland. Policy and practice on hate crime is regularly discussed at those meetings. The Equality Network is also a member of the Equality Advisory Group of the

⁴² Offences (Aggravation by Prejudice) (Scotland) Act, 2009: <http://www.opsi.gov.uk/legislation/scotland/s-acts2009a>

⁴³ ACPOS, LGBT Reference Group action plan 2009, 2009: http://www.acpos.police.uk/Documents/Policies/ED_LGBT%20Action%20Plan%20update.%20Last%20quarter%202009.pdf

Crown Office and Procurator Fiscal Service⁴⁴ (COPFS) – the prosecution service in Scotland, which meets 4 times a year, and regularly discusses the prosecution of hate crime.

During the preparations for the commencement of the new legislation, in 2009/10, the Equality Network worked with national police bodies (including ACPOS, the general police professional organisations, the Gay Police Association and the National Trans Police Association) and with COPFS, to publicise the legislation and to discuss the specific issues arising for LGBT people experiencing hate crime, to try to ensure that the legislation is implemented as effectively and appropriately as possible. This included speaking at national conferences for police and prosecutors, and providing training for prosecutors.

Since 2008 the Equality Network has developed the ‘Out and Safe’ programme which brought together members of the LGBT community and the police to look at the issues around confidence, hate crime and remote reporting schemes. Events are run annually in different parts of Scotland.

Jointly with one of the other national LGBT organisations (Stonewall Scotland), with funding from the Equality and Human Rights Commission (EHRC)⁴⁵, the Equality Network will shortly publish a booklet for LGBT people on what hate crime is and how to report it. This will include information from each regional police force, and will be widely distributed. Its aim is to encourage more people to report hate crime.

One important change that the new legislation will bring is that for the first time, statistics on homo/biphobic and transphobic crime will be available. Data on how the cases are dealt with by the police, prosecutors and courts will also be collected. This will assist the Equality Network in checking progress.

The Equality Network will continue to work with police forces in a number of areas, in the publication of guidance to LGBT

⁴⁴ <http://www.copfs.gov.uk/About/Departmental-Overview/diversity/EAQ/eaqminutes/EAGIntro>

⁴⁵ <http://www.equalityhumanrights.com/>

communities, through the 'Out and Safe' programme and with the continued development of the National LGBT Forum⁴⁶. Police officers also participate in the organisation's leadership programme, acting as mentors to members of the LGBT community.

In addition, new contacts established recently with monitoring bodies in England, who have had some year's experience of homophobic crime monitoring, will help the Equality Network to look at ways of implementing appropriate best practice to tackle LGBT-phobic hate crime in Scotland.

Finally, the ACPOS LGBT Reference Group has provided institutionalised co-operation at national level with each of the police forces for some years. This year a staff member from the Equality Network will take over as chair of the group. It is this long-term co-operation between LGBT organisations and the police which has helped deliver comprehensive legislation in Scotland.

Scott Cuthbertson and Tim Hopkins, Equality Network, Scotland

⁴⁶ The National LGBT Forum website: <http://www.scottishlgbt.org>

Good Practice 18: Efficiently addressing underreporting – the Catalanian police protocol against homophobic and transphobic hate violence

In Catalonia LGBT organisations such as Casal Lambda, the Mossos d'Esquadra (the autonomous police) and public authorities have been engaged since 2008 in permanent dialogue and co-operation with the explicit aim to better tackle hate crime and address the serious problems of underreporting hate incidents against LGBT people. Rocío Rubio, Chief Constable of the constabulary of police forces in Barcelona and Santos Félix I Farreras from Casal Lambda explain in this interview how this co-operation was set up and addresses some of the main challenges faced in tackling hate crime.

What are the main challenges faced by LGBT organisations in tackling hate crime in Catalonia?

Santos Félix I Farreras (Casal Lambda):

Casal Lambda was founded more than 30 years ago to promote Lesbian and Gay Rights. Happily, a lot of things have changed in the last four decades: we now live in a democratic country where LGBT rights are broadly recognised. For instance, there is now equal access to marriage for same-sex couples, and we also have a law governing the rectification of the identity of transgender persons. However, LGBT organisations are still dealing with the day-to-day problems of LGBT people. The legal and psychological services we have to provide are proof that there is still homophobia and transphobia in society. In particular, LGBT people suffer physical and psychological attacks because of their identity.

One of the main challenges we face as regards hate crime is that many attacks are not reported: a lot of LGBT people still believe the authorities will not listen to them. Another reason is that when reporting a hate crime, someone may also disclose his/her sexual orientation, while a lot of police officers are unaware of

LGBT issues and use inappropriate language, as well as prejudiced stereotypes. This is particularly obvious when it comes to attacks that happen in cruising areas, and even more so when such facts involve male sex workers in public areas – which is often the case.

Why did the public authorities and the police decide to take action to address hate crime and what strategies have been put in place?

Rocío Rubio (Chief Constable of the constabulary of the Mossos d'Esquadra - Barcelona):

A number of social and political reasons, as well as personal and collective initiatives, have led to innovative actions addressing the problem of LGBT-related hate crimes and in particular the problem of underreporting.

At government level, in September 2006 the autonomous Catalan government approved an *Interdepartmental Plan against Discrimination of Homosexual and Transgender People*⁴⁷. This plan was built as a transversal roadmap shared by all government departments⁴⁸ involved in the fight against discriminations on the ground of sexual orientation and gender identity. All these departments started to implement concrete actions to review and improve their internal policies as regards LGBT issues, and to find solutions to the concrete problems faced in each of their fields of competence. Some issues were addressed for the very first time, such as the reporting of transphobic incidents.

At judicial level, the position of a Prosecutor against Homophobia and Transphobia⁴⁹ was created in 2008. The first appointed

⁴⁷ Generalitat de Catalunya, Pla interdepartamental per a la no discriminació de les persones homosexuals i transsexuals, 2006:

http://www.gencat.cat/benestar/GLT/pdf/pla_interdepartamental_glt_tcm54-48903.pdf

⁴⁸ The main departments involved are: the Police's General Directorate (*Dirección General de la Policía*), Catalonia's Public Safety Institute (Instituto de Seguridad Pública de Catalunya), the General Directorate for a Democratic Memory (*Dirección General de la Memoria Democrática*) and the General Directorate for Games and Performing Arts (*Dirección General del Juego y Espectáculos*).

⁴⁹ Fiscal Interlocutor contra la homofobia y transfobia

prosecutor has received the full support of the Chief Prosecutor of Catalonia. He oversees all actions at judicial and police levels to ensure that all cases that could include a homophobic or transphobic dimension are properly dealt with; he also has to make sure that aggravating circumstances and other principles of criminal law are firmly and fully enforced. This is a major change as the prosecutor's action has brought higher standards to investigations conducted by the police, which allows for a proper implementation of the relevant criminal law. This includes the preservation of crime evidence, appropriate communication with the competent prosecution services, and the correct use of aggravating circumstances whenever justified.

2008 also brought an important step forward in terms of increased awareness among policy makers and police authorities in the field of prevention and punishment of LGBT-phobic crimes. Several events organised in Barcelona⁵⁰ encouraged the police to start working systematically in terms of preventing hate crime. As a result, a police protocol on LGBT-phobic crimes was published on 26th June 2008.

Before 2008 it was absolutely impossible to get data as regards the number of reported hate and discrimination crimes against the LGBT community from the police, because there was no working system to record crimes committed with such a motive – in order to protect the victims' anonymity. However, the number of reported incidents clearly is an indicator of the level of LGBT-phobia and it is now possible to record hate crime incidents and to study and analyse the evolution of this important problem. We are now in a position to identify hate crime reports and to study concrete problems such as the profile of the perpetrators and of the victims. This information is of major interest when it comes to prevention.

How did police manage to build up trust with LGBT communities in fighting hate crime?

⁵⁰ 4th European Conference of Lesbian and Gay Police, the Eurogames, International festival of LGBT film, El Circuit Festival, Love-Ball, a Gay Circus, and other events.

Rocío Rubio:

An important action has been to contact the LGBT associations to inform them of the change that was happening within the police's approach to LGBT-phobic crime. This required some time, since at the beginning the associations had doubts about the objectives of the police. However, the associations quickly understood that the police's concerns were real and sincere.

In its dialogue with the associations, the police mentioned the existence of several internal protocols aiming at facilitating work on LGBT-related hate crimes. A stable communication channel was established between the police and the associations: permanent phone contacts and dissemination of safety recommendations specifically targeting the LGBT community. These contacts were also facilitated by the Community Relations Offices⁵¹ and by the neighbourhood police, which are present in all the police stations of Catalonia's police.

It has also been recognised that having a liaison police staff member who is himself/herself a member of the LGBT community certainly facilitates communication with the associations, because they use the same vocabulary and understand the problems. It is important in terms of confidence building. At the same time, the police also need internal and external recognition of the sexual diversity of their officers. LGBT officers started joining a national association of gay and lesbian officers that had recently been created in Barcelona.

This confidence-building process also implies the presence of the police at all public demonstrations linked to the LGBT community. A lot of work was done to stabilise the contacts, and co-operation whenever incidents occurred has proved to be a ground for the development of mutual trust. Trust cannot be created out of nothing.

The Prosecution Service against Homophobia and Transphobia (now officially renamed Department of Hate and Discrimination

⁵¹ Oficinas de Relación con la Comunidad

Crimes⁵²) is also in charge of defining procedural requirements and setting up communication with the police. The Mossos d'Esquadra (police forces of Catalonia) produce a yearly report on LGBT-related hate incidents. This report is sent to the Prosecutor's Office, which collects all relevant data.

Could you further describe the Catalan protocol on LGBT-phobic hate crimes?

Rocío Rubio:

In 2008 an internal instruction was sent to all police forces in Catalonia. This instruction was issued by the Operational Sub-Director of the General Directorate for the Police⁵³, who is head of the police of Catalonia. It is an internal protocol known as the *Police Procedure on Crimes Motivated by the Victim's Sexual Orientation*⁵⁴. This protocol has recently been reviewed and a new protocol has been issued. It includes all forms of hate and discrimination crimes and offences, in line with European principles. The new name of the revised protocol is: *Police Procedure on Crimes Motivated by Hatred or Discrimination*⁵⁵.

The protocol contains the following:

- Guidelines for police officers to collect evidence, take care of victims and describe the perpetrators, in order to facilitate the enforcement of the criminal law
- Guidelines to protect LGBT victims of hate crime
- The obligation to tick the relevant box (on the ground of any discrimination) in the case of a report on LGBT-phobic crime, in order to allow further relevant investigation
- A list of all the relevant provisions of the Spanish criminal law, in order to prevent ignorance or lack of care on the part of police officers
- Acknowledgement of the specificity of LGBT victims and the need to use appropriate language in order not to discriminate against or exclude them, and to deal with the

⁵² Servicio de delitos de odio y discriminación

⁵³ Subdirector Operativo de la Dirección General de la Policía

⁵⁴ Procedimiento policial en hechos delictivos motivados por la orientación sexual de la víctima

⁵⁵ Procedimiento policial en hechos delictivos que tienen como motivo el odio o la discriminación

- difficulty they may have to report a crime due to privacy concerns. For this reason, special Groups for Attending the Victim⁵⁶ (so far only in charge of gender violence) will be given the task of receiving and following up such reports
- The obligation to submit a copy of the report to the *Prosecutor of the Service of Hate and Discrimination Crimes*
 - A direct contact between the Community Relations Offices and the LGBT associations, in order to promote the exchange of information to prevent certain problems.

How do LGBT organisations, police forces and prosecution services in Catalonia co-operate today to tackle LGBT-phobic hate crime?

Santos Félix I Farreras:

To enable better co-operation between LGBT organisations and the police, there has been a strong political will on the part of the political authorities and institutions of Catalonia. This was a precondition for the administration and the public services to engage with associations that are considered to be representative of the LGBT community. To tackle underreporting of hate crime, Casal Lambda and other LGBT organisations in Catalonia also wished to co-operate with the public authorities, and called upon them to deliver a response.

The main result of the contacts Casal Lambda had established with relevant police authorities was that the prosecution services of Catalonia's High Court of Justice⁵⁷ sponsored the creation of an advisory group, working with the prosecutors from the Department of Hate and Discrimination Crimes competent for LGBT-phobic crimes. This advisory working group includes representatives of Casal Lambda and several other LGBT-rights defenders' organisations, as well as representatives of the autonomous government of Catalonia⁵⁸ and of the city council of

⁵⁶ Grupos Especializados de Atención a la Víctima-GAV

⁵⁷ Tribunal Superior de Justicia de Cataluña

⁵⁸ Generalitat de Catalunya

Barcelona. The advisory working group follows up on all the incidents reported, and on the way the prosecution and the judiciary deal with them. It has regular contacts with police forces, to inform them and to be informed of all reported homophobic and transphobic incidents.

Rocío Rubio:

With the protocol on LGBT-phobic crimes, police have engaged in an irreversible process of communication with the communities. Police officers make presentations at conferences and public events, and run projects together with the representatives of these communities. The police also provide training on sexual and cultural diversity amongst their officers, and are engaged in preventing homophobic and transphobic hate crime. This includes prevention talks in schools and thematic information on the criminal liability of people found guilty of hate and discrimination offences. Special attention is paid to bullying, which has become a priority at the same level as road safety, drug trafficking or gender violence.

The police are aware that the fight against the so-called “black numbers” (unreported offences) needs a solid basis of trust to be established with LGBT people. The role of associations is fundamental, and it is also very important that citizens know their rights.

What are the concrete outcomes and improvements in terms of reporting hate crimes and supporting victims?

Santos Félix I Farreras:

The establishment of the Special Prosecutor facilitated the contacts between LGBT organisations and the police. The fact that LGBT associations are now in a position to clearly and easily formulate their demands and their concerns has had important consequences. As an example, for two years in a row the police have published guidelines on how to report homophobic incidents. These guidelines include information to the public on what people can report, and why and how they

should do so. The objective is that nobody should look at the police as a repressive institution anymore. On the contrary, they should appear as the institution responsible for the protection of all citizens' rights.

The implementation of these guidelines and of the protocol on LGBT-phobic crimes has enabled the collection of reliable and tangible data on all reported hate crimes in Catalonia. This is an obvious improvement and provides factual evidence on the nature of the recorded crimes, on the profile of the perpetrators and on the places where homophobic and transphobic incidents happen. In addition, this knowledge facilitates the prevention of incidents that could harm the LGBT community.

The possibility to report incidents to police officers who are starting to understand LGBT issues and the possible consequences on the personal life of victims who decide to report allows for a mutual learning process. It will thus be easier to further improve the existing protocols in the future.

Finally, another important improvement is that the attention paid to the victim has grown, and is now close to the standards achieved in the situation of female victims of violence where the decision to report an attack can also have consequences on the victim's personal life.

Casal Lambda believes that the actions currently implemented are important first steps. They certainly need to be further improved, but they are an impressive achievement if one looks at the situation we faced only a few years ago. A beneficial outcome of this increased co-operation is the possibility offered to all those involved to meet. These contacts are a priority, and a condition to achieve further improvements in fighting LGBT-phobic crime.

Useful publications on tackling LGBT-phobic hate crime

Publications by international and European governmental organisations:

- United Nations, Training Manual on Human Rights Monitoring, 2001:
http://www.ohchr.org/Documents/Publications/training7Intro_en.pdf
- Organisation for Security and Cooperation in Europe, Law Enforcement Officer Programme on Combating Hate Crime, 2006:
http://www.osce.org/odihr/item_11_20673.html
- Organisation for Security and Cooperation in Europe, Preventing and responding to hate crimes, a resource guide for NGOs in the OSCE region, OSCE-ODHIR, 2009:
http://www.osce.org/odihr/item_11_40781.html
- Organisation for Security and Cooperation in Europe, Hate Crime Laws - A Practical Guide, OSCE-ODHIR, 2009:
http://www.osce.org/odihr/item_11_36671.html

Publications by international and European NGOs:

- ILGA-Europe, handbook on monitoring and reporting homophobic and transphobic incidents, Dr Christine Loudes and Evelyne Paradis, 2008:
http://www.ilga-europe.org/europe/issues_themes/hate_crime/resources_on_hate_crime_and_violence
- ILGA-Europe, handbook on Observations of Pride Marches, Dr Christine Loudes, 2006:
[http://www.ilga-europe.org/europe/publications/reports_and_other_materials/\(offset\)/15](http://www.ilga-europe.org/europe/publications/reports_and_other_materials/(offset)/15)

- The website of the ILGA-Europe Human Rights Violations Documentation Fund contains a whole section on human rights documentation tools, including tools and examples for reporting, monitoring and documenting LGBT-phobic hate crime incidents:
http://www.ilga-europe.org/europe/funding_capacity_building/funding_opportunities/ilga_europe_human_rights_violations_documentation_fund/human_rights_documentation_tools
- Human Rights First, Hate Crime Report Card, 2007 and 2008:
<http://www.humanrightsfirst.org/discrimination/pages.aspx?id=158>
- HURIDOCS, tools to Monitor and Document Human Rights Violations: <http://www.huridocs.org/tools/violations>
- EQUITAS, Human Rights Monitoring and Advocacy:
<http://www.equitas.org/english/ed-manuals/downloads/CHRF-Manual-MonitAdv2003.pdf>