

“INCREASING THE CAPACITY OF LAW ENFORCEMENT AUTHORITIES TO TACKLE RACIST CRIME, HATE CRIME AND HOMOPHOBIC CRIME THROUGH EXPERIENTIAL LEARNING (EXPERIENCE CRIME)”

Agreement Number - JUST/2013/FRAC/AG/6185



## **PROTOCOL ON THE EFFECTIVE INVESTIGATION OF RACE, SEXUAL ORIENTATION AND TRANSGENDER HATE CRIME (SPECIFIC)**

### **1. BACKGROUND**

Hate crimes are criminal acts committed with a bias motive based on a so called “protected characteristic of an individual. Protected characteristics are defined in the legislation in each country. The most common ones include race /ethnic origin, nationality, religious belief, sexual orientation, gender identity, disability.

Hate crimes are on the rise and more likely to be experienced repeatedly. They have a great emotional impact on the victim but as “message crimes” they affect also wider communities. This is particularly the case for hate crimes on the grounds of race/ethnic origin and sexual orientation/transgender.

Law enforcement authorities must provide an appropriate level of service to victims of hate crime and to this aim it is essential to have a clear understanding of what constitutes a hate incident and a hate crime, what motivation is and which hate crimes are monitored. This document will focus on race, sexual orientation and transgender hate crim.

The present document is the result of information sharing, exchange and discussion between law enforcement officers that took part in the capacity building seminars organized in the context of the project “Increasing the capacity of law enforcement authorities to tackle racist crime, hate crime and homophobic crime through experiential learning”. Its purpose is to offer a holistic approach to hate crimes from the perspective of practitioners and brings together practices that are effective in addressing the barriers mentioned above.



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## 2. DEFINITIONS OF RACE, SEXUAL ORIENTATION AND TRANSGENDER HATE CRIME

### Race hate crime

Race hate crime can have devastating consequences for the victim, their families and their communities. The word “race” is used to refer to groups of people considered distinct due to physical characteristics, such as skin colour. Race therefore refers to any group defined by race, colour, nationality or ethnic or national origin. It can also include asylum seekers or refugees as this status is intrinsically linked to their ethnicity and origins.

A race hate crime is any criminal offence which is perceived, by the victim or any other person, to be motivated (wholly or partially) by a hostility or prejudice based on a person’s race or perceived race.

### Sexual orientation hate crime

Lesbian, gay or bisexual people may experience a level of violence and hostility. Sexual orientation hate crime is any criminal offence which is perceived, by the victim or any other person, to be motivated (wholly or partially) by a hostility or prejudice based on a person’s sexual orientation or perceived sexual orientation (lesbian, gay, bisexual or heterosexual).

LGB hate crime is often referred to as homophobia. It can vary in its nature from violent, unprovoked murders through to subtle intimidation, blackmail or other forms.

### Transgender hate crime

Transgender refers to any person who is transsexual, transgender or transvestite and cover a broad spectrum of people in different circumstances. A transgender hate crime is one where the victim, or any other person, perceives that it was motivated (wholly or partially) by hostility to a transgender person, or where such hostility was demonstrated before, during or after an offence was committed.



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### 3. KEY CHALLENGES IN ADDRESSING RACE, SEXUAL ORIENTATION AND TRANSGENDER HATE CRIME

Victims of race, sexual orientation and transgender hate crime share a number of characteristics that make them particularly vulnerable with regard to responses to hate crime. These key features include their limited trust and poor relations with authorities and especially law enforcement, high levels of prejudice against them that make them defensive. Three major barriers hinder effective responses to race, sexual orientation and transgender hate crime.

#### **Low levels of reporting**

Many hate crimes remain unreported or are reported but not recorded as hate crime. This challenge requires a two-fold approach: on the one hand to improve recognition of reported crimes and on the other hand to reduce under-reporting. While the former involves procedures internal to law enforcement agencies, the latter is linked to victims and their communities. It is a common challenge for discrimination and hate crime that many victims are reluctant to report for a number of reasons. However, reporting is a necessary prerequisite of an effective response to hate crime.

#### **Bias and prejudice**

Bias and prejudice within law enforcement is one of the most difficult obstacles to address. This bias discourages victims from reporting, cultivates fear of disgrace and discriminatory treatment and in extreme cases can lead to bias motivated violence perpetrated by police. In a broader perspective, bias and prejudice limits the effect of any effort invested in addressing hate crimes.

#### **Inappropriate level of service**

Law enforcement officers have an important yet complex role in addressing hate crime. They are required to process crime reports, interact with victims, conduct investigations, collect evidence among many other tasks. Work pressure, unclear procedures and lack of knowledge, bias and prejudice might often lead to very inappropriate levels of service to citizens.



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## 4. EFFECTIVE RESPONSES

This section lists a number of practices that offer effective response to the specific barriers relevant to victims of race, sexual orientation and transgender hate crime.

### 4.1. MEASURES TO IMPROVE REPORTING

Reporting is a major problem because it does not allow hate crime to come to the fore and to be dealt with. Measures to support and enhance reporting within these groups. These can include

- Engagement, awareness and education activities to make groups aware of what constitutes hate crime and how it can be reported
- Partnerships with representative organisations to ensure an increased awareness and an active encouragement to report
- Easy access to reporting facilities through third-party or assisted reporting schemes, dedicated materials, online reporting facilities
- Enhanced communication mediums to explain rights and methods of reporting, including leaflets, posters, video and audio.

#### **Third-party and assisted reporting**

Third-party reporting aims to increase hate crime reporting and the flow of intelligence from a community by providing members of the public with alternative methods of contacting law enforcement agencies and reporting a crime. This can include online reporting, reporting through hotlines, reporting through NGOs. 24-hour telephone services used for reporting hate crime or accessing support and information for victims are examples of effective practices.



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## 4.2. MEASURES TO IMPROVE RELATIONSHIPS WITH COMMUNITIES

Community engagement is important to build trust and confidence. This can involve

- Work with specialist and traditional media to communicate commitment and provide positive messages
- Treating groups with respect and acknowledging their individual rights is an important step in building trust and confidence and building bridges against marginalization, underreporting and victimisation
- Organisation of events with active involvement of the community
- Partnership agreements and common initiatives
- The True Vision website offers support, information and material for dissemination to communities, but local engagement is likely to be most valuable.

## 4.3. SENSITIVE LAW ENFORCEMENT

Law enforcement is there to serve society in an equal and non-discriminatory way. A number of proactive initiatives are necessary to build trust and partnership with victims of hate crime and especially race, sexual orientation and transgender hate crime.

### **Liaison officers**

Several countries have introduced liaison officers with specific responsibility for building community links and providing support to victims and witnesses of hate crime. Liaison officers might be linked to minority recruitment policies in law enforcement and can be Lesbian, Gay, Bisexual, Transgender, Roma etc. Their role is to build trust and confidence, increase accessibility to law enforcement, create visible contact points and offer a specialist advice point for other officers. This initiative must go hand in hand with ongoing training and support, sufficient time to perform their role.

### **Awareness training**

Interaction between victims of hate crime and law enforcement is often with police officers, staff, prosecution that have not been specifically trained. It is important for law enforcement agents to be trained in how to be professional



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and neutral in contact with citizens and to overcome bias and prejudice. It is also important to conduct awareness training on race/ethnic groups, sexual orientation, transgender issues, as part of diversity training and to ensure an active involvement of members of specific groups (Roma, LGBTI, transgender etc) to deliver such training.

### Specialized guidance and operating procedures

A key issue to effectively investigating and prosecuting hate crimes is recognizing and understanding bias motivation and its expressions and having a clear view of the steps to be followed. It is an effective approach to develop specialized written policies and accompanying training to help law enforcement agents understand, identify, investigate and prosecute potential hate crime cases. These documents are extremely useful in setting out in a clear and unambiguous way of the policies and procedures that law enforcement agents are obliged to follow.

## 5.CONFIDENTIALITY

Confidentiality is a major challenge when dealing with race, sexual orientation, transgender hate crime. Victims might be at odd with their own gender or identity and not wish to make it public. They may be reluctant to report if they fear insensitive or dismissive responses. Measures to ensure confidentiality should be in place and clearly communicated throughout reporting or other types of support.

The release of information could have a damaging impact on their individual, family, community or professional life.

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