Written evidence submitted by University of Sussex to the Transgender Equality Inquiry

Transphobic hate crime and perceptions of the criminal justice system

Dear Committee

This report is based on findings from **The Sussex Hate Crime Project** (SHCP) currently being undertaken at the University of Sussex on the direct and indirect impacts of anti-LGBT[1] hate crimes. This three year research project is funded by the Leverhulme Trust and is led by Professor Rupert Brown (School of Psychology) and Dr Mark Walters (School of Law).

This report will focus on the extent and nature of transphobic hate crime and the effects that this type of crime has on trans*[2] people's attitudes towards criminal justice agencies and, more broadly the government, in relation to hate crime. The information presented here is a summary of some of the findings of the SHCP. All data presented in the report is original and is yet to be officially published. We hope to publish full details of our findings in 2016.

This report is co-authored by Dr Mark Walters[3] and Dr Jenny Paterson[4]

[1] Lesbian, Gay, Bisexual and Transgender.

[2] Trans* with the asterisk denotes that trans is an inclusive term which includes not only those who consider themselves to be transgender or transsexual but also those who refute non-binary labels and who do not consider themselves to be cisgender, this may include (amongst others): transvestite, genderqueer, genderfluid, non-binary, genderfuck, genderless, agender, non-gendered, third gender, two-spirit, bigender, and trans man and trans woman. - See more at: http://www.pdxqcenter.org/bridging-the-gap-trans-what-does-the-asterisk-mean-and-why-is-it-used/

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EXCUTIVE SUMMARY

- Trans* people were significantly more likely than non-trans LGB people to have been a direct victim of hate crime involving physical assaults, physical assaults with weapons, verbal abuse, and online abuse.
- Trans* people were significantly more likely than non-trans LGB people to have been an indirect victim of hate crime involving physical assaults, physical assaults with weapons, verbal abuse, and online abuse.
- Anti-LGBT hate crime is highly repetitive in nature for trans* people, meaning that most trans* individuals experience multiple incidents of abuse each year.
- Anti-LGBT hate crime has significant impacts upon trans* people's emotions (fear, anxiety and anger) and behaviours (avoidance and proaction).
- Both direct and indirect experiences of anti-LGBT hate crime effect trans* individuals' attitudes towards the police, CPS and the government more broadly. Specifically, most trans* people believed the Government should do more to combat anti-LGBT hate crimes, they felt that the police are less effective and respectful, and they have less confidence in the CPS to prosecute anti-LGBT hate crimes.

1. Introduction: the problem of transphobic hate crime

It is only relatively recently that transgender was included as one of the protected characteristics in hate crime legislation and policy - it first being included under the operational definition of hate crime (i.e. that which is used by the police when recording hate crimes)[5] in 2001 as part of the definition of homophobic hate crime and later as a separate type of hate crime in 2007.[6] However, transgender hostility was not incorporated into hate crime legislation until 2012 when it was added to the sentencing enhancement provisions as prescribed by the Criminal Justice Act 2003, s. 146.[7] Despite the inclusion of transgender within the hate crime policy domain there remains a paucity of research on this type of targeted violence.[8] Even recent analysis of data from the Crime Survey for England and Wales (CSEW) on hate crime failed to examine the extent and nature of transphobic hate crimes due to the fact "the number of CSEW respondents who were victims of this type of hate crime was too low to provide a robust estimate".[9] Official statistics on recorded hate crime provide a limited picture of the problem. The police recorded 555 transphobic hate crimes between 2013-14.[10] Out of the five strands of hate crime, transphobic hate crime saw the biggest percentage increase in reported incidents between 2012/13 and 2013/14 (54%).

While such figures are cause for concern, the true extent of transphobic hate crime remains difficult to gauge. There have been some attempts to fill this gap. For example, a European study in 2009 by Turner and others found that 83% of trans* people in England had "experienced some form of harassment in public, ranging from transphobic comments to physical or sexual abuse."[11] Chakraborti and Garland assert that trans* people are at a greater risk of targeted victimisation than some other vulnerable groups due to their visibility of not

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[5] See College of Policing, (2014) *Hate Crime Operational Guidance*, Coventry. http://www.report-it.org.uk/files/hate_crime_operational_guidance.pdf

[6] Giannasi, P. (2015), Hate crime in the United Kingdom, in Hall et al, *The Routledge International Handbook on Hate Crime*, London, Routledge.

[7] Added by the Legal Aid, Sentencing and Punishment of Offenders Act 2012, s. 65(9).

[8] See Chakraborti, N., and Garland J. (2015) *Hate Crime: Impact, Causes & Reponses*, Sage. Chapter 5 for an overview of the literature.

[9] Home Office, Ministry of Justice, Office for National Statistics (2013) *An Overview of Hate Crime in England and Wales,* London: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/266358/hate-crime-2013.pdf

[10] Home Office, (2015) *Hate Crimes, England and Wales, 2013/14,* Home Office Statistical Bulletin: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/364198/hosb0214.pdf

[11] Turner, L., Whittle, S. and Combs, R. (2009) *Transphobic Hate Crime in the European Union. London: Press for Change*. http://www.ucu.org.uk/media/pdf/r/6/transphobic_hate_crime_in_eu.pdf

conforming to society's expected notions of how males and females should look and dress.[12] This means that most trans* people experience discrimination in their day-to-day life for looking different while also experiencing more direct forms of abuse and violence for transgressing gender norms.

Research has also indicated that the impact of transphobic hate crime may be more severe than other forms of targeted victimisation. For instance, Williams and Tregidga's analysis of data from the *All Wales Hate Crime Project* showed that those most likely to suffer the most impacts of hate crime are trans* people. [13] In fact, trans* people were ten times more likely to have suicidal thoughts than other hate crime victims.[14]

These studies have helped to improve our understanding of the nature and extent of transphobic hate crime, yet there is much to be learnt about this invidious phenomenon. Below, we provide a summary of the Sussex Hate Crime Project's statistics on the **extent**, **frequency** and **impacts** of anti-LGBT hate crime.[15] This is the first study to outline both trans* people's **direct** and **indirect** experience of hate victimisation.[16] The study additionally provides important new insights into the potential effects that anti-LGBT hate crime has on individuals' attitudes towards the police, Crown Prosecution Service and the Government more broadly.

[12] Chakraborti, N., and Garland J. (2015) Hate Crime: Impact, Causes & Reponses, Sage. Chapter 5
[13] Williams, M. and Tregidga, J. (2013) *All Wales Hate Crime Research Project: Research Overview and Executive Summary*, Cardiff: Race Equality First.
[14] Ibid.
[15] Due to the breadth of the study we used the term anti-LGBT hate crime in our surveys providing the operational definition of both homophobic and transphobic hate crime, as outlined below.
[16] Explained further below.

2. The Sussex Hate Crime Project

As part of the SHCP we surveyed 593 Lesbian, Gay, Bisexual and Trans* (LGBT) participants who live in Britain about their experiences (or not) of anti-LGBT hate crime. This sample was recruited opportunistically with the assistance of our partner organisations. Although not truly representative of the LGBT population in the UK, it is likely to be a reasonable approximation. Both experiences of **direct** hate crime (i.e., individual experiences of victimisation) and **indirect** hate crime (i.e., knowledge of *others* who have been victimised) were examined. Out of the 593 respondents surveyed 59 participants identified as trans*.[17] We take trans* to include people who do not consider themselves to be cisgender.[18] Individuals included in our study as "trans*" self-identified using the following gender identities: trans male, trans female; gender queer trans, gender queer trans male, gender queer trans female; non binary trans female; non binary trans male.[19]

The survey asked people to state whether they had experienced (directly and/or indirectly) a number of different types of anti-LGBT hate crime and hate incidents (including both verbal and physical). We then asked individuals to state the frequency of their experiences. We closely followed the College of Policing's operational definition of anti-LGBT hate crime and hate incidents when explaining to respondents what hate crime is:

"Any criminal offence, or non-crime incident, which is perceived, by the victim or any other person, to be motivated by a hostility or prejudice based on a person's sexual orientation or perceived sexual orientation or trans identity or perceived trans identity."[20]

Due to the size of the survey we were able to compare the rates of victimisation between lesbian, gay and bisexual people who did not identify as trans* with people who did identify as trans*.[21]

[17] Though the statistics used have been rigorously evaluated and tested against stringent statistical methodologies, the smallish number of trans* participants means that some of the data should be treated with caution.
[18] I.e. those who feel that their experiences of gender match the sex they were assigned at birth.
[19] Participant's ages ranged from 18-67 with an average age of 35.45 years.
[20] College of Policing, (2015) Hate Crime Operational Guidance, Coventry. http://www.report-it.org.uk/files/hate_crime_operational_guidance.pdf
[21] Note that trans* people may have identified as any type of sexual orientation.

3. Experiences with anti-LGBT hate crimes in the last 3 years

Table 1. Percentage of people who have been *direct* victims of hate crimes

	Trans (n = 59)	Non-Trans (n = 534)	χ^2 difference[22]
Direct Verbal abuse	85%	62.5%	11.47***
Direct Online abuse	52.5%	27%	16.12***
Direct Vandalism	12%	9%	0.60
Direct Assault	29%	12%	13.18***
Direct Assault with weapon	12%	5%	4.19*

*$p < .05$, **$p < .01$, ***$p < .001$.

Table 2. Percentage of people with *indirect* experiences of LGBT hate crimes

	Trans (n = 59)	Non-Trans (n = 534)	χ^2 difference
Indirect Verbal abuse	91.5%	81.5%	3.72†
Indirect Online abuse	83%	55%	16.66***
Indirect Vandalism	34%	25%	2.14
Indirect Assault	73%	49%	12.44***
Indirect Assault with weapon	34%	19%	7.57**

†$p = .054$, *$p < .05$, **$p < .01$, ***$p < .001$.

Table 1 reveals that, compared to non-trans* LGB participants, trans* people were significantly more likely to have been a direct victim of hate crime involving physical assaults, physical assaults with weapons, verbal abuse, and online abuse. For instance, we found that 12% of non-trans* LGB respondents had experienced a physical assault motivated by anti-LGBT hostility over the previous 3 years; this percentage more than doubled for trans* individuals, with 29% of trans* respondents stating that they had been physically assaulted in an anti-LGBT hate crime over the same time period.

[22] The χ^2 statistic denotes whether the experiences of trans* people significantly differ from the experiences of non-trans* people.

Trans* people were also more likely to have indirect experiences with these types of hate crimes (Table 2). In other words, they were more likely to personally know other LGBT people who had been targeted because of their sexual orientation and/or gender identity.[23] Such a finding is important as other qualitative studies have suggested that knowing other hate crime victims can have a damaging impact on individuals' feelings of safety and security in their community (known as the 'ripple effect').[24] The SHCP study has provided for the first time quantitative data that supports this assertion. We found that those who experience hate crime *indirectly* are more likely to experience a perception of threat which is directly correlated with elevated feelings of fear, anxiety and anger (compared with those who had no indirect experience). These feelings in turn result in individuals going out less often and seeing friends less often. In most of our assessments we found that the indirect experiences of hate crimes can have a similar impact (both emotionally and behaviourally) as those who have experienced direct victimisation.[25]

[23] In fact only 5% of trans* people (n = 3) had not been a direct or indirect victim of an anti-LGBT hate crime in the past 3 years, compared to 13% of non-Trans people (n = 72).

[24] See Perry B, and Alvi, S. (2012) '"We are all vulnerable": the *in terrorem* effects of hate crimes' (2012) 18 *International Review of Victimology* 57.

[25] Paterson, J. L., Brown, R., Walters, M. A., & Carrasco D. (in prep.). "Feeling others' pain: Indirect effects of hate crime on two victimised communities".

4. Frequency of direct and indirect hate crime victimisation

Not only were trans* people more likely to experience verbal and physical hate crime (both directly and indirectly) overall, but they were also likely to experience such incidents of hate crime more frequently. The figures below show the frequency of verbal abuse and physical assaults experienced both directly and indirectly by trans* participants and non-trans* participants.

Figure 1. Percentage of people who experienced direct verbal hate crime by frequency

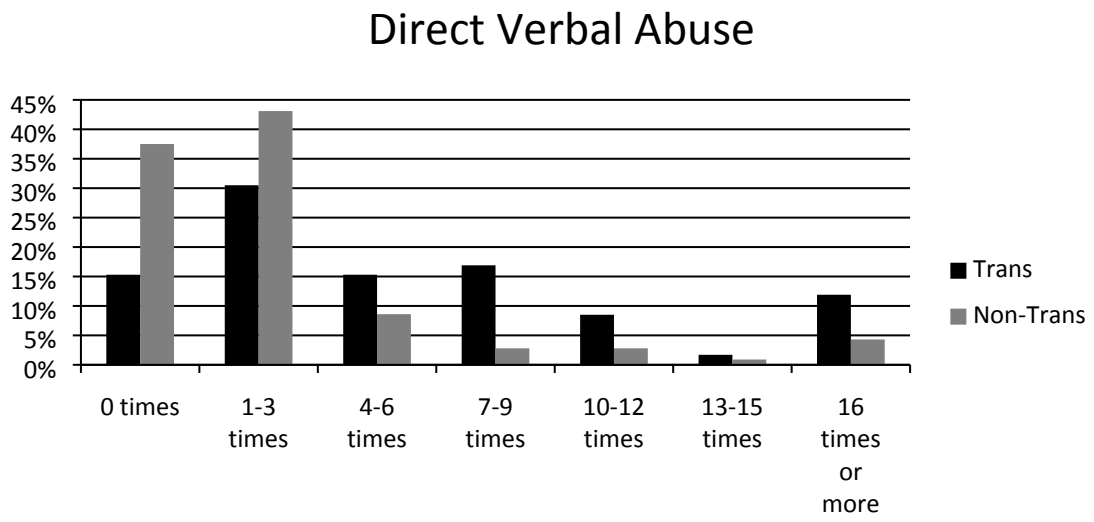


Figure 2. Percentage of people who experienced direct physical hate crime by frequency

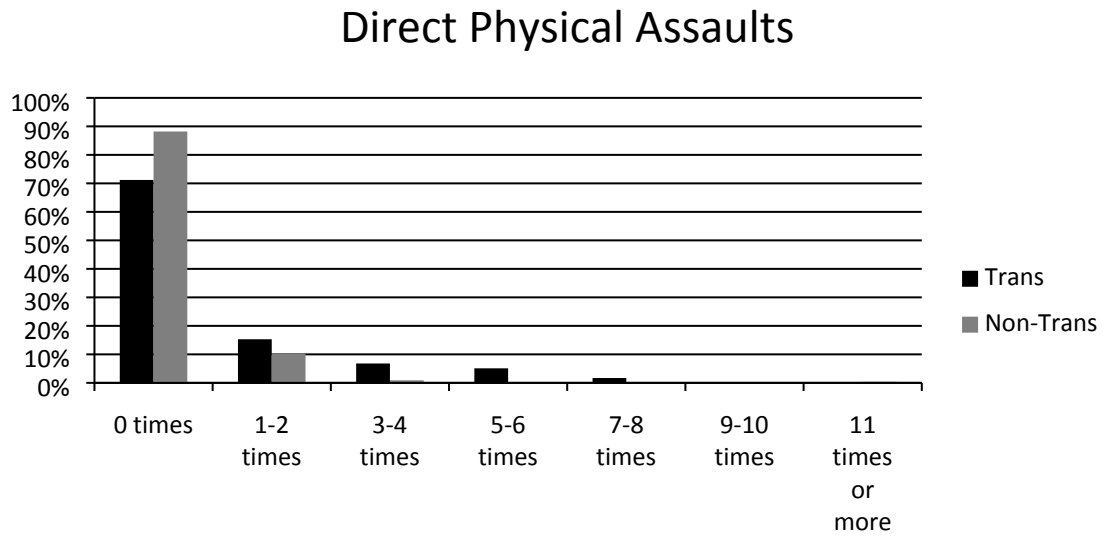


Figure 3. Percentage of people who experienced indirect verbal hate crime by frequency

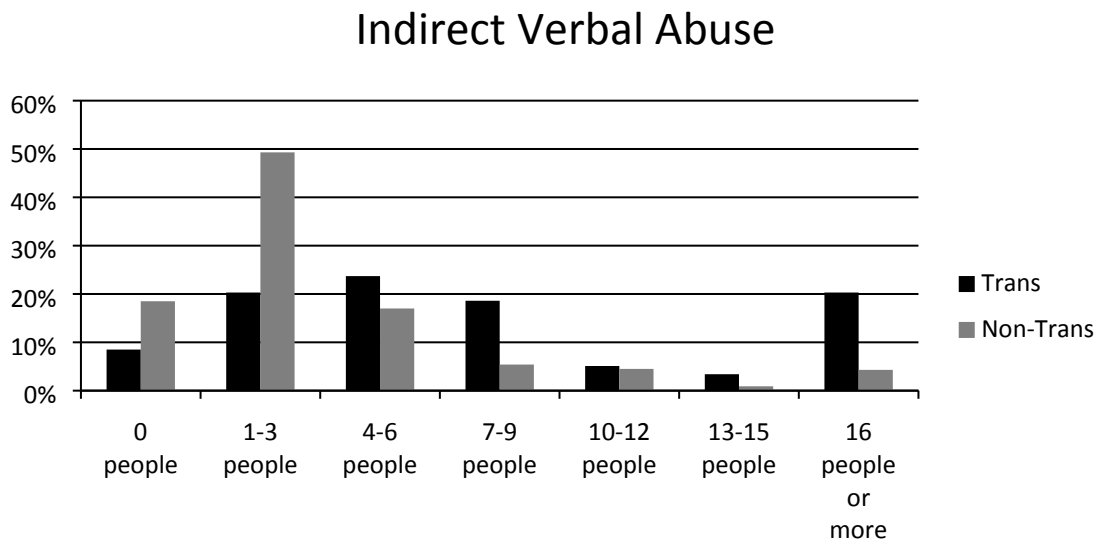
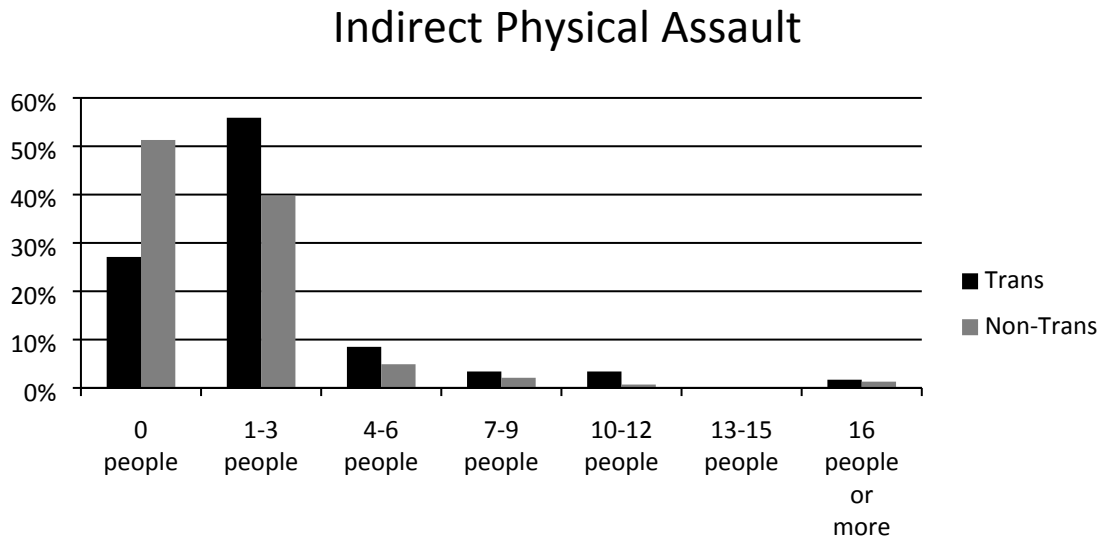


Figure 4. Percentage of respondents who experienced indirect physical hate crime by frequency



Figures 1-4 show that, on average, trans* people experienced direct and indirect anti-LGBT crimes more frequently than non-trans* participants. For example, 54% of trans* people reported more than three instances of verbal abuse in the past 3 years and 13.5% reported more than three physical assaults. By comparison, 19.5% and 1.5% of non-trans* participants experienced more than three instances of verbal abuse and physical assaults during the same period. Similarly, 71% of trans* participants reported knowing more than three victims of

verbal abuse and 17% knew more than three victims of physical assault, compared to 32% and 9% of non-trans* participants, respectively. [26]

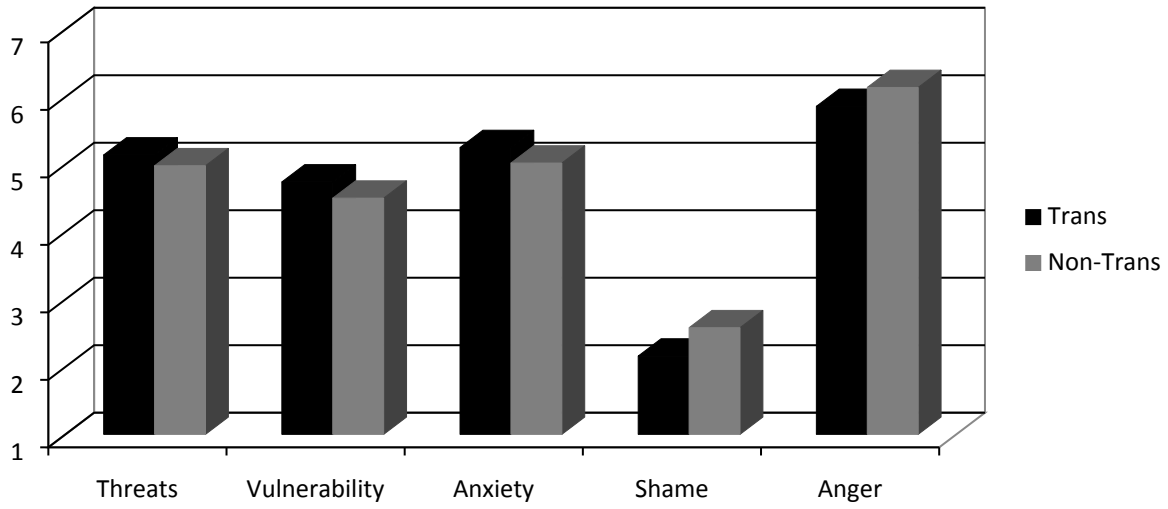
[26] Data for more than 7 instances/victims:
Percentage of people with 7 or more direct experiences with verbal hate crimes: trans* people 39% vs. non-trans* 11%
Percentage of people with 7 or more direct experiences with verbal hate crimes: trans* 7% vs. non-trans* 0.5%
Percentage of people with 7 or more indirect experiences with verbal hate crimes: trans* 47.5% vs. non-trans* 15%
Percentage of people with 7 or more indirect experiences with assault hate crimes: trans* 8% vs. non-trans* 4%

5. Impacts of anti-LGBT hate crime on trans* people

A. Emotional impacts

The impacts of anti-LGBT hate crime on trans* people may be more severe than on other victims. As noted in the introduction to this report, other studies have shown that trans* people's experiences of hate crime are marked by high levels of psychological trauma. Our study concurred with much of the current literature on this. Using likert-type scales of 1-7 (1 being do not agree at all and 7 being strongly agree) we were able to measure respondents' emotional and behavioural responses to hate crime.

Figure 5. Emotional reactions towards hate crimes



As shown in Figure 5, we found that trans* people felt slightly more threatened, vulnerable and anxious about hate crimes than non-trans* people (though these differences were not statistically significant).[27] However, the study found that trans* people reported feeling significantly less anger ($p < .05$) and marginally less shame ($p < .07$) towards hate crimes than other LGBT participants, though it is important to note that trans* people still reported a great deal of anger towards hate crime ($M = 5.86$ on a 7 point scale).

The impacts of anti-LGBT hate crimes could be linked to trans* people's broader experiences of prejudice and 'othering' in society. Not only do trans* people have to deal with experiencing hate crime but they do so in a world where their gender identity is refuted or

[27] See also Chakraborti, N., Garland. J., and Hardy, S. (2014) *The Leicester Hate Crime Project: Findings and Conclusions*, University of Leicester; Williams, M. and Tregidga, J. (2013) *All Wales Hate Crime Research Project: Research Overview and Executive Summary*, Cardiff: Race Equality First.

treated by medical practitioners as a disorder.[28] For instance, we found that trans* respondents were less likely to report that they received family approval for being LGBT (trans* = 3.83 vs. non-trans* = 4.86 $p < .001$) and they were also less likely to feel supported by friends for being LGBT (trans* = 5.71 vs. non-trans* = 6.12 $p < .05$). More broadly, trans* respondents felt that they received less societal approval for being LGBT (trans* = 3.22 vs. non-trans* = 4.13, $p < .001$). Further analyses[29] revealed that this perceived lack of support was, in part, a consequence of trans* people's greater number of experiences with verbal abuse compared to non-trans* participants ($p < .01$,). This suggests that the persistent experiencing of anti-LGBT verbal abuse results in trans* individuals feeling less supported by almost everyone around them.[30] As we will see below, the lack of confidence in the police and the Government may add to trans* people's feelings of isolation.

B. Behavioural reactions

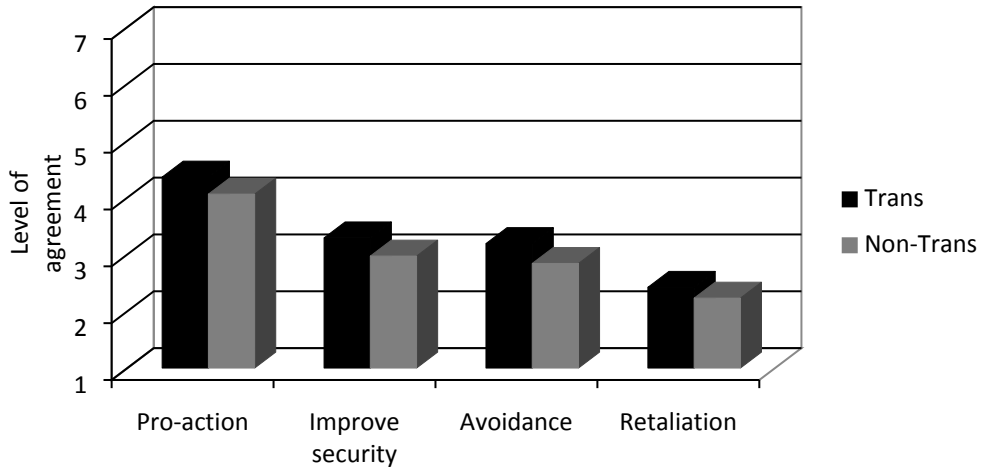
To assess the behavioural impacts of hate crimes, we asked participants what they were likely to do after hearing of a hate crime being committed (Figure 6).

[28] See Johnson, K., Faulkner, P., Jones, H. and Welsh, E. (2007) *Understanding suicide and promoting survival in LGBT communities* HSPRC, University of Brighton, Brighton, UK.

[29] Bootstrap mediational analyses were conducted using the Process macro (Hayes, 2013). This analysis statistically assesses how one variable impacts upon another via a particular mechanism, for example, our analyses show that trans* people feel less approval than non-trans* participants, and they do so, in part, *because* they experience more verbal abuse.

[30] See also Perry, B. and Dyck, D.R. (2014) "Courage in the face of hate crime: a curricular resource for confronting anti-LGBTQ violence", in N. Chakraborti and J. Garland (eds) *Responding to Hate Crime: The Case for Connecting Policy and Research*, Bristol: The Policy Press.

Figure 6. Intended behavioural responses to hate crimes



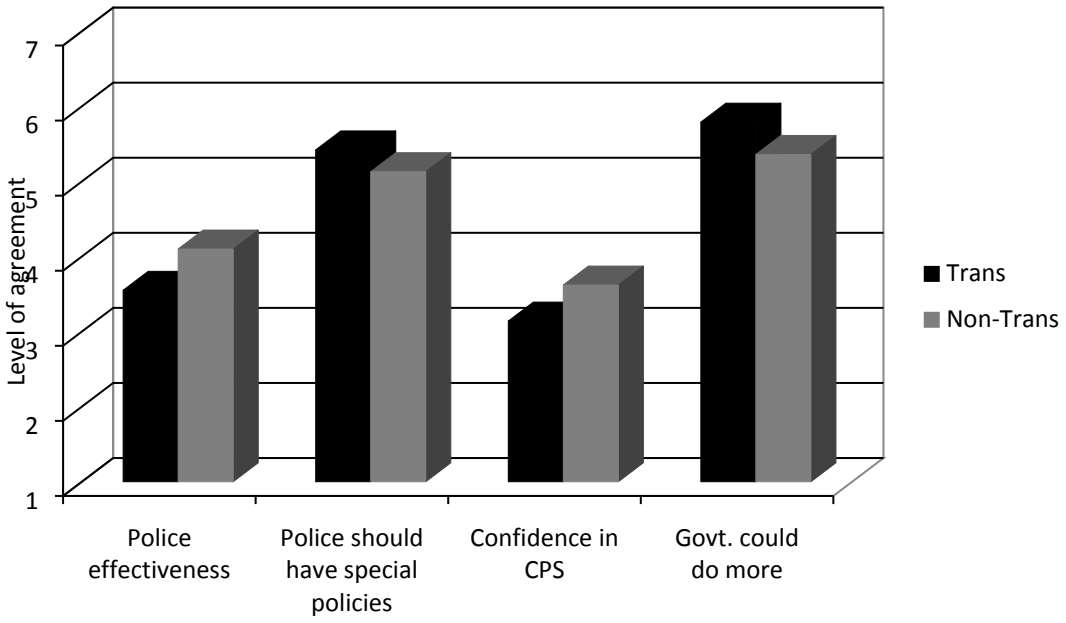
Both trans* and non-trans* people were likely to engage in pro-action behaviours (e.g., join LGBT support groups and charities). Importantly we found that both trans* and non-trans* individuals were unlikely to want to seek (violent) retaliation. Trans* people, however, were marginally more likely to engage in avoidant behaviours, such as seeing friends less often and changing their appearance, than other LGBT participants ($p < .06$). We found that this intention to avoid was a consequence of their greater number of direct experiences of both verbal and online hate crimes ($p < .005$ and $p < .05$ respectively)

These findings suggest that anti-LGBT hate crime is likely to have a more severe impact on trans* people's lives than non-trans* people. Because trans* people experience more verbal and online abuse they are more likely to avoid certain places and people during their day-to-day lives compared with non-trans* victims of hate crime.

6. Contact and attitudes towards the police

We found that trans* people's experiences of hate crime also impacted upon the ways in which they came into contact with and ultimately viewed various criminal justice agencies (Figure 7).

Figure 7. Attitudes towards the Criminal Justice System



More trans* people (32%; n = 19) had contacted the police regarding a hate crime than non-trans* people (27%; n = 140; 12 non-trans* participants did not respond to this question). We are as yet unable to explain why this might have been, though one hypothesis is that the higher rates of more serious types of hate crime reported by trans* people meant that they were more likely to report offences to the police.

A. Police Effectiveness

Despite the fact that more trans* people reported their experiences of hate crime to the police they were more likely to believe that the police are *less* effective at dealing with anti-LGBT hate crimes compared to non-trans* participants (Figure 7: $p < .005$).

Interestingly, further analyses revealed that trans* people who have contact with the police think they are less effective than non-trans* people who have contact with them (*Means* = 3.13 vs. 4.24, $p < .001$). This suggests that trans* people have worse experiences with the police than non-trans* people who contact them about hate crime. Such a finding concurs with Turner and others' research on transphobic hate crime in Europe where they found that the vast majority of respondents from all countries were less likely to be confident that they would be treated by the police with dignity and respect as a trans* person.[31] Analysis of their

qualitative data showed that violent incidents were not always taken seriously. It was also suggested that the police implicitly or explicitly asserted that the victim was the cause of the incident.[32]

B. Police policies and procedures

Trans* participants were slightly more likely to state that the police should have special policies and procedures for anti-LGBT hate crimes than non-trans* participants, though the difference was (very) marginally significant (*Means* = 5.42 vs. 5.13, $p < .10$). Again, this was qualified by the amount of contact they had had with the police, but this time trans* people who had had contact with the police were more likely to believe that the police should have special policies and procedures (such as having specialist police officers) than non-trans* participants who also had not had contact with the police (*Means* = 5.52 vs. 4.98, $p < .01$). This again infers that trans* people were not treated with the due care and attention that is required in such cases.

[31] Turner, L., Whittle, S. and Combs, R. (2009) Transphobic Hate Crime in the European Union. London: Press for Change. http://www.ucu.org.uk/media/pdf/r/6/transphobic_hate_crime_in_eu.pdf
[32] Ibid.

7. Contact and attitudes towards the Crown Prosecution Service

Significantly more trans* people (15%; n = 9) had experience with the CPS in regards to a hate crime than non-trans* participants (7%; n = 36; 2 non-trans* participants did not respond to this question; $p < .05$). This again may indicate that trans* people experience more serious/violent offences than non-trans victims; i.e. they experience those offences which are more likely to result in a criminal prosecution.

Despite having more direct experience of the CPS, trans* participants had significantly *less* confidence in the way the CPS deal with anti-LGBT hate crimes than non-trans* participants (Figure 7: *Means* = 3.14 vs. 3.62; $p < .01$). However, our analyses also revealed that it is when trans* people do not have contact with the CPS that they have worse attitudes towards the CPS than non-trans people (who also had no contact with the CPS: *Means* = 3.03 vs. 3.66, $p < .001$).

Overall, our analyses suggest that trans* people have less confidence in the CPS than non-trans people, especially when they have not had any contact with them. In light of these findings the CPS may wish to consider reviewing and re-implementing their policy guidance on transphobic hate crime.

8. Attitudes towards the government

Finally, as shown in Figure 7, our research showed that trans* participants believed the Government should do more to combat anti-LGBT hate crimes than non-trans* participants ($p < .005$). As both trans* and non-trans* participants average responses are way above the mid-point, this broader finding infers that all LGBT people, but especially trans* individuals, feel the Government should be doing much more to tackle this issue. The Committee's inquiry may be one way of doing this. Much will, of course, depend on how the Government responds to the Committee's findings.

Conclusions and policy relevance

The results of our study can be summarised as follows:

1. Trans* people were significantly more likely non-trans LGB people to have been a direct victim of hate crime involving physical assaults, physical assaults with weapons, verbal abuse, and online abuse.
2. Trans* people were significantly more likely non-trans LGB people to have been an indirect victim of hate crime involving physical assaults, physical assaults with weapons, verbal abuse, and online abuse.
3. Anti-LGBT hate crime is highly repetitive in nature for trans* people, meaning that most trans* individuals experience multiple incidents of abuse each year.
4. Anti-LGBT hate crime has significant impacts upon trans* people's emotions (fear, anxiety and anger) and behaviours (avoidance and proaction).
5. Both direct and indirect experiences of anti-LGBT hate crime effect trans* individuals' attitudes towards the police, CPS and the government more broadly. Specifically, most trans* people believed the Government should do more to combat anti-LGBT hate crimes, they felt that the police are less effective and respectful, and they have less confidence in the CPS to prosecute anti-LGBT hate crimes.

It is important to bear in mind that these results were more pronounced when we compared trans* people's experience of hate crime with non-trans* LGB individuals' experiences of hate crime. This is by no means to minimise non-trans* LGB people's experiences of hate

crime, indeed our study showed that these were severe and must be rigorously addressed. However, for the purposes of this inquiry it is important to highlight the fact that our evidence suggests that trans* people are doubly victimised and affected, above and beyond other commonly stigmatised and harassed groups.

Our findings are additionally relevant to Government policy on trans* equality. We wish to highlight the following:

1. Our finding that anti-LGBT hate crime is disproportionately common amongst trans* people and highly impactful is directly relevant to the Government's current assessment of whether transgender should be included under ss.28-32 of the Crime and Disorder Act 1998 and Part 3A of the Public Order Act 1986 - in accordance with recent Law Commission proposals in their final report *Hate Crime: Should the Current Offences be Extended?* (No. 348).
2. Our innovative data on trans* people's direct and indirect experiences show that these crimes have significant affects on individuals' attitudes towards the police, CPS and the government, i.e., it reduces confidence in these institutions and leads to a feeling that they need to do more. This means one of two things, either:
    - Agencies are not doing enough to address transphobic hate crime and need to find new ways of responding to such incidents, and/or
    - That agencies need to communicate more effectively to trans* communities about what they are currently doing to address the transphobic hate crimes.
3. Finally, given the community dynamics of transphobic hate crime and the continued lack of understanding of trans* issues amongst the broader public it may be that a more community-based approach to transphobic hate incidents is desirable. In this sense we recommend further reading of Walters' study on the use of restorative justice for hate crime.[33]

For further information please contact:

Further information about the Sussex Hate Crime Project can be found here: http://www.sussex.ac.uk/psychology/sussexhatecrimeproject/

[33] Walters, M. (2014) *Hate Crime and Restorative Justice: Exploring Causes, Repairing Harms*, OUP.

19 August 2015