


# Policing Transgender People: Discretionary Police Power and the Ineffectual Aspirations of One Australian Police Initiative

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## Abstract

Police policy documents often articulate strategies and approaches that police organizations want to implement in their efforts to break down barriers with minority groups. However, most police policy documents are written for police audiences and not for members of the public. Police policy documents serve as a reflection of the aspirations of the agency and not necessarily the practice of the officers. Differential policing has been a salient experience for members of transgender communities because, as individuals who express gender in ways that deviate from the norm, they have experienced numerous documented cases of police mismanaged practice. In Australia, achieving police reform in the area of policing of diverse community groups has been difficult as new initiatives implemented to educate police officers about diverse groups such as transgender communities are scarce. My study sought to analyze a police policy document to assess how one police agency's policy aspires to shape police contact/experiences with transgender people and how this document might shape intergroup identity differences between transgender people and the police. It is argued that the policy document will negatively affect police perceptions of transgender people and may enhance adverse perceptions of intergroup difference between police and transgender people. I also argue that using this document to achieve police reform in the area of policing of transgender people will be problematic as the policy document lacks substantial procedural guidelines regarding interaction with transgender people and may not favorably constrain discretionary police power.

## Keywords

police, policing, transgender, policy, reform, discretion

## Introduction

In 2009, under its *professional model of policing*, an Australian police organization (de-identified for ethical reasons<sup>1</sup>) created a procedural manual for its members that provided professional-practice guidelines for police officers “who may come into contact with members of transgender communities<sup>2</sup> in their official capacity.” Although the existence of the document has the potential to improve relations between transgender people<sup>3</sup> and the police, the relationship between transgender people and the police in many Australian states continues to be difficult (Anderson, McNair, & Mitchell, 2001; Dwyer, 2011; Hooley, 2006; Mason & Tomsen, 1997; Ohle, 2004). Social discrimination occurs frequently in the lives of transgender individuals around the world (see Alliance for a Safe & Diverse DC, 2008; Berman & Robinson, 2010; Edelman, 2014; J. M. Grant et al., 2011; Heidenreich, 2011; Miles-Johnson, 2013a, 2013b; Redfern, 2014; Wolff & Cokely, 2007; Woods, Galvan, Bazargan, Herman, & Chen, 2013). The stigma of being recognized as a transgender individual (as a person who is perceived to be

different to the social, cultural, and legal expectations of his or her birth sex) can have negative consequences. Vilification of people who are perceived to be different often leads to harassment, bullying, and discrimination by those who do not understand (Miles-Johnson, 2013a). In the Australian state where the policy document is applied, there have been numerous documented cases of transgender discrimination with many cases being reported as having been perpetrated by the police (Miles-Johnson, 2013b).

The history of transgender people across Australia is a past that has been influenced by British law that linked transgenderism with negative connotations of homosexuality, a prejudiced viewpoint that stigmatized homosexuality as a deviant sexual practice (Schlager, 1998). In 1885, the

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Criminal Law Act was passed in the United Kingdom, which made homosexuality illegal. People who cross-dressed became easy targets of the law because they were associated with homosexuality and punished accordingly (Whittle, 2010). In Australia during the British-colonial era, similar laws were enacted regarding homosexuality, and any conduct associated with it (such as cross-dressing or changing gender identity) was considered a capital crime (Carbery, 2010). This often resulted in harsh treatment from the authorities.

The history of transgender people and the police in Australia is a history based on mistrust, stigma, and anticipation of abuse (Cummings, 2007). For example, the *Tranznation Report* (Couch et al., 2007) indicated that many transgender people experience at least one social form of stigma or discrimination on the basis of their gender identity and that this lesser treatment occurs when interacting with police. According to Nemoto, Bodeker, and Iwamoto (2011), more than two thirds of transgender people currently report that they have been ridiculed or embarrassed by members of police organizations because of their transgender identity or expression. The *Stonewalled Report* (Amnesty International, 2005) and *Injustice at Every Turn* (J. M. Grant et al., 2011) also indicate that this type of treatment is not exclusive to Australian transgender people but is a shared and negative “lived-experience”<sup>4</sup> that many transgender people report around the world.

In Australia, few minority groups defined by external behaviors or other features that distinguish them from the general population have voluntary contact or are involved in community partnership programs with the police (Cunneen, 2001). This is problematic, especially as Australian police organizations have moved away from policing techniques previously considered discriminatory toward more community-oriented strategies (Miles-Johnson, 2013a). Despite the fact that the police have attempted to make significant changes in policy and practice implemented toward transgender people (e.g., lesbian and gay community police liaison officers, policing of hate crime, and in one Australian state, good practice guidelines for policing of transgender people), members of diverse minority groups such as transgender communities still purposefully avoid contact and interaction with police officers across Australia (Anderson et al., 2001; Berman & Robinson, 2010; Dwyer, 2011; Dwyer & Ball, 2012; Hooley, 2006; Mason & Tomsen, 1997; Miles-Johnson, 2013a, 2013b; Ohle, 2004). What is more, regardless of changes in the social, political, and legal history of the relationship between police and transgender people (extensive analyses of which are beyond the scope of this article), the nature of the relationship between the police and transgender people in Australia remains problematic (Crime and Misconduct Commission, 2009).

The difficulties raised by transgender people regarding their experiences of policing seem to stem from a lack of police understanding regarding the visibility of difference

and “what should be visible and what should not, who should occupy space and who should not” (Moran & Skeggs, 2004, p. 7, cited in Dwyer, 2012). Indeed, Dwyer (2012) argues that police and security practices in Australia constrain and govern individuals who are perceived as different, particularly individuals whose identities fail to align with heteronormative genders and sexualities. Many police organizations have embraced the idea of diversity and equality strategies. For example, in 2009, the Metropolitan Police addressed the critical issues of diversity and equality setting out aims for tackling discrimination and inequality of transgender people (Metropolitan Police, 2009).

There is a substantial body of research on policing that posits that police officer behavior is shaped by both policy and training, and police occupational outlook (Engel, 2000; Mastrofski, Snipes, Parks, & Maxwell, 2000; Paoline, Myers, & Worden, 2000; Shephard Engel & Worden, 2003). Previous research also indicates that most police officers make discretionary choices (Engel, 2000; Mastrofski et al., 2000; Tyler, 1990, 2005). These choices are often shaped by and bear strong relationship with the occupational attitudes and values in policy documents created by senior or more experienced police officers (Mastrofski et al., 2000; Shephard Engel & Worden 2003). This has been reflected in previous Australian research that found that police discretionary power influences how police officers interact and communicate with members of transgender communities (Mason & Tomsen, 1997; Miles-Johnson, 2013a).

This problem raises questions regarding why police practices (based on police policy) play a key role in alienating police from minority groups, particularly minority group members who perceive that they are over-policed (and/or under-policed) and are therefore unlikely to trust the police and cooperate with police when necessary. This mistrust may lead to a vicious cycle in which the police are unable (or unwilling) to provide services for members of minority groups such as transgender communities and as a result become even less trusted by the people they are meant to serve.

The previous literature illustrates how police culture<sup>5</sup> influences the daily practice of police and the discretion that police officers exercise while engaging professionally with the public (see Herbert, 1998). However, there is a sharp distinction between formal and informal police behavior and the formal and informal regulations that dictate police action and how this determines police perceptions of other groups. Formal policing sends a social message to the public that both enables and constrains behavior at the same time. Formal policing is signified through the institutional rules and procedures that are created, communicated, and enforced by a police organization and then accepted as their official means and standards of behavior of police conduct. Informal policing is signified through the shared rules (usually unwritten) that are created, communicated, and enforced outside of officially sanctioned channels.

The current literature assumes that the public's incentives and expectations of the police are shaped primarily but not exclusively by their adherence to formal rules (Helmke & Levitsky, 2012). However, careful consideration of the extant literature indicates that the informal rules and behaviors that police officers adhere to may be critical in explaining the perceptions of intergroup difference that police officers and transgender people have toward one another (Abrams & Hogg, 2006; Miles-Johnson, 2013b; Scrivens, 2011; Smith, Tyler, & Huo, 2014).

Reiner (2002) argues that most police officers base their perception of social environments on the social structures that the police (as a collective group) accept as normal and have used such perceptions as a guide (particularly in their use of discretionary power) when policing minority groups.<sup>6</sup> Police officers conduct their activities with relative amounts of independence, which makes understanding the way police officers conduct business and why they engage in certain discretionary behaviors an important component to understanding police behavior in general (Wortley, 2003). Understanding police discretionary behavior is especially important in the era of community policing because community policing strategies require police officers to engage in building working relationships with community residents and business leaders (Frank, Novak, & Smith, 2001).

In Australia, regardless of exactly *how* each Australian state operationalizes community policing,<sup>7</sup> each state has general policing policies that encourage police officers to engage in more proactive behaviors, particularly behaviors that include non-confrontational interactions with members of the public (Chappell & Wilson, 1994). Wortley (2003) states that this is critical, as in all Australian criminal justice systems, it is the police who have the greatest opportunity to exercise discretionary judgment (particularly with minority groups) and, as such, interact with all members of the community. It is the police (unlike judges, magistrates, or parole boards) who have the ability to act as *more* or *less* autonomous agents; consequently, they need to instill feelings of legitimacy with the public regarding perceptions of their role (Tyler, 1990). For example, away from public scrutiny and unencumbered by due process (and not subject to review), an individual police officer can totally exonerate an offender by simply deciding to take some unofficial action such as issuing a caution or ignoring an offense entirely (Wortley, 2003).

To help explain how police policy aspires to shape police contact/experiences with transgender people, and how policy might shape intergroup identity differences between transgender people and the police, this research draws on social identity theory (Tajfel, 2010). At the core of social identity theory is the idea that both cognitive and motivational sources of intergroup differentiation help understand the psychological basis of intergroup discrimination (Hogg & Vaughan, 2002). Under this idea, Tajfel (2010) attempted to identify the minimal conditions that would lead members of one group to discriminate in favor of the in-group to which

they belonged against another group, the out-group to which they did not belong. Social identity is established through a comparison of one group against another and if an individual perceives that his or her identity is threatened, the he or she will try and differentiate behaviorally and/or communicatively from any such group that may threaten one's identity (Robinson, 1996).

The police have been typically described as a group of actors who are differentiated from the public (due to their role) and whose behavior is more significantly structured by informal norms than by formal rules (Herbert, 1998). It has been documented that interaction structured by informal norms between individuals who are stigmatized by their non-compliance to social norms (such as transgender people) and individuals who are considered to regulate a society (such as the police) can create high levels of anxiety between both groups. The lack of documentation regarding operational techniques and procedures raises questions regarding how much of the nature of police-civilian interaction is determined by police policy and whether or not such policy actually leads to miscommunication between certain minority groups and the police, and whether formal procedures and behaviors adhered to by police officers favorably constrain discretionary police power.

Under the theoretical framework of social identity theory (Tajfel, 2010), a synopsis of the content within one Australian state's police policy document<sup>8</sup> regarding operational procedures for policing of transgender people is evaluated in terms of how formal policing policy may shape transgender people's perceptions of policing. I then provide a summary of the content analysis, which identifies six key findings regarding operational procedures for transgender people. This is followed by analytic interpretations of the policy document to observe how the words and language, police rhetoric, and awareness of client-centered measures may affect perceptions of the intergroup difference between transgender people and the police. Importantly, whether or not the policy document is able to achieve police reform in the area of policing of transgender people is also discussed.

## Method

Online research was conducted via the World Wide Web to search for an Australian police policy document relating to transgender communities. The online search was conducted within eight Australian state police organization websites that included ACT Policing (the Australian Federal Police), Northern Territory Police, NSW Police Force, Queensland Police Service, South Australia Police, Tasmania Police, Victoria Police, and Western Australia Police. The online research showed that although most Australian police organizations have appointed specific liaison officers to work with the wider lesbian and gay community (e.g., ACT Policing, NSW Police Force, Queensland Police Service, South Australian Police, Tasmania Police, and Victoria

Police), only four Australian police organisations<sup>9</sup> had policy documents relating to the wider lesbian, gay, bisexual, transgender, and intersex (LGBTI) community. I chose one Australian police organization policy document written for its police personnel regarding how police should specifically engage with transgender people as none of the other policy documents had included this detailed information.<sup>10</sup> The policy document consists of 13 pages of information and does not contain any color or black and white photographs or illustrations. The policy document was downloaded in the portable document format (PDF) for use in this research. Access to the policy document was not problematic as it was freely published on the police agency's Internet site.

The body of material contained within the policy document was analyzed using content analysis. To do this, the data were loaded into NVivo 9 (QSR International, 2010). Applying the theoretical framework of social identity theory, coding systems were identified by linking passages of the document text identified by common themes. This allowed the text to be indexed into categories that enabled a framework of thematic ideas to emerge. This is essential because under social identity theory, content analyses would help to understand in-group and out-group identity differences between the police and transgender people from a police perspective. The intergroup difference would be based on the frequency of language, direction of language (positive or negative), intensity of language (strength or power of a message), and space (size of a message or the amount of space allocated for it). However, I acknowledge that coding for explicit and implicit terms and deciding their level of implication is complicated by its subjective nature. For example, each time the policy document referred to *the transgender community*, I had to determine whether this term was only being used as an identifier of transgender people (in terms of group membership) or if it had additional meanings in the document as an implied or overt "out-group" categorization of transgender people. As such, to contextualize the subjectivity as well as to limit problems of reliability and validity, I acknowledge the importance of situation in the final analyses, and how my immersion in the document (along with my own perspective) may have influenced the final analyses.

## Police Policy in an Australian State: A Content Synopsis

1. The document was created to ensure that high standards of service delivery are provided by police to transgender communities

According to the police organization website, the policy document was created by the police agency to provide police employees with guidelines to ensure that "high standards of service delivery" are provided to members of transgender communities. The guidelines emphasize the importance of "respecting diversity and maintaining confidentiality in

police interactions with transgender communities," leading to improved understanding and trust between members of the police and transgender communities. The policy document also seeks to "reinforce the fundamental rights of non-discrimination and equality" within the wider community "regardless of gender." Alpert and Smith (1994) state that police policies are traditionally produced in response to a problem and are guiding principles that must be followed within the objectives or the overall mission of the police to address that problem. However, within the document's introduction, information regarding the rationale behind the creation of the policy is insubstantial; vital information regarding why a specific policy document for transgender communities was created is missing. According to the Gender Identity Research and Education Society (GIRES; 2014, p.1), police policy documents should be created with specific aims that will ensure that diverse communities are treated with "respect, courtesy, and fairness" in all their interactions with police. They also state that policy creation should relate to the "ideal standard or model of policing of diversity," which should translate the police organization's goals into a set of "realistic and achievable objectives, understood by police officers and members of the community alike" (GIRES, 2014). The lack of information within the introduction of the document is problematic because previous research indicates that transgender communities are prone to violence and harassment from members of the broader community, and the lack of information reflects the level of commitment the police organization has toward this community, which may not inspire police interaction or inspire reassurance that the needs of the community are being properly addressed (see Alliance for a Safe & Diverse DC, 2008; Berman & Robinson, 2010; Edelman, 2014; J. M. Grant et al., 2011; Heidenreich, 2011; Miles-Johnson, 2013a, 2013b; Redfern, 2014; Wolff & Cokely, 2007; Woods et al., 2013).

2. The policy document outlines the police organization's gay and lesbian police officer program, but specific liaison officers for transgender communities are not mentioned

The policy document outlines the police organization's gay and lesbian police officer program implemented to train police officers to interact with members of the gay and lesbian communities. Specific police officers allocated to work or interact exclusively with transgender communities are not mentioned, and yet the document is explicitly about interaction with transgender communities. For example, the policy document states that police officers can "contact the state coordinator of the gay and lesbian program for further information about transgender people." The intention of the policy document is to instruct general-duty police officers to interact professionally with transgender people. However, the status of transgender people as a membership group is marginalized in the absence of the non-recognition of

specific police liaison officers employed for this community (Dwyer & Ball, 2012; Moran & Sharpe, 2001). This is not a normative approach. In other police organizations around the world (such as the United Kingdom and New Zealand), there are specific police liaison officers located across metropolitan and regional areas, whose primary focus is to improve the capacity of police officers to work effectively with members of the transgender community (Cherney & Chui, 2010). By affiliating transgender people (whose identities are primarily linked not only by their diverse gender identities but also by their sexual identities) with gay and lesbian people (whose identities are primarily linked not only by their diverse sexual identities but also by their gender identities; Gates, 2011), it may suggest to police officers who are unaware of the differences between both groups that transgender people and gay and lesbian people are one and the same. Certainly transgender people can identify as gay, lesbian, or bisexual, and gay and lesbian people can identify as transgender (Gates, 2011; Namaste, 2000), but the needs of transgender people are quite specific in terms of how their diverse gender identities affect their experience of policing (Anderson et al., 2001; Berman & Robinson, 2010; Dwyer, 2011; Dwyer & Ball, 2012; Hooley, 2006; Mason & Tomsen, 1997; Miles-Johnson, 2013a, 2013b; Ohle, 2004).

As the police organization has given transgender people an observed and irrelevant status in relation to gay and lesbian people, transgender individuals are more likely to have negative perceptions of the police. This is principally due to the inappropriate identification that was given to transgender people by the police organization. This particular comparison is disputable because it is based on an association made in the policy document that transgender people (and their group identity) are the same as gay and lesbian people (and their group identity). The lack of appropriate consideration given to the diversity between sexual and gender identities contradicts the police organization's opening policy statement as it states that it is "concerned with providing high quality customer service to all members of the community, and as such, sensitive recognition is given to the diversity within the community."

### 3. The policy document outlines basic transgender terminologies and gender identities

Analysis of the policy document also shows that it only outlines the basic transgender terminologies and gendered identities used to describe the different and varied expressions of gender identity. For example, the policy document states, "Transgender refers to an individual who is born of one gender but is the opposite gender in physiological disposition." In addition, the policy document does not outline where more information about the different gender identities presented by members of transgender communities can be found. Yet one evaluation of fair treatment from authorities such as the police is defined in terms of the degree to which

authorities are seen to be treating people with dignity and respect, specifically the levels of dignity and respect that are shown by authorities such as the police to all members of society.

The police organization's lack of accuracy regarding the identification (and recognition) of the possible members within transgender communities whom they could interact with in their professional capacity may result in some transgender people believing that they will not be treated fairly by the police. This is illustrated in the use of words and phrases such as *understanding the transgender community* and in inaccurate statements such as *opposite gender* and *undergone/undergoing gender reassignment surgery* that do not recognize the fluidity or diversity of gender identities expressed by members of transgender communities. Perceptions of unfair treatment by police could certainly be an outcome of this inaccurate information for members of transgender communities not included in the policy document as the police officers involved in any potential interaction would be unaware of their existence. Previous research (see Stephan & Renfro, 2002) shows that people often elicit emotional reactions such as fear, anger, resentment, or helplessness when confronted by people (such as transgender people) who do not display or uphold normative expectations of gendered behavior. Considering that the formal policy document does not recognize the gender diverse identities that transgender people display, this finding may negatively influence or shape intergroup identity differences between police and transgender people, leading to discrimination and prejudice from both groups.

Legislation regarding the rights and recognition of transgender people in this particular Australian state has changed since 2009 concerning the recognition of gender identity status in official documentation and their legal recognition under the law (Sharpe, 2012). Yet the police organization's website currently states that their policy document regarding policing of transgender people has not been altered in content or format since its original launch in 2009. When examining how formal policing of transgender people in the Australian state shapes intergroup identity differences between transgender people and the police, this finding is essential to consider because formal guidelines for police policies and procedures are generally derived from (and are compliant with) relevant existing legislation governing police powers and responsibilities. The police agency's policy document does not reflect this change.

It is acknowledged that a policy document cannot describe every situation that might be encountered by a police officer nor all of the options that may be available to officers when they interact with members of the public, but the policy document concerns professional practice when interacting with transgender clients. The failure to recognize the legal (and social) changes that have occurred to transgender communities since its inception may affect perceptions of the intergroup difference between police and transgender people

because relationships between police and minority groups continue to be tense due to real or perceived discriminatory police practices (Bradford, 2014; Edelman, 2014; Redfern, 2014; Van Craen & Skogan, 2014). In addition, the police organization is also situated in a state that has a reputation for being one of Australia's most socially conservative areas.

Previous research by Anderson et al. (2001), Berman and Robinson (2010), Dwyer (2011), Dwyer and Ball (2012), Hooley (2006), Mason and Tomsen (1997), Miles-Johnson (2013a, 2013b), and Ohle (2004) found that transgender identification and transgendered behavior (in Australia) have been seen to be stigmatized by many people, including members of the Australian police organizations. Berman and Robinson (2010) argue that it is the social structure of Australian society that accounts for the current level of prejudice that is displayed toward transgender people and that such prejudice is based on traditional notions of gender, and masculinity and femininity. James (1989) states that it is in fact the masculine-dominated culture of Australia that has driven normative expectations of gender roles. Charlesworth and Whittenbury (2007) argue that, traditionally, most police services were formed around normative expectations of gender particularly on the notion of normative masculinity. As such, many Australian police agencies have typically been male-dominated organizations that have differentiated the police as a separate group from other members of society (Charlesworth & Whittenbury, 2007).

At the core of social identity theory (Tajfel, 2010) is the idea that social identity is an essential component of a person's self-concept and, as such, individuals strive to positively differentiate their group from another as a means of further maintaining a positive self-esteem (Robinson, 1996). Social identity is established through a comparison of one group against another, and if an individual perceives that his or her identity is threatened, the individual will try and differentiate behaviorally and/or communicatively from any such group that may threaten one's identity (Robinson, 1996). In this instance, the outdated police policy document indicates to transgender people that the police have not accurately or purposefully researched transgender communities and that such lack of attention in maintaining relations with transgender people will result in negative attitudes regarding the status of transgender people.

4. The policy document briefly explains how police should "communicate" with transgender communities

The analysis of the policy document also indicated that it only briefly explains to police officers how they should "communicate" with members of transgender communities; it does not offer any additional information or practical advice regarding *how* to engage communication with transgender people. For example, the policy document states that the police officers are to be "respectful and work in a professional manner" with transgender people, but it does not give

any in-depth information or accurate examples regarding how this is to be operationalized in relation to all the diverse identities within transgender communities. The GIRES (2014) states that police policy documents should use communication strategies that are based on "standard statements of command, providing clear strategic directions for police regarding communicating and working with transgender individuals in an operational context, whether the transgender individual is an offender, victim, witness or concerned community member." Yet poor communication and the subsequent lack of engagement between police and minority groups has typically resulted in minority groups experiencing poor policing, particularly within Australia (Mason, 1993). This finding may shape negative perceptions of intergroup difference particularly when research has shown that there is little suggestion of equal partnership or perceptions of positive partnerships between the police and transgender people in Australia (Anderson et al., 2001; Berman & Robinson, 2010; Dwyer, 2011; Dwyer & Ball, 2012; Hooley, 2006; Mason & Tomsen, 1997; Miles-Johnson, 2013a, 2013b; Ohle, 2004).

The lack of communication between police and transgender people in Australia has also been a key component in the absence of meaningful partnerships between both groups (Anderson et al., 2001; Berman & Robinson, 2010; Dwyer, 2011; Dwyer & Ball, 2012; Hooley, 2006; Mason & Tomsen, 1997; Miles-Johnson, 2013a, 2013b; Ohle, 2004). The construction of meaningful partnerships between the police and transgender people forms an intrinsic part in how transgender people perceive police legitimacy, and conversely such perceptions of police legitimacy rest on how transgender people observe police engagement and communication with members of their community (Jackson & Bradford, 2010). The lack of formal instruction regarding how police officers should communicate and engage with transgender people will affect how transgender people and the police perceive each other. Accordingly, such perceptions will shape intergroup identity differences between both groups.

5. The policy document briefly outlines how transgender people should be searched and treated when held in police custody

Analysis of the policy document also showed that it briefly outlines to police officers how transgender people should be searched and treated when held in police custody. For example, the policy document states briefly that transgender arrestees are to be treated "with dignity and to be dealt with in a manner that ensures safety and efficiency." However, the policy document does not indicate clearly to police officers what to do if presented with a transgender person whose gender identity is not clearly male or female, such as a gender diverse person who identifies as gender queer.<sup>11</sup> In this section of the Australian police policy document, the police organization only refers to transgender people under the

umbrella term *transgender* and does not identify any of the diverse gender identities that are included under this terminology.<sup>12</sup> A police officer who is confronted with a person whose gender identity is not categorized as transgender may not recognize or understand the transgender person's individual gender identity and consequently could handle the transgender person in an unprofessional manner or in an unsafe or undignified way (Blight, 2000). In addition, such lack of information within this section of the policy document regarding searching of transgender people may affect transgender people's perceptions of police legitimacy. For example, although the policy document mentions that police officers should refer to the "general provisions" of the police organization's main operational manual regarding searching and custody issues, and that police officers should also refer to ". . . other operational procedures regarding the segregation of prisoners," the information written in the policy document is not specific to the needs of transgender communities, and certainly does not consider accurately the needs of transgender arrestees. It also contradicts a statement made earlier in the policy document that "All police officers are encouraged to read the document and consider how they can improve their own awareness, knowledge and practice in relation to working with transgender people entering police custody."

Perceptions of police legitimacy are about a person's perceived obligation to defer to an institution (in this case, transgender people's deference to the police). It is also about a person's perceived obligation to obey decisions made by an institution (in this instance, a transgender person complying with the police with regard to being searched). Previous research, however, indicates that people defer to and obey decisions by legitimate institutions because people respect and accept the institution's authority to make decisions and not because of the threat of sanction for disobedience (see Hinds & Fleming, 2006). However, a transgender person who is uncertain of how he or she will be treated in police custody while being searched is less likely to respect and accept police authority if he or she is aware that the police do not recognize or understand his or her gender diverse identity (Blight, 2000).

Public consent for police is evidenced in a number of ways, one of which is tolerance and/or acceptance of variation in the exercise of discretionary decision making (Tyler, 1990). However, the lack of information in the policy document regarding searching and treatment of transgender people while in custody may result in police officers exercising discretionary decision making that could result in a breach of conduct while interacting with a transgender person. This is because the lack of information regarding how a transgender person should be searched and treated when held in police custody may affect how each group perceives the other. Furthermore, such perceptions of intergroup identity difference may also influence negative opinions and attitudes between transgender people and the police long before actual

contact and/or experiences have occurred. This idea is supported by the GIRES (2014) who advise that "search procedures and treatment of transgender people in custody should be clearly outlined within policy documents so that police practice contributes towards a safe outcome for transgender people" and that "failure to educate police officers and relevant staff about the specific needs of transgender people before, during and after engagement, may impact on the level of trust between members of the transgender community and the police."

6. The policy document briefly concludes its content and includes online information and resources unrelated to policing of transgender people

Analysis of the policy document also showed that it briefly concludes the document and then includes a list of online (Internet accessed) information and resources relating to other police policy documents and police legislation in the Australian area that are unrelated to policing of transgender people. For example, the policy document states that it was developed to ". . . improve relations between the police and the transgender community" and that the police officers should ". . . not hesitate to contact the senior officer in charge of the lesbian and gay program in your dealings with the transgender community." The policy document then lists the "Australian Human Rights Commission" and the "Births, Deaths and Marriages Act" as appropriate online resources for police officers to use when interacting with transgender people. The policy document also presents lists of online services specifically related to the wider gay and lesbian communities but not explicitly for transgender communities or connected to policing of transgender people. For example, the policy document lists the police organization's "Lesbian and Gay Program," the "Domestic Violence Program," and the "Sexual Assault Program." The finding that the police organization does not include appropriate information regarding transgender communities and how general-duty police officers and police liaison officers for transgender communities can access further resources regarding transgender people is important. In recent years, some police organizations have become increasingly conscious of the fact that minority group organizations provide exclusive information about their members that cannot be gained from other sources (Rowe, 2004). However, previous research shows that the police have historically considered advice or input from advocate or community groups (regarding policing practice) as obstructive and unhelpful (Rowe, 2004). As such, some police organizations assume that policing issues regarding minority communities can be resolved simply by improved education or awareness (thereby not challenging the structural dimensions of policing) and do not encourage police officers to pursue informational resources that have not been approved or published by the police organization (Rowe, 2004).

Negative perceptions of seeking help or advice from an out-group (and the resultant actions such as negative perceptions take) uphold notions of in-group membership and out-group status (Tajfel, 2010). It is not unreasonable to determine that the lack of knowledge (and/or education) a police officer has regarding transgender communities may negatively affect a police officer's perception of transgender people, thereby influencing police perceptions and attitudes toward transgender people when interaction takes place. Certainly, this has been the case in the past where police officers have not treated transgender people well due to lack of education and/or training regarding transgender people and their needs (Anderson et al., 2001; Berman & Robinson, 2010; Dwyer, 2011; Hooley, 2006; Mason & Tomsen, 1997; Ohle, 2004).

### *Analytic Interpretation of the Policy Document*

Words and language are a powerful instrument for controlling and forming human behavior. In this section of the article, I present analytic interpretations of the policy document to observe how the words and language, police rhetoric, and awareness of client-centered measures may affect perceptions of the intergroup difference between transgender people and the police.<sup>13</sup> Previous research indicates that the way an authoritarian group communicates with other less powerful members of society is indicative of the way in which a society exerts social controls over marginalized groups (see Leo, 1994; Miles-Johnson, 2013a, 2013b). Certainly, many police agencies have been criticized for the way they communicate with members of the public. Therefore, by applying content analysis to discover and document specific features in the content of the policy document, the rhetoric used by the agency may uncover how the words and language used in the document shape police contact/experiences with transgender people. This is meaningful as previous research posits that members of minority groups complain that police agencies do not communicate in appropriate or professional manners during interaction (Berman & Robinson, 2010; Miles-Johnson, 2013b). It is also important to consider because some minority groups are more prone to variations in formal and informal policing than other groups in society (Tyler, 2005). This has been the case for transgender people in Australia (Mason & Tomsen, 1997).

Although it is acknowledged that the policy document has been written as a tool for both commissioned and non-commissioned police officers regarding contact with transgender communities, the language and words used within the document to refer to transgender communities may have been simplified to appeal to a wider audience of police personnel, members of transgender communities, and general public. The policy document has certain strengths and weaknesses in its use of basic language and words used to refer to transgender communities. Such rhetoric may enhance perceptions of the intergroup difference between the police and transgender people and may *positively* or *negatively* affect the police

organization's objective of enhancing police relations with transgender communities.

First, it is acknowledged by the police organization that there are "emerging differences" regarding the definitions and terms used to describe transgender communities. This raises concerns regarding the accuracy of the information that the police organization has about transgender people. It is clear from this statement that the police organization is misguided in its use of transgender terminologies, and this may negatively affect the police organization's objective of enhancing police relations with transgender communities. For example, the term *transgender* is used as an umbrella term to describe both a person whose gender identity is either opposite to the gender identity normatively expressed by the sexed body one was born into and a person who has undergone or is undergoing gender reassignment surgery. Yet there is not a footnote or additional statement recognizing that the term *transgender* is fluid and often varies in its usage as an identifier by members of this community. Second, although the policy document does refer to many of the different gender identities or gender terms that members of transgender communities may use to describe themselves, the policy document does not include the gender identity of *intersexed* to describe transgender people with congenital differences, which causes the atypical development of their chromosomal, gonadal, or anatomic sex. This type of inaccurate information may also lead to negative police relations as it is unknown how many members of the transgender community or wider community are affected by this condition. Third, although the policy document states that gender identity is unrelated to sexual orientation, this information is brief and unrelated to the section on definitions or terms where it has been included. Fourth, although the police policy guidelines also state that a "transvestite"<sup>14</sup> and a "drag queen"<sup>15</sup> may wear clothing typical of the opposite sex, the policy document does not differentiate between each of these transgender identities and does not explain the differing contexts regarding why (or when) each of these individuals may adorn clothing (or costume) typically associated with other gender identities.

The non-recognition of an out-group by an in-group or the inaccurate release of information regarding an out-group by an in-group (in this instance, police information about transgender people) may negatively influence or shape the in-group's perceptions of the out-group before actual interaction has taken place. This may indicate that the accuracy of police information about transgender people may positively affect policing of this minority group. Analysis of the policy document also showed that the police organization has taken some care to use language and official police rhetoric throughout the document that is easy to understand by police officers (as an in-group) but may be confusing for transgender people (the out-group). For example, throughout the policy document, there are referrals to sections of the police organization's operational manual using numeric code and



abbreviations such as “Breach of PSAA, see s.\*\*\* in OM.” Such rhetoric or argot used by the police organization throughout the policy document indicates that police officers reading the document will be aware of how the policy will directly affect transgender communities. Yet conversely, members of transgender communities also reading the document may be unaware of how the policy may directly affect transgender people.

This was particularly salient when analyzing the policy document sections regarding how the police officers should record information about a transgender person on the police organization’s main database. For example, in this section, the policy document uses numeric code and abbreviations such as “. . . report PMO under s.\*\*\* VSC—ARO is an option.” The lack of information in this section of the document (and other similar sections) regarding the implications and resultant effects such a transaction may have on a transgender person remain unclear. Previous research shows that the way in which an in-group communicates with an out-group (in this instance, the police with transgender people) is reflective of the in-group’s perception of the social status and differences in group membership of the out-group (see Fiedler, 2007). The clear perceptions of the status of transgender people as an out-group (in the wording and language used in the document) may influence or affect policing. It may also affect police perceptions of this minority group. This may be the situation for police officers who are not fully aware of transgender communities or whom have not had previous contact and/or experiences with transgender people.

The language used in the section of the policy document regarding “searching and custody issues” and procedures of treatment of transgender people once arrested by the police may also *positively* or *negatively* affect the police organization’s objective of enhancing police relations with transgender communities. In this section of the policy document, the use of police acronyms regarding police action toward transgender people may alienate (and/or confuse) transgender people who may be unfamiliar with the language and policing procedures used by the police organization. For example, in this section, the policy document uses numeric code and abbreviations such as “. . . must comply with s.\*\*\* of OM.” Such confusion may also arise from the ambiguity of the actual wording of the procedures contained within the policy document and in the interpretation of the instructions (the police action) outlined. For example, the police policy states that the biological sex of the police officer required to search a transgender person must be the same as the transgender person being searched, yet many transgender people are indistinct in their sex and gender identity. Many transgender people are ambiguous regarding the identification of their own “sexed” body, and transgender people’s sexed body or sexed identity is not always clearly determined or visible on initial or frequent inspection, particularly whether or not they are either distinctly male or distinctly female.

The policy document has many observed weaknesses regarding its use of language implemented toward transgender communities. For example, throughout the policy document, transgender people are referred to in fixed terms as *the transgender community*, which does not acknowledge the diversity or fluidity of its members. It also has many observed weaknesses regarding its use of instructional language for police officers interacting with transgender people, for example, “. . . treatment of transgender people must be in conjunction with normal duties and responsibilities.” Therefore, the wording and language used in the document may influence or affect policing and police perceptions of this minority group. This should certainly be considered when thinking about police officers who are not fully aware of transgender communities or who have not had previous contact and/or experiences with transgender people. Analysis of the policy document indicated that the Australian police organization was aware of its *client-centered measures* when the policy document was created. For example, it states that the document was developed to “. . . improve service delivery.” The words, phrases, and use of language interspersed throughout the policy document indicate that the police organization is aware that transgender people are the key component and central element of treatment within the policy guidelines regarding interaction, appropriate treatment, and professional conduct of police officers as a separate group of people. For example, the first page of the policy document states that the intention of the policy document is to “reinforce fundamental rights of non-discrimination” and to promote “equality within the community” for transgender people.

However, the police organization’s policy document upholds the notion of the intergroup difference between themselves and transgender people. This is expressed in the words and language used regarding how the in-group (the police) should treat the out-group (transgender people). For example, the policy document uses phrases such as “. . . when dealing with members of the transgender community” and “. . . when communicating to or interacting with transgender people.” The police organization’s policy document expressing perceptions of the intergroup difference may influence policing of transgender people and police perceptions of transgender people (particularly, perceptions of transgender people by police officers who have not had previous interaction with transgender communities).

## Discussion

Policy documents provide an important basis for understanding the aspirations of organizations. Police agencies are no different. In policy documents, police agencies seek to project their aspirations for practice to their officers (Alpert & Smith, 1994). Accordingly, police agencies throughout the world seek to build rapport with a range of minority groups (Tyler, 1990, 2005; Wolff & Cokely, 2007). Previous research

indicates that relationships between police and minority groups have been tense due to real or perceived discriminatory police practices (Bradford, 2014; Cao, 2011; Murphy & Cherney, 2011; Tankebe, 2013; Tyler, 2005; Van Craen & Skogan, 2014). Police policy documents then often articulate strategies and approaches that police organizations want to implement in their efforts to break down barriers with minority groups. However, police policy documents serve as a reflection of the aspirations of the agency yet not necessarily the practice of the officers (Alpert & Smith, 1994).

The intention of the policy document was to be a client-centered formal model of policing for transgender people (the policy document being the formal guideline that is assumed to shape police officers' incentives and expectations regarding professional interaction with transgender people). However, the policy document had not been altered in content or format since its original inception. The operational procedures for the policing of transgender people outlined in the policy document only briefly explain operational procedures. This is problematic as discrimination is most likely to occur when there are no clear formal guidelines or criteria for decision making and where decisions depend on informal subjective judgments rather than (or in addition to) objective formal criteria (see Helmke & Levitsky, 2012). Discrimination is also more likely to occur where decision-making criteria are not strictly relevant to decisions and have a disproportionately adverse impact on certain groups (Tyler, 1990, 2005).

Reactions from out-group members regarding intergroup contact with an authoritarian in-group such as the police are typically shaped by internalized perceptions of whether or not an authoritarian in-group is making appropriate decisions (Tajfel, 2010). This includes decisions that will positively or negatively affect members of the out-group (Tajfel & Turner, 1979). This finding supports similar findings by Wright and Wright (1997) who found that the majority of transgender people felt that they would be judged instantly by the police and discriminated against because police officers would not act professionally or adhere to official (formal) policing guidelines. This is also reflective of research by Helmke and Levitsky (2012) who found that discrimination is also likely to occur where a formal policy document or official set of procedures suggests that there is considerable scope for exercise of individual discretion and where there is no requirement to record or monitor decision-making processes. Yet, as stated, on a daily basis, most police officers conduct their activities with relative amounts of independence and discretion (Wortley, 2003).

The integration of social identity processes (such as in-group and out-group categorization) and the subsequent communication that upholds such processes is congruent with the main idea of social identity theory (Tajfel, 2010) that posits that groups have a vested interest in sustaining and emphasizing intergroup distinctiveness (Fiedler, 2007). Furthermore, discrimination is also likely to occur when

local (and/or organizational) cultural norms rather than the requirements of service delivery strongly influence decision making over formal procedures (Fitzgerald, 1993). Although past research determines that formal rules set out general parameters for conduct and behavior within most institutions (Herbert, 1998), people create informal rules or engage in informal procedures and behaviors when formal institutions are incomplete or when the parameters of formal rules are unclear (Helmke & Levitsky, 2012). This is problematic because informal procedures and behaviors may not favorably constrain discretionary police power.

It was clear from the analysis of the policy document that it does not cover all potential contingencies. The significant procedural gaps in the document may affect the negative policing techniques that the police have been reported to implement toward transgender people and may be an influence on the perception of intergroup differences (and identity differences) that is upheld between transgender people and the police. This is meaningful when considering the apparent lack of information in the policy document regarding the specific types of gender identity that transgender people have because research shows that transgender communities perceive that the police do not understand or recognize the differences between (or the collective group identity of) transgender people (Anderson et al., 2001; Berman & Robinson, 2010; Dwyer, 2011; Dwyer & Ball, 2012; Hooley, 2006; Mason & Tomsen, 1997; Miles-Johnson, 2013a, 2013b; Ohle, 2004).

The lack of knowledge and/or education a police officer has regarding transgender communities may negatively affect a police officer's perception of transgender people thereby influencing police perceptions and attitudes toward transgender people when interaction takes place. This has been the case in the past where police officers have not treated transgender people well due to lack of education and/or training regarding transgender people (Anderson et al., 2001; Berman & Robinson, 2010; Dwyer, 2011; Dwyer & Ball, 2012; Hooley, 2006; Mason & Tomsen, 1997; Miles-Johnson, 2013a, 2013b; Ohle, 2004). Geller and Toch (1996) also support this idea because they found that police policy can (and does) cause problems when police officers interact with certain groups of people. This is because police administrators and street-level police officers do not effectively communicate to each other policing strategies that are always relevant or practical (J. D. Grant & Grant, 1996); subsequently, the interactive nature of policing allows police officers to make discretionary decisions.

## Conclusion

Social identity theory (Tajfel, 2010) assumes that it is stereotyping that reflects the categorization of people into out-groups by in-group members, thereby upholding perceptions of intergroup difference and that it is the salience of an out-group categorization that emphasizes the perceived differences between the members of one

group against another. The results obtained from the analysis of the policy document indicate that intergroup differences between transgender people and the police (and intergroup perceptions between both groups) may be significantly shaped and influenced by the use of these formal police practices. The results of this research offer important insight into the formal police practices that have been implemented toward transgender people and the subsequent intergroup identity differences such procedures bring. As noted, many police agencies have been criticized in the way that they police minority groups and for their adherence to traditional police cultural practices that execute aggressive and selective law enforcement techniques.

It has been argued that social identity is established through a comparison of one group against another and if an individual perceives that their identity is threatened, the individual will try to differentiate behaviorally and/or communicatively from any such group that may threaten their identity (Robinson, 1996). The outdated policy document certainly suggests a degree of neglect in maintaining relations with the transgender community, and it indicates that police may retain negative attitudes regarding transgender people due to its lack of accuracy. It is reasonable, therefore, to assume that such perceptions of intergroup identity difference (based on this problem) may also influence negative opinions and attitudes between transgender people and the police long before actual contact and/or experiences have occurred.

The findings also demonstrate that achieving police reform in the area of policing of transgender people will pose an ongoing problem for the police organization whose policy document was analyzed in this research as the only policy document available to police officers ineffectively communicates policing guidelines that are based on limited knowledge or awareness of the needs of this minority group. The interactive nature of policing will allow police officers in this area to make discretionary decisions that may not be favorable to transgender communities. Therefore, an improvement in the balance concerning policing policy and policing practice in the levels of meaningful interaction between police and transgender people may actually help to improve police perceptions of the intergroup difference between police and members of this community. This is meaningful because perceptions of the intergroup difference are based on positive and negative evaluations of contact and/or experiences between groups, and for most police officers, perceptions of the intergroup difference with transgender people may be initially based on the information they receive from policy documents and/or police training programs that rely on these documents for procedural guidelines.

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### Notes

1. The particular Australian police organization analyzed in this research has been de-identified as part of the ethics agreement as the police organization requested anonymity in relation to its geographical location.
2. There are multiple dimensions to the transgender experience. As such, it is in this broader context that my usage of the term *transgender communities* is to be situated.
3. It is recognized that there are many terms that have been used to describe people of diverse sex and/or gender identities, which include agender, androgynous, cross-dresser, drag king, drag queen, genderfluid, genderqueer, intergender, intersex, neutrois, pansexual, pan-gendered, third gender, third sex, transexed, transsexual, sister girl, brother boy, and without sex and gender identity. However, in Australia, all police organizations typically refer to the sex and/or gender diverse community under the umbrella term *transgender*. Accordingly, in this article, the term *transgender* is used to refer to members of this community.
4. Harper and Schneider (2003) state that a *lived experience* refers to first-hand accounts and impressions of living as a member of a minority group.
5. In this instance, *culture* refers to systems of knowledge, and the cumulative deposit of knowledge, experience, beliefs, values, attitudes, meanings, and hierarchies shared by a relatively large group of people (Hofstede, 1997).
6. For the purpose of this article, minority groups are defined as groups having external behaviors or other features that distinguish them from the general population, thereby affording them a subordinate identity group status that results in significantly less control or power over their lives than other members of dominant or majority groups (United Nations Human Rights, 2010).
7. Each Australian State has a certain amount of autonomy regarding operational community policing strategies (see the Australian and New Zealand Policing Advisory Agency at <http://www.anzpaa.org.au/>).
8. Due to ethical reasons, the police organization referred to within this article has been de-identified. As such, large portions of direct quotes from the policy document are not included in this article; however, where possible, words and some phrases will be used to substantiate the arguments being made.
9. De-identified for ethical reasons.
10. Since the original data collection period (de-identified for ethical reasons), three other police organizations in Australia (also de-identified for ethical reasons) have updated their online policy documents to include information about police engagement with transgender people.
11. The term *gender queer* is used by many members of transgender communities as an umbrella term to refer to gender identities, which blur the lines between (or transgress) normative gender categories such as male and female.
12. It is acknowledged that although the terminologies used to describe and identify transgender communities vary around the

world, in the Australian state where this research took place, the transgender identifiers commonly used by members of this diverse community to describe themselves include transgender male to female, transgender female to male, transsexual male, transsexual female, transvestite male to female, transvestite female to male, drag queen, drag king, intersex, gender queer, androgynous, gender-bender, sister girl, and brother boy.

13. As previously stated, ethical restrictions prohibit the use of large portions of direct quotes from the policy document; however, where possible, words and some phrases will be used to substantiate the arguments being made and to demonstrate how the words and language used in the policy document can be used as a powerful instrument for controlling and forming human behavior.
14. An individual who uses temporary adornments such as clothing, jewelry, wigs, and so forth to adopt the appearance of gender identities not associated with their birth sex.
15. Typically associated with gay culture and gay men, a drag queen is a man who is usually paid to perform, dress, and act with exaggerated femininity often satirizing prescribed gender roles.

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