

**SAFE
REPORTING**

for victims of crime
with irregular
migration status

safereporting.eu

COUNTRY REPORT ABOUT PIONEERING STRATEGIES ON SAFE REPORTING OF CRIME

– CITY OF UTRECHT

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JUDICIAL SECURITY VERSUS LIVED SECURITY. THE EXPERIENCES OF CIVIL SOCIETY SUPPORTING ORGANIZATIONS WITH SAFE REPORTING IN UTRECHT

From March 2015, migrants with irregular residence status¹ (without the appropriate documents to stay in the Netherlands) can report safely to police and Civil Affairs in the municipality of Utrecht. Safe reporting is in line with the principles of the EU Victims' Directive, the main instrument to ensure that the victims' rights are protected. The directive enables victims of a crime or other minor offences to safely enter a police station report the offense whereby guaranteeing not to be placed in alien detention [*vreemdelingendentie*]. In addition to reporting to the police, this group can also report to the civil status of the birth of a child, recognition and marriage. Safe reporting appears to be at its core a good principle for guaranteeing² the rights of migrants in irregular positions. In practice, however, there seems to be a discrepancy between policy reality (of the directive) and the experienced reality of migrants. Based on the experience of various civil society organizations providing assistance in process of safe reporting, experiences of (irregular) migrants and police and civil affairs staff, the report provides insight into this discrepancy and shows where bottlenecks exist in the implementation of this Directive.

SAFE REPORTING

In 2014 the local council of the municipality of Utrecht was ordered to make safe reporting possible for migrants in irregular positions. The assignment involved ensuring safe reporting for both the police and civil affairs in Utrecht. Since 2015, it is possible for this target group to report a criminal offence safely to the police and/or to testify about a criminal offence.

After all, every person has the right to report a crime to the police and/or the birth of a child at the civil register in the relevant municipality. Utrecht, after Amsterdam, was the second city in the Netherlands to implement the principles of safe reporting whereby migrants in an irregular position are guaranteed to report a criminal offence safely to the police without being detained and held in immigration detention. However, this guarantee only applies if the person is 'not wanted for violating the law' ergo a for a criminal offence (OE) in reality this means that, although you are not expelled from the country, you can be placed in detention for offences such as open fines. In addition, the question arises to what extent the seriousness of such an offence plays a role in the way the police handles the report. Nowhere is specified what the nature of the offence should be, but it can be assumed that the nature might play in import part in the way reports are handled by the police; an case of abuse or exploitation differs enormously from a bicycle that is stolen

¹ I prefer the use of term irregular status or position instead of the term irregular migrants. The former refers to their residence instead of the person (migrants are not irregular).

² <https://ecer.minbuza.nl/-/europese-commissie-presenteert-voorstel-tot-herziening-van-de-richtlijn-slachtofferrechten> geraadpleegd 26 september 2023

CIVIL SOCIETY ORGANIZATIONS IN THE MUNICIPALITY OF UTRECHT

In Utrecht, several organizations are involved in the support and shelter of migrants in irregular positions. A distinction is made between first-line and second-line organizations. In order to be eligible for reception in the municipality of Utrecht, migrants must register at the registration desk LVV where they look at their situation and determine whether they are eligible for reception in Utrecht and which organization is suitable to offer this support. *De Toevlucht* (name organization) offers first-line shelter to men and the *Weerdsingel* offers shelter for women. If persons are eligible for shelter, they are referred to the first line shelter. There, at *De Toevlucht* or the *Weerdsingel*, social workers then seek out what the exact situation of someone is and what is needed. First-line care is a temporary situation. Moving to the second-line shelter occurs if and when people need more time to sort out their situation and/or if they are in a vulnerable position. Huize Agnes, Seguro and Stichting Noodopvang Vreemdelingen Utrecht (SDNVU)³ offer second-line shelter in Utrecht. In addition to short and long time shelter offered in Utrecht there are organizations that provide legal guidance (STIL, Ex-Ama Team) and medical assistance to migrants with irregular status. In Utrecht, four aid organizations are responsible for the staffing of the registration desk. For this report, I spoke with people from the first line and the second line shelter.

COLLIDING LOGICS

The concept of ‘safe reporting’ or ‘free in free out’ is a confusing word for the people I spoke with in group discussion when I ask them who has heard of the directive. People told me that they are not familiar with the name because interlocutors were not aware of the existence of a specific policy rule for safe reporting. A possible explanation for this is given by A “because safe reporting, when we discussed it here ten years ago, it was much scarier to file a report”. With her comment, she suggests that reporting was previously much more profound and therefore more part and parcel of the everyday realities of the social workers and, in 2023, workers do not know better that safe reporting is possible. Another worker also refers to something similar. She indicates that her knowledge of the concept dates back to 2015 when the organization she works for participate in the network on human trafficking. Their remarks may be correct. Due to a number of serious incidents (with both police and municipality) during this period a lot of attention was given to this subject and several questions about this matter were asked by different political parties asked questions to the municipality (government) of Utrecht. Logically, during this period, aid workers were much more aware of the need to develop a policy rule to protect this target group. The migrants interviewed also refer to this period when they asked about familiarity with this policy. Safe reporting seemed to occur much more in the before mentioned period than nowadays. The interlocutors comment that safe reporting hardly occurs anymore. A again “in the past ten years, I have only had five cases of safe reporting”. F finds the number of declarations too little and according to her this is not a reflection of the circumstances in which the target group live. That safe reporting happens so rarely troubles her. According to her that is strange and worrisome. When it comes to safe reporting and human trafficking, we know that much more is happening and we hear little about it, she continues. ‘That’s far too little. That’s always a concern, because you know what the network looks like and how big it should be’.

³ Emergency Shelter for migrants in irregular positions

The underreporting of offences is clearly a concern for the group. Given the municipal figures, there concern seems justified. It is indeed striking that migrants with irregular status hardly make any report of offences or crimes. Last year, according to Statline⁴, more than 24.000 reports were made to the police in the municipality of Utrecht, ranging from property crimes to firearms crimes. However, specific data on who the victims are is not available, as is apparent from enquiries with the police. The informant of the police could not provide me with information about actual numbers of reports by migrants with irregular status. F is convinced, because of her knowledge and experience with the target group, and also ‘how the enter Europe’, that there should be more cases of violation that give rise to reporting to the police. Especially when it comes to human trafficking, is her conviction. The unit coordinator *Zorg & Veiligheid* (Care and Safety) from the regional level, who is responsible for providing police officers with information about Safe Reporting, understands her concerns. However he considers it a duty of the social worker organizations to inform the target group about the directive and the possibly of safe reporting to the police. An interviewed migrant finds this more a task fo the police to inform migrants about these possibilities. In his onion the police should actively communicate this possibility to the target group.

Nevertheless, the Unit Coordinator believes that the safe reporting directive servers is purpose. He can not substantiate this with research, but relies on the fact that he has barely been called by the shelter organizations in recent times: ‘I hardly get a call anymore and I my colleague [Operational Expert AVIM] tells me that things are going okay and that everything is fine, no complaints. My assumption is that the arrangement and treatment has been worn in.’ His assumption is based on the idea that as long as he is not being called the directive is effective. This seems for both interlocutors from the police a legitimization for the effectiveness of the policy directive. If organizations no longer approach the police or call for specific questions, things are going well. The discrepancy between having a policy guideline and underreporting of offence is reminiscent with the system-life world the classification, a concept coined by Jurgen Habermas (1987) to understand the difference between policy and practice. Simply formulated, the system world refers to all the rules, systems and protocols that give structure and meaning to our daily lives, our lived world. A reality that does not fit with the daily reality (lived world) of migrants with irregular status. After all, the policy rule Safe Reporting does not give people a feeling of safety, as an interviewed migrant sketches it strikingly: yes, without papers, when you walk around you are always afraid, because your situation is not complete. So when you see the police, your heart starts raging, even if you haven't done anything. Andeweg and Van Gunsteren (1994) prefer to speak of the reality of the ‘state’ that clashes with the reality of the ‘street’⁵, something that seems to be the case here.

TRUST IN PUBLIC AUTHORITIES

The social workers are by no means surprised that the target group does not dare to report despite the guarantee of the policy rule. They are convinced, as mentioned earlier, that there is an underreporting of crimes from migrants. Because of experiences in their own country and experiences with police in other European countries, people (migrants) are suspicious of the police and therefore do not trust them. ‘People are not used to relying on authority and find that exciting, according to one of the interlocutors. In many countries this is not that straightforward to go the police, F says. These results are also confirmed in the study by Timmermans and others (2020)⁶ on the effectiveness of Safe Reporting in the Netherlands. Fear of being expelled and unequal treatment by law enforcement officials prove to

⁴ <https://opendata.cbs.nl/statline/#/CBS/nl/dataset/83648NED/table?fromstatweb> geraadpleegd op 23 september 2023

⁵ <https://www.nsob.nl/sites/www.nsob.nl/files/2019-10/NSOB-2017-Weten-wat-er-speelt.pdf>

⁶ Timmerman, R. I., Leerkes, A., Staring, R., & Delvino, N. (2020). ‘Free In, Free Out’: Exploring Dutch Firewall Protections for Irregular Migrant Victims of Crime. *European Journal of Migration and Law*, 22(3), 427-455.

be important reasons for underreporting of crimes by migrants of irregular status⁷. Unfamiliarity with the directive also plays an important role, as evidenced by the talks with two migrants.

The policy works is the general idea because it allows people in irregular positions to report a crime. In an internal memo of the Regional Police (Midden-Nederland) (2015) this is formulated as follows: ‘It is the right of every person to be able to report criminal offences without causing undesirable consequences for the declarant. The right to report as a victim or witness of an offence is a basic condition for law enforcement’. To ensure this, a spoke person was appointed by the police in 2015. He is responsible for informing the police about the safe reporting⁸. If colleagues have questions in regard to the directive they can always contact him. The UC must ensure that the policy is properly implemented and, where necessary, provides advice and information to police officers and other units within the organization. During the interviews different people mentioned his name. One of the interviewees.

When it comes to reporting especially related to human trafficking, but also other matters, we approach the UC directly. I have to say at times when I really had something going on, it was nice that I could call him right away. He is very approachable and is really trying to help as best he can. But I don't think there is clear protocol within the police anymore. (F)

Ten years later, another police member is contact person in regard to safe reporting. In the interview, this employee agrees that the police has an internal instruction that serves as a guide for desk staff if a person with irregular status wants to make a complaint. If employees do not know how to act, they can contact this employee for further instructions. Two contact persons at the police station are somewhat confusing, turns out when I talk with F about them. For an AVIM⁹ check she indicates that she indeed goes to contact point new (OE), but in the case of safe reporting she prefers to turn to UC. From 2019, a number of civil society organizations in Utrecht have participated in the Dutch Landelijke Vreemdelingen Voorziening (LVV¹⁰); a project of the national government and the municipality of Utrecht¹¹. The aim of the pilot is to seek sustainable solutions for foreigners who can not appeal for shelter on a national level. Next to the civil society organizations the Immigration Police (AVIM) participates in this pilot. In our conversation, this contact person (operating expert AVIM) indicates that he has a wide range of work in which he is responsible for the foreigner affairs and/or undocumented (and making sure they don't cause disturbance in public space) are his primary objectives. He further elaborates ‘in this capacity I am sometimes approached about ‘free in, free out’, which he says is rare. If he is approached, this is mainly by the employees of Service and Intake of Police Utrecht Bureau Paardeveld. At first glance, it seems that the two police officers are responsible for ensuring the policy guidelines are acted upon in the organization. The operational expert however is responsible for safe shelter for people in the city of Utrecht, while the other person, as unit coordinator Care and Safety, informs people in the organization about the Directive. In short, both of them have a completely different approach to the Directive. The discussions with the social workers show that this division leads to confusion.

⁷ Delvino, N., & González Beilfuss, M. (2021). Latino Migrant Victims of Crime: Safe Reporting for Victims With Irregular Status in the United States and Spain. *American Behavioral Scientist*, 65(9), 1193–1205. <https://doi.org/10.1177/0002764221996773>

⁸ Interne Memo van de Politie Midden-Nederland gericht aan Sectorhoofden Midden-Nederland, september 2018.

⁹ Afdeling Vreemdelingenpolitie, Identificatie en Mensenhandel (Immigration Police).

¹⁰ National Immigration Project

¹¹ Tussenrapportage Pilot Vreemdelingen Voorziening (LVV) Utrecht, 2010-2020

KNOWLEDGE AND EXPERTISE

Safe reporting is also possible at the civil status of the municipality of Utrecht since 2015. The working principles, according to an interviewee of Civil Affairs, is fairly simple ‘we use a protocol which is enshrined in Dutch legislation in case of birth declaration, recognition and marriage’. The official is also convinced that ‘they do their utmost best’ when they interact with migrants with irregular status. When asked whether the person’s status plays a role in handling the report, the official answers as follows ‘the work protocol is formalised, in other words helping people within the framework of legislation and their residence status does not matter’. Both police and municipal staff are convinced that their people know how to act if a person with irregular status reports to them. But also in this case social workers have a different opinion. The workers clearly question the knowledge that employees have about the target group: ‘there are varying insights from the municipality which documents you should bring along; employees who are not aware of the rights of undocumented persons, whereas they do have the right to register a childbirth’. On the one hand, workers question the knowledge of employees about the target group, on the other hand, they also wonder whether employees are aware of the rights that migrants have, regardless of their status. As someone said, “people have rights and they should have rights.” The language barrier ensures that conversations are sometimes difficult and not always there is an interpreter available to stir the conversation in the right direction.

Therefore one informant stresses that it is important to be assertive (as a social worker) and to bring all the email correspondence to the appointments as proof that people can indeed register with the documents they have at their disposal. ‘They themselves do not [migrant] get that done, then they leave and you can start all over again’. The same discrepancy, as mentioned earlier, can be observed: instructions do not guarantee that employees know how to act when migrants want to report a crime or the birth of a child. That is why workers make sure to always join their clients to the police and/or civil status.

I always accompany my clients. On occasions when I know that someone speaks the language well and that I know that this person won't be pushed around, I send them alone. And if it doesn't work, I'll go with them next time. But I always accompany the vast majority of my clients to make sure they are not sent away. (N)

I know two legal assistants at the municipality whom I contact beforehand. I prefer this strategy. If I know what the situation is, I try to involve them behind the scenes. They understand more than the staff. Because some desk clerks think that because someone has an irregular status reporting is not possible. And yes it is possible. Desk staff do not always know that a child's right to two recognition of parenthood prevails over the status. Staff members don't know that. (F)

The workers mentioned several reasons why they accompany their clients. Firstly, to establish that the report is actually entered. The workers are much more knowledgeable and have more expertise (on the rights of) the target group and use their expertise to get things done. Secondly, workers act as a buffer between the civil status employee or police officer and the client. As STIL's interlocutor said, ‘nobody will send me away. I don't let that happen. I know what their [clients] rights are’. Someone else, we always go along, because otherwise they [migrant] will give them the runaround. Counsellors use their knowledge and expertise, in the interest of the client's request. But the most important reasons for social workers to accompany their client appears to be the feeling of trust that they give clients. F “I stand next to the person so I have a completely different role and that gives more confidence in general”. After all, it is ‘not nothing to report to the police’, as another worker states. That is why it is important that people feel safe when they start reporting. Especially given the experience with the police, which has been referred to earlier, accompanying clients is important. It gives people confidence and a sense of being seen, something that doesn't always prove to be the case when people report.

TREATMENT OF MIGRANTS

During the interviews, the social workers refer several times to the treatment of their clients during the report to the municipality and/or police. According to the workers, this contributes to the feeling of not taken seriously and therefore the whole process feels unsafe for clients.

“Everything is done moaning and sighing, people [desk clerks] don't listen at all and react suspiciously towards migrants, and they ask me questions about their [migrants] family life while they are sitting next to me” (N).

Especially when it comes to the authenticity of documents, it is striking that employees react distrustful; “in such a case people really have something to explain and then you notice that your status plays a much bigger role than you would expect” (R). To my question what could explain this mistrust the same person answers: ‘right from the start our target group has to deal with more mistrust and must prove in advance that they are who they say they are and perhaps because a right of residence is linked to this idea? Only one worker has a clear cut explanation and makes the explicit link between the status and the color/origin/ethnicity of the migrants. “As though people do not seem to have the right to report to the police, while this is enshrined in human rights treaties” (G). She is also talks about the way migrants are dehumanized. F also refers to this “then you get the question if he has no residence, what he is doing here... but people have rights and they should have rights”. The Victims Directive on the protection of victims of crime is clear on their rights, support and protection of victims of crime¹². These intersections of color and status determine how others view migrants in irregular positions and how they act consciously or not. An intersectional perspective can be helpful to understand how the different identities simultaneously influence each other and further marginalize this group¹³. In order to prevent these kind of situations, workers choose to accompany people when they want to report a crime or to contact the municipality prior to the report to ensure that everything runs smoothly. This empowers their clients and gives them a sense of their own value.

WORKING PRINCIPALS SAFE REPORTING

The guideline works mainly because the workers try to pave the way for their clients as much as possible. They use different strategies to make sure their clients rights is acted upon; they use the strong ties they have from the close-knitted shelter network (2) which has formed around this group, they prepare employees before the reporting process (3) and accompany the persons in making the report (3). The first thing that stands out is the direct contacts, the short linkages, between the civil society organization, the police or/and the municipality and how this contributes to facilitating and speeding the report process. The contact persons from the police are easily approachable and also helpful. ‘Because we [refugee] work in the LVV, we have short linkages with the AVIM. You first contact them, the OE to consult, to which he informs his colleagues and they can read into te case and prepare before we arrive.’ According to her, because of the OE presence in the network, safe reporting at the police goes much easier and smoother in comparison to the municipality. Because of their participation in the LVV pilot, there is more direct and personal contact. The EC also indicates that the social workers can approach him directly if they feel that a police officer does not know the directive “if treatment by a police officer is not in line with the agreements we have made, you can call me”. He can take immediate action on this. These

¹² <https://zoek.officielebekendmakingen.nl/kst-34236-2.pdf>

¹³ Stasiulis, D., Jinnah, Z., & Rutherford, B. (2020). Migration, Intersectionality and Social Justice-Guest Editors' Introduction.

short lines are only possible because of the strength of the network of stakeholders. Practically all interviewees have been working in this field for over ten years, so everyone knows each other quite well and is attuned with each other's working methods. This adhesion has advantages, but aid workers also shared their concern with me. Their main concern is how to secure the knowledge and expertise upon losing one of the parties involved. This is not an unjust concern in the rapidly changing field of work in which they operate. A second way in which social workers enforce a successful report is to accompany their clients to the police station or civil affairs. As mentioned earlier, no social worker will send their client alone to make a report. The social workers try to prepare the desk clerks or police in advance to speed up the reporting process so people feel taken seriously only because an employee is aware of the situation and is able to deal with their request or complaint in a thorough way.

DISCUSSION

In 2015, the safe reporting policy guideline was introduced in the municipality of Utrecht. The discussions revealed a double picture of the functioning of this directive, which reveals a clash between policy and practice. Rules and instructions do not appear to be sufficient to guarantee willingness to report. Interviewees from police and municipality indicate that the guideline is effective, while the civil society organizations paint a completely different picture. On the basis of the discussions it is fair to conclude that there is an underreporting of crimes and offences at the police. For this, interviewees put forward various reasons such as fear migrants have, little to no confidence in public authorities resulting from previous experiences. In addition, the interviewees point to the lack of knowledge and expertise of mainly employees of the civil status of the municipality about the target group. This lack of knowledge has repercussions for the treatment of this target group, consequently people feel that they are not taken seriously and sometimes openly doubted by employees about the truthfulness of the question of migrants.

In order to increase the willingness of migrants to report crimes and offences and to speed up the reporting process, the social workers always accompany their clients. Furthermore, they use their network and expertise to make the whole process run as smoothly as possible, providing employees with information prior to an appointment. Despite these efforts, the number of reports to the police remains low, which rightly concerns social workers. The question is therefore whether migrants in irregular positions are familiar with this directive at all. Especially if they do not belong to the LVV group and are not in the sight of the civil society network, it is interesting to explore how this group can be better informed about the policy. One thing that is certain, the police will not inform the migrant community about the directive because they say it is the duty of the social workers to inform people about this.

Based on the above results, it is valuable to explore how to increase the reach and awareness of the policy rule among the target group using social media. It turns out that this group mainly extracts their information through their own networks and channels. By actively informing the network via social media, the policy rule gets broader attention leading to a (possible) increase in the number of reports to the police. Secondly, it is interesting to investigate whether police and civil affairs employees can follow an 'unconscious bias training' in order to realize a more humane and respectful treatment of all and migrants in irregular positions in particular.



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