



An Exploration of the Needs of Victims of Hate Crimes

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2007

rr07-vic1e

*The views expressed in this report are those of the authors and
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Acknowledgements

The authors would like to thank Dr. Karen Mock, Chair of the Ontario Community Hate Crimes Working Group, for all her assistance in the preparation of this report, along with Working Group members Jane Tallim and Raja Khouri, and support staff Gabrielle Hezekiah. As well, we would like to thank the members of the Federal Provincial Territorial Working Group for Victims of Crime for responding to the electronic survey of services provided in the different jurisdictions. For help with drafts of this report, we would like to acknowledge Jocelyn Sigouin, Marilou Reeve, Austin Lawrence, and Warren Silver.



Executive Summary

What are the needs of victims of hate crimes in Canada? Are those needs any different from those of victims of other crimes? In what ways are those needs similar? What do we know about victims of hate crimes? This report presents the findings of a study that sought to explore these questions. It includes a review of available statistics on victims of hate crimes, a review of literature, mostly from academic journals, information on the services jurisdictions provide to victims of hate crimes, and a discussion of next steps.

Data and Literature

For the purpose of this study, the following definition of *hate crime*,¹ taken from the Uniform Crime Reporting Survey 2.2,² was used:

...a criminal violation motivated by hate, based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation or any other similar factor.

Hate crime is addressed through sections 318 (advocating genocide) and 319 (public incitement of hatred) of the *Criminal Code*,³ as well as through the sentencing provisions of the *Criminal Code* found in section 718.2 (a)(i). These sentencing provisions provide that at sentencing the courts should take into consideration crimes which show “evidence that the offence was motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor.” Furthermore, there is a specific provision found in s.430 (4.1) with respect to mischief against property used for religious worship. Finally, two Supreme Court of Canada cases have set clear precedents relating to hate-motivated crime - *R. v. Keegstra* [1990] 3 S.C.R. 697 and *R. v. Andrews* [1990] 3 S.C.R. 870.

The *Canadian Human Rights Act*, specifically s.13(1), prohibits hate messages. This section was amended in 2002 to make it clear that hate messages include Internet messages.

Data on victims of hate crimes in Canada is limited. The 2004 General Social Survey on Victimization found that the percentage of incidents that victims felt were hate-motivated was 4%, unchanged from the 1999 victimization survey (Gannon and Mihorean 2005, 7). Race or ethnicity was the dominant reason behind hate-motivated crime in 65% of hate crimes, with

¹ The terms “hate-motivated crime” or “bias-motivated crime” are also used in the full report where authors used these terms in their writings.

² In Canada, official crime statistics, also known as police-reported crime data, have been systematically collected since 1962 through the UCR Survey. Updates to the survey (now version 2.2) reflect changes in the *Criminal Code*. All police services participate in the survey by submitting data to the Canadian Centre for Justice Statistics (CCJS), which is part of Statistics Canada, according to a nationally-approved set of common crime categories and definitions.

³ R.S. 1985, c.C-46.

gender in 26% of hate crimes, and religion and sexual orientation accounted for 14% and 12% of hate crimes, respectively.⁴ The authors note that hate-motivated crime creates both primary and secondary victims, as it targets not only the individual but “what the individual represents” (2005, 7).

In general, most incidents of victimization are not reported to the police. Only one third (34%) of victimizations were reported to the police in 2004. This is a slight decrease from 37% for 1999. An estimated 88% of sexual assaults are not reported to police. In 2004, victims sought assistance from a formal help agency (victim services, crisis centres, help lines, health or social services) in only 9% of incidents. It seems that a vast majority of victims (90%) turn to informal support for help – a friend, neighbour, or family. Those who did not report to the police were asked why they did not do so. The reasons they gave (a list of possible reasons was provided to respondents) included: they believed that the incident was “not important enough”; they did not want the police involved; they felt it was a private matter; they felt the police would not be able to do anything about it. Victims also chose not to report both because they believed that the police would not help and because they feared reprisals by the offender(s).

In 2001 and 2002, a pilot survey of hate crime was conducted involving twelve major Canadian police forces over a period of two years (Silver et al. 2004). In that period of time, 928 hate crime incidents were reported. The results, released in June 2004, indicated that the motivation behind these crimes was predominantly race or ethnicity, accounting for 57% of cases, followed closely by religion, which accounted for 43% of cases. Sexual orientation accounted for approximately 10% of cases.⁵ Jewish people reported the highest number of incidents (25%), followed by Black people (17%), Muslim people (11%), South Asian people (10%), Gay and Lesbian people (9%), Multi-ethnic/racial people (9%), east and southeast Asian people (9%), and Arab/West Asian people (8%). The crimes were considered violent hate crimes in 49% of cases, or in 447 of the reported incidents. Threats and physical force accounted for the majority of violent crimes. Furthermore, those targeted as a result of their sexual orientation were more likely than others to be violently victimized, and in approximately 48% of these cases, an accused was identified and charged (Janhevich 2002).

B’nai Brith’s League for Human Rights compiles data on reported anti-Semitic crimes for its annual audit. In 2003, 584 incidents were reported to B’nai Brith, which represents a 27.2% increase in reporting compared to the previous year. Over the course of 2001–2003, the number of reported incidents doubled. The cases reported were classified as harassment (66.6%), vandalism (32.2%), and violence (2.6%) (The League for Human Rights of B’nai Brith Canada 2003).

In addition to the victims’ reluctance to report a hate crime, the reporting of hate crime can vary from one region to another. As a result, it is very difficult to estimate prevalence nationally, or even provincially or territorially. There is little agreement on the best methods to collect data, and this, along with the very real and understandable fears of victims, makes underreporting a

⁴ Totals may equal more than 100% due to multiple responses.

⁵ Totals may equal more than 100% due to multiple responses.



troublesome reality in terms of understanding the nature of hate crime and the needs of the victims of hate crimes.

While very little research on victims of hate crimes has been completed in Canada (Janoff 2005; Mock 1993), there is a body of literature from the United States. This literature highlights repeatedly that hate crime victimization is not limited to the individual victim. Hate crime victimization has a profound ability to affect the community or the group with which the individual identifies (e.g., Mock 1993; Ardley 2005; Iganski 2001; Herek 1999; Cogan 2002; Perry 2002). The full report summarizes this research.

Services for Victims of Hate Crimes

In order to develop a preliminary understanding of what services are currently available to victims of hate crimes, questions were sent by e-mail to select members of the Federal Provincial Territorial Working Group on Victims of Crime who are the directors of victim services in each jurisdiction. The questions were:

- 1) Are there any services specifically for victims of hate crimes in your jurisdiction? If yes, could you provide a brief description?
- 2) What are the main barriers for victims of hate crimes accessing regular victim services in your jurisdiction?
- 3) What are the special needs of victims of hate crimes and what do victim services require to address them?

No jurisdiction reported providing specific services to victims of hate crimes. In general, victims would receive the generic service available to all victims of crime. Victim services workers would provide victims with information on the specific sentencing provision - s.718.2(a)(i) of the *Criminal Code*. As well, specific referrals would be made to appropriate community and support groups. In most cases, victim services do not provide long-term support or counselling, so referrals to other services are common and considered part of the mandate of many victim services organizations.

The barriers reported by the jurisdictions are similar to those noted in the literature. There can be language or cultural challenges in accessing services or these can contribute to a lack of awareness of victim services in general. As well, there can be a reluctance to engage with the criminal justice system, the police, victim services, the courts. This reluctance could stem from a variety of issues, including fear (of the police, of retribution from the alleged perpetrator), shame (of being a target, of being associated with a particular group), a belief that the criminal justice system would not be able to assist.

Victims of hate crimes face the same barriers to accessing victim services that all other victims do, namely lack of awareness of services, lack of transportation to services, lack of availability of services in their local community, and limitations on the range of services offered.

Several jurisdictions acknowledged that victims of hate crimes do face particular challenges due to the nature of these crimes. Firstly, the impact of a hate crime can be particularly significant because the act is directed to an individual because of a characteristic pertaining to identity

(e.g., race, sexual orientation). Secondly, unlike certain other categories of crime, whole communities can be victimized when a hate crime occurs. In that respect, support and remediation programs need to consider both the individual and the community. Finally, as hate crimes are symbolic acts, the character of the crime (e.g., a violent act or a property crime) may correlate imperfectly with the degree of impact and damage to the victim and his or her community.

In response to the needs of victims of hate crimes, jurisdictions broadly identified two areas where immediate action would be warranted: training and recognition of victim and community impact.

Discussion and Next Steps

In response to some of the issues that have been identified regarding data collection, the raising of awareness, and the identification of hate crimes, initiatives have been commenced and demonstrate the importance of long-term and multi-faceted approaches to the issues. One example is the data collection project that is currently being undertaken by the Canadian Centre for Justice Statistics (CCJS) and funded by Heritage Canada through *Canada's Action Plan Against Racism*.

The literature reviewed for this study highlighted the issue of community and individual impact. The full report recommends a number of research projects that would supplement the national data collection efforts of CCJS to help foster a body of Canadian research in this area. The areas for research include: community and individual victim impact and sentencing.

Jurisdictions unanimously called for specialized training and greater awareness and collaboration among social service organizations. As a result, the authors suggest the following small, but concrete initiatives:

- 1) Support training for victim services on a nation-wide basis.
- 2) Support funding proposals that aim to reduce barriers to accessing services for victims of hate crimes.
- 3) Support funding proposals to develop, implement, and evaluate training and training materials for those who work with victims of hate crimes.

Summary

This exploratory examination of the needs of victims of hate crimes clearly identified the gaps in research and services in Canada. While a modest beginning, often small initiatives can have significant impacts. Each suggestion is designed to be feasible and not require significant resources. Much more can be achieved through the combined efforts of government, academics, and communities – not just those targeted, but all communities in Canada.



1. Introduction

When a person is singled out for victimization based on some fundamental group characteristic – such as race, sexual orientation, religion or national origin, it is an assault on the victim’s essential being. It is an attack on the right of the victim to participate equally in society and has been shown to disproportionately affect victims.

- Hate Crimes Solutions 2006, 48

What are the needs of victims of hate crimes in Canada? Are those needs any different from victims of other crimes? In what ways are those needs similar? What do we know about victims of hate crimes? These were the questions this preliminary study sought to answer.

This report describes the findings from this preliminary study into the needs of victims of hate crimes in Canada. The background section will describe the legal context for hate crimes in Canada and the two federal initiatives - *A Canada for All: Canada’s Action Plan Against Racism* and the Victims of Crime Initiative - in order to situate this report. The following section summarizes available statistics on victims of hate crimes, and primarily, North American literature. In the next section, there is a summary of services for victims of hate crimes provided by the jurisdictions. This is followed by a discussion informed by the information collected in the report, as well as the authors’ meetings with the Ontario Community Working Group on Hate Crimes. This Working Group had been tasked with identifying potential barriers to the delivery of programs and services that help victims of hate crimes (a list of its members is found in Appendix A). Suggestions for next steps are included in the discussion section.

2. Background

This section provides the historical and current background to understand hate crimes in Canada and the needs of victims of hate crimes. The relevant legislation, international and domestic, are outlined, as well as the federal initiatives that provided the impetus for this work.

According to the 2001 report entitled, *Hate Crime in Canada: An Overview of Issues and Data Sources* (CCJS), the concept of “hate” as a “social/criminal policy concern” became apparent in the 1965 *Report to the Minister of Justice of the Special Committee on Hate Propaganda in Canada*. The report of the Cohen Committee, as it was called, argued that the results of hate crime may affect only a few victims directly, but that “such activity could create a climate of malice and destructiveness to the values of our society” (Janhevich 2001, 7). This recognition, more than 40 years ago, has resulted in specialized policing units, research studies, and legislation that have all focused on the phenomena.

Hate crimes have the potential to create communities of victims. While a hate-motivated crime committed against a single person may adversely affect that individual, hate crimes also can create scores of secondary victims. These victims may be family and friends, or others who identify with the group to which the victim identified. Hate crimes promote fear and insecurity among minority communities, whether the crimes are based on skin colour, race, religion, ethnic origin, or sexual orientation. Victims of hate crime can also be doubly victimized, as not only have they had the experience of the crime, but also must deal with the fact that this crime was an attack not only to the physical person or private property, but an inherent attack on the victim’s identity.

2.1 Definition

For the purpose of this paper, the term “hate crime” (or “hate motivated crime”) will be defined as:

...a criminal violation motivated by hate, based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation or any other similar factor.

- Uniform Crime Reporting (UCR) Survey 2.2 Definition⁶

⁶ In Canada, official crime statistics, also known as police-reported crime data, have been systematically collected since 1962 through the Uniform Crime Reporting (UCR) Survey. Updates to the survey (now version 2.2) reflect changes in the *Criminal Code*. All police services participate in the survey by submitting data to the Canadian Centre for Justice Statistics (CCJS), which is part of Statistics Canada, according to a nationally-approved set of common crime categories and definitions.



In some research and legislation, the term “bias crime” is used to represent what is considered as hate crime. For the purposes of this paper, bias crime and hate crime will be used interchangeably, both referring to hate crime, as defined above.

2.2 Canadian Legislation

In the past decades, the Canadian government has introduced several measures aimed at rendering hate crime both illegal and socially unacceptable. As described in Mock (2000), Canada has founded its laws against hate on several international agreements. In 1948, Canada signed the *Universal Declaration of Human Rights*, which has become the basis of all anti-discrimination legislation in Canada. The *International Convention on the Elimination of All Forms of Racial Discrimination* was originally signed by Canada in 1966, followed by accession in 1970, and adoption into force in Canada later that year. Other international agreements which Canada is a party to include: the *Convention on the Elimination of All Forms of Discrimination against Women* (signed 1980, accessed in 1981, entered into force 1982); and the *International Covenant on Economic, Social, and Cultural Rights* (signed and accessed 1976, entered into force later that year).⁷

Hate crime is addressed through sections 318 and 319 of the *Criminal Code* (R.S. 1985, c.C-46), as well as through the sentencing provisions of the *Criminal Code*, found in section 718.2 (a)(i).

Section 318 refers to the crime of advocating or promoting genocide against an “identifiable group.” Section 319 refers to the crime of wilfully promoting hatred against an identifiable group.

Advocating Genocide

318. (1) Every one who advocates or promotes genocide is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

Definition of “genocide”

(2) In this section, “genocide” means any of the following acts committed with intent to destroy in whole or in part any identifiable group, namely,

- (a) killing members of the group; or
- (b) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction.

Consent

(3) No proceeding for an offence under this section shall be instituted without the consent of the Attorney General.

⁷ For a complete list of international treaties and relevant dates to which Canada is a party, see http://www.canadianheritage.gc.ca/progs/pdp-hrp/docs/treat-trait/un_e.cfm

Definition of “identifiable group”

(4) In this section, “identifiable group” means any section of the public distinguished by colour, race, religion, ethnic origin or sexual orientation.

R.S., 1985, c. C-46, s. 318; 2004, c. 14, s. 1.

Public incitement of hatred

319. (1) Every one who, by communicating statements in any public place, incites hatred against any identifiable group where such incitement is likely to lead to a breach of the peace is guilty of

(a) an indictable offence and is liable to imprisonment for a term not exceeding two years; or

(b) an offence punishable on summary conviction.

Wilful promotion of hatred

(2) Every one who, by communicating statements, other than in private conversation, wilfully promotes hatred against any identifiable group is guilty of

(a) an indictable offence and is liable to imprisonment for a term not exceeding two years; or

(b) an offence punishable on summary conviction.

Defences

(3) No person shall be convicted of an offence under subsection (2)

(a) if he establishes that the statements communicated were true;

(b) if, in good faith, the person expressed or attempted to establish by an argument an opinion on a religious subject or an opinion based on a belief in a religious text;

(c) if the statements were relevant to any subject of public interest, the discussion of which was for the public benefit, and if on reasonable grounds he believed them to be true; or

(d) if, in good faith, he intended to point out, for the purpose of removal, matters producing or tending to produce feelings of hatred toward an identifiable group in Canada.

Both sections make use of the term “identifiable group,” which is defined in s.318.4 as, “any section of the public distinguished by colour, race, religion, ethnic origin, or sexual orientation” (*Criminal Code* 318.4).

Further, there is a specific provision found in s.430 (4.1) with respect to mischief against property used for religious worship:

430. (1) Every one commits mischief who wilfully

(a) destroys or damages property;

(b) renders property dangerous, useless, inoperative or ineffective;



-
- (c) obstructs, interrupts or interferes with the lawful use, enjoyment or operation of property; or
 - (d) obstructs, interrupts or interferes with any person in the lawful use, enjoyment or operation of property.

(4.1) Every one who commits mischief in relation to property that is a building, structure or part thereof that is primarily used for religious worship, including a church, mosque, synagogue or temple, or an object associated with religious worship located in or on the grounds of such a building or structure, or a cemetery, if the commission of the mischief is motivated by bias, prejudice or hate based on religion, race, colour or national or ethnic origin,

(a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years; or

(b) is guilty of an offence punishable on summary conviction and liable to imprisonment for a term not exceeding eighteen months.

(4.2) Every one who commits mischief in relation to cultural property as defined in Article 1 of the Convention for the Protection of Cultural Property in the Event of Armed Conflict, done at The Hague on May 14, 1954, as set out in the schedule to the Cultural Property Export and Import Act,

(a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years; or

(b) is guilty of an offence punishable on summary conviction.

The sentencing provisions of the *Criminal Code* found in Section 718.2 (a)(i) provide that courts should take into consideration at sentencing crimes which show “evidence that the offence was motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor” (*Criminal Code* 718.2 (a)(i)).

Section 15 (1) of the *Canadian Charter of Rights and Freedoms* (Schedule B, Const. Act, 1982 c.11) states that:

every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.”

Courts have upheld the premise that section 15 of the *Charter* also provides protection from discrimination based on analogous grounds, such as sexual orientation.

The *Canadian Human Rights Act* (R.S., 1985, c.H-6) applies to federally-regulated sectors and was first introduced in 1985. The legislation defines the “prohibited grounds of discrimination” as “race, national or ethnic origin, religion, age, sex, sexual orientation, marital status, family

status, disability and conviction for which a pardon is granted” (*Canadian Human Rights Act*, s. 3(1), hereafter *CHRA*).

The definition found in Section 13(1) of the *CHRA* was amended in 2002 to make clear that hate messages include Internet messages. The section provides that it is

. . . a discriminatory practice for a person or a group of persons acting in concert to communicate telephonically or to cause to be so communicated, repeatedly, in whole or in part by means of the facilities of a telecommunication undertaking within the legislative authority of Parliament, any matter that is likely to expose a person or persons to hatred or contempt by reason of the fact that that person or those persons are identifiable on the basis of a prohibited ground of discrimination.

Other pieces of legislation have been used in efforts to prevent hate motivated crime, such as the *Immigration and Refugee Protection Act (IRPA 2001, c.27)*, which allows border officials to prevent known hate activists or propagandists to enter the country. Inadmissibility rules allow border officials to refuse entry based on the fact that a known person or group of persons might commit a crime which would be considered an indictable offence in Canada (*IRPA*, s. 35 (2)) or who may belong to a known criminal organization (*IRPA*, s. 37 (1)).

The definition of hate crime in Canada has been informed by: international covenants; provisions in the *Criminal Code* and other legislation; and through jurisprudence, notably the Supreme Court of Canada. Two Supreme Court of Canada cases have set clear precedents in terms of hate motivated crime, *R. v. Keegstra (R. v. Keegstra [1990] 3 S.C.R. 697)* and *R. v. Andrews (R. v. Andrews, [1990] 3 S.C.R. 870)*. Both cases involved hate propaganda and the incitement of hatred. The Supreme Court handed down these verdicts simultaneously, upholding the constitutionality of Section 319 of the *Criminal Code* and demonstrating “the delicate balance of individual and group rights that must be preserved to maintain a free and democratic Canadian society” (Mock 2000, 6). The Supreme Court of Canada defined “hate” in *R. v. Keegstra (R. v. Keegstra [1990] 3 S.C.R. 697 at 777)* as “an emotion that, if exercised against members of an identifiable group, implies that those individuals are to be despised, scorned, denied respect, and made subject to ill-treatment on the basis of group affiliation.”

Each province and territory also has human rights legislation that prohibits discrimination based on numerous grounds. According to provincial and territorial legislation on human rights, the prohibited grounds for discrimination include: ancestry, ethnicity, language, religion, age, gender, sexual orientation, disability, political association or belief, marital status, income, criminal charges or record and affiliations.

Although there has been significant involvement in the rights of victims of crime in general over the past two decades, few of these legislative responses pertain directly to the rights and needs of victims of hate motivated crime. There is a demonstrable effort to control and prosecute the offender, yet less has been done in recognition of the needs of the victim, their friends and families, and the community or group with which they identify. Further, as Field notes in her



report prepared for Justice Canada, "... there are serious limitations to relying solely or principally on the law to successfully combat hate/bias." (Field 2001, 35).⁸

Julian Roberts, in his 1995 report entitled, *Disproportionate Harm: Hate Crime in Canada, An Analysis of Recent Statistics*, supports the concept of a uniform, national approach to the collection of data with regard to hate crime. Bill C-445 was introduced in 1993 and provided for "the collection of statistics respecting: incidents investigated by police forces where those incidents manifest evidence of bias against certain identifiable groups". It would have been called the *Bias Incidents Statistics Act* (Roberts 1995), but was never passed.

2.3 United States Legislation

As much of the research into the experiences of victims of hate crimes comes from the United States, it is important to have a brief knowledge of the legal basis of hate crime in the United States. Similar to Canada, there is no "uniform" definition of a hate crime in the United States, "nor is there a standard number of protected categories of victims in federal or state hate crime laws" (Romaine 2002, 115). There are, however, several federal statutes which define hate crime, particularly Title 18 of the United States Code, Section 245, enacted by the United States Congress in 1968; The Hate Crimes Statistics Act (1990); the Hate Crime Sentencing Enhancement Act (1994); and the Violence Against Women Act (1994); as well as other pieces of federal legislation. While legislation across the fifty states is not consistent, there are four identifiable types of hate crime legislation used by states: "sentence enhancement statutes, specific acts statutes, data collection statutes, and civil remedy statutes" (Romaine 2002, 128).

It is important to note that there have been several congressional attempts to include "sexual orientation" to the list of prohibited grounds in Title 18 of the United States Code, Section 245 (1968); however, this has yet to be successful.

2.4 An Anti-Racism Action Plan for Canada

The impetus for this work stems from Canada's commitment to victims of crime through the Victims of Crime Initiative which was launched in 2000. As well, *A Canada for All: Canada's Action Plan Against Racism* was launched in 2005 with a specific justice component that includes attention to the needs of victims of hate crimes. The following sections describe these two initiatives.

In 2001, Canada participated in the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durbin, South Africa. In 2002, the country reported to the UN Committee on the Elimination of all Forms of Racial Discrimination as part of its responsibility to document how it implements the *International Convention on the Elimination of*

⁸ For a historical overview of the emergence of hate/bias as a social problem discussed in the law see James Jacobs and Kimberly Potter, *Hate Crimes: Criminal Law and Identity Politics* (New York: Oxford University Press, 1998), pp.3-28 ; and Joel Best, *Random Violence: How We Talk About New Crimes and New Victims* (Berkeley: University of California, 1999).

All Forms of Racial Discrimination (Canadian ratification in 1970). The Committee identified a compelling need for domestic action to combat racism.

In 2003, the UN Special Rapporteur on Racism called on Canada to develop an action plan to combat racism and noted wide socio-economic gaps in Canadian society, Aboriginal issues and the challenges facing visible minorities.

Announced on March 21, 2005, *A Canada For All: Canada's Action Plan Against Racism*, is an approach to ensure that Canadian core values of multiculturalism, mutual respect, fairness and inclusion are supported and preserved. It represents the first-ever horizontal, coordinated approach across the federal government to combat racism and covers initiatives and strategies already under way in many departments.

The Minister of Canadian Heritage has the lead for *A Canada for All: Canada's Action Plan Against Racism* and reports to Canadians through the Annual Report on the Operation of the *Multiculturalism Act*. Heritage Canada, Justice Canada, Citizenship and Immigration, Public Safety and Human Resources and Social Development Canada are primarily involved. New or expanded initiatives are to be undertaken to address racism as it affects: youth in school, employers, the workplace, the justice system, policing services, victims and perpetrators of hate crimes and the development of government policies, programs and services for Canadians.

A Canada For All: Canada's Action Plan Against Racism is based on the principle of substantive equality which involves equality of outcome and not simply equality of opportunity. This action plan seeks to eliminate racist behaviours and attitudes and to help close the gap in socio-economic outcomes for all Canadians.

The action plan is guided by three objectives:

- to strengthen social cohesion through anti-racism measures;
- to further the implementation of Canada's human rights framework; and
- to demonstrate federal government leadership in the international fight against racism.

Each objective reinforces key elements to strengthen Canada's social foundations. Partnerships across different sectors of society are created or enhanced, and this in turn serves to strengthen our economy.

Taking decisive action to combat racism and discrimination is part of Canada's commitment to respond to international expectations and to encourage other states to follow suit. While the primary purpose of *Canada's Action Plan Against Racism* is to advance a domestic objective - building an inclusive and equitable society - it also demonstrates Canada's commitment to achieving the anti-racism principles of the World Conference Against Racism.

Within its own jurisdiction, the Government of Canada is committed to addressing the impacts of racism and related forms of discrimination. It is doing this through policies, programs, and actions that promote an inclusive and multicultural society. The Government also places high



priority on the collection of meaningful data which allows Canada to identify best practices that can be shared nationally and internationally.

The National Justice Initiative Against Racism and Hate – a distinct component of the National Action Plan Against Racism – is a policy-oriented and programmatic initiative. The National Coordinator for the National Justice Initiative is working with the criminal, constitutional, international, administrative and civil regimes against hate to foster protection required for victims of hate.

2.5 The Victims of Crime Initiative

The Victims of Crime Initiative is Justice Canada's response to the Standing Committee of Justice and Human Rights Report *Victims' Rights - A Voice Not a Veto*. Established informally in late 1999, with funds provided in 2000, it was initially given a five-year mandate that was renewed for another five years from 2005-2010. The overall objective of the Initiative is to improve the experience of victims of crime in the criminal justice system by:

- ensuring victims and their families are aware of their role in the criminal justice system and the services and assistance available to support them;
- enhancing the capacity of the Department of Justice to develop policy, legislation, and other initiatives that take into consideration the perspectives of victims (act as a “victim's lens”);
- increasing the awareness of criminal justice personnel, allied professionals, and the public about the needs of victims of crime, legislative provisions designed to protect them, and the services available to support them; and
- developing and disseminating information about effective approaches both within Canada and internationally to respond to the needs of victims of crime (become a centre of expertise).

The Policy Centre for Victim Issues (PCVI), of the Department of Justice, was established to fulfill this mandate. By supporting provinces and territories that work with victims, the Initiative is working to enhance the role of victims within the criminal justice system.

The Victims of Crime Initiative and the National Justice Initiative Against Racism and Hate are working together to fully understand and respond to the needs of victims of hate crimes. This report represents a preliminary step in that direction.

3. Review of Research and Data

The purpose of this research was to answer the following questions:

- 1) What are the needs of victims of hate crimes? Are they different from needs of victims of other crimes, and if so, how? What needs are similar? How do their needs differ depending on the nature of the crime, ie. Violent personal injury vs. non-violent crimes (such as vandalism)?
- 2) To what extent are traditional victim service providers able to respond to the needs of these victims?
- 3) What are some possible options for providing a better response to the needs of victims of hate crimes?

In order to do this, the authors undertook a review of literature about victims of hate crimes and their needs, focusing on published research in academic journals. As very little Canadian research was identified, the search was expanded to include research from the United States and other countries. This review also includes the Canadian legislation and Canadian statistical data available to date.

3.1 Available Data

Data on hate crimes in Canada are limited. It is known that from 1994/5 to 2003/2004 there have been a total of twelve prosecutions and six convictions under s.318 of the *Criminal Code* (advocating genocide). Two of the sentences were for prison and four were for probation. Under s.319 (incitement to hatred), from 1994/95 to 2003/2004 there have been a total of 93 prosecutions and 32 convictions. Twenty-seven of the sentences were for prison and 5 were conditional sentences. No charges have been recorded under s. 430.4.1 (mischief relating to religious property) in this same time period. A review of published case law indicates that between 1996 and 2006 at least 23 cases have applied hate as an aggravating factor in sentencing (hate as an aggravating factor in sentencing (s.719.2(a)(i)).⁹

Data on victims of hate crimes in Canada are also limited to, and at this time are based on: victimization surveys (GSS 2004), a pilot survey and a report by Statistics Canada (Janevich 2002; Silver, Mihorean and Taylor-Butts 2004) and the Ethnic Diversity Survey (2003). This data is complemented by individual studies and initiatives, such as the B'nai Brith annual audit of anti-Semitic hate crime which is described in the following pages.

The 2004 General Social Survey (Ganon and Mihorean 2005) (GSS) on criminal victimization includes comparison with data from previous similar surveys in 1999, 1993 and 1988. The survey uses a random sample of 24,000 Canadians aged 15 and older. In contrast to statistics

⁹ All figures derived from Statistics Canada data found in the Adult Criminal Court Study, and internal studies of the Research and Statistics Division, Department of Justice Canada 2007.



based on police reporting, the GSS selects a random sample of respondents from the population and asks whether they were victimized or not. Victimization surveys, such as this one, are essential as they provide a more complete picture of victimization in Canada to inform our law, policy and program responses.

In general, most incidents of victimization are not reported to the police. Only one third (34%) of victimizations were reported to the police in 2004. This is a slight decrease from 37% for 1999. An estimated 88% of sexual assaults are not reported to police. Roberts (1995, 15), extrapolating from data in other jurisdictions, suggests that only one in ten hate crimes are reported to police in Canada. Those who did not report to the police were also asked their reasons for not doing so. These reasons included (reasons were provided to respondents):

- they believed that the incident was “not important enough;”
- they did not want the police involved;
- they felt it was a private matter; or,
- they felt the police would not be able to do anything about it.

Victims also chose not to report both out of belief that the police wouldn’t help and the fear of reprisal by the offender(s).

In 2004, a vast majority of victims of crime (90%) turned to informal support for help – a friend, neighbour, or family. As well, victims sought assistance from a formal help agency (victim services, crisis centres, help lines, health or social services) in only 9% of incidents.

Overall, the percentage of incidents that victims felt were hate-motivated was 4% in 2004, unchanged from the 1999 victimization survey (Ganon and Mihorean 2005, 7). Race or ethnicity was the dominant reason behind hate motivated crime in 65% of hate crimes, gender in 26% of hate crimes, and religion and sexual orientation accounted for 14% and 12% of hate crimes, respectively.¹⁰ The authors note that hate-motivated crime creates both primary and secondary victims, as it is targeted at not only the individual but “what the individual represents” (2005, 7).

In 2001 and 2002, a pilot survey of hate crime was conducted involving twelve major Canadian police forces over a period of two years (Janhevich 2004). In that period of time, 928 hate crime incidents were reported. The results, released in June 2004, found that the motivation behind these crimes was predominantly race or ethnicity, accounting for 57% of cases, followed closely by religion, which accounted for 43% of cases. Sexual orientation accounted for approximately 10% of cases.¹¹ The most incidents reported were from Jewish people (25%), followed by Black people (17%), Muslim people (11%), South Asian people (10%), Gay and Lesbian people, Multi-ethnic/racial people, and east and southeast Asian people (each accounting for 9%) and Arab/West Asian people (8%). The crimes were considered violent hate crimes in 49% of cases, accounting for 447 of the reported incidents. Threats and physical force accounted for the majority of violent crime. Further, those targeted as a result of their sexual orientation were more

¹⁰ Totals may equal more than 100% due to multiple responses

¹¹ Totals may equal more than 100% due to multiple responses

likely than others to be violently victimized, and in these cases an accused was identified and charged in approximately 48% of all incidents (Janhevich 2004).

Some facets of hate crime, such as fear of becoming a victim of an ethno-culturally motivated hate crime, were measured by the Ethnic Diversity Survey (EDS), which looked at the impact on the visible minority population and various religious faiths. The Ethnic Diversity Study found that in 2002, 5% of Canadians aged 15 and over were worried about being the victim of an ethno-cultural hate crime (Statistics Canada 2003). It was found that immigrants, in particular, feared hate crimes more than Canadian-born minorities; those born outside of Canada were more likely to respond that they were worried or very worried, when asked how worried they were about hate crimes. The same question, broken down by geographic location, also indicated that immigrants in large cities fear hate crimes more often or to a higher degree than those in smaller towns in Canada. More than one in ten religious minorities responded that they were very concerned about hate crimes, with Hindus, Jews and Muslims indicating the strongest fears. The EDS also reported that immigrants in Toronto are more likely to report being the target or victim of discrimination, whereas in smaller cities they tend to report fewer cases of discrimination. Across Canada, the Black population is most likely to report being the victim of discrimination “often” at 7.4% and “sometimes” at 23.5%.

B’nai Brith’s League for Human Rights compiles data on reported anti-Semitic crimes into an annual audit. These audits began in 1982, when B’nai Brith released the *Review of Anti-Semitism in Canada* annually through 1987, and then began releasing annual audits beginning in 1988 entitled the *Audit of Anti-Semitic Incidents in Canada*. The annual *Audit of Anti-Semitic Incidents* provides information on crimes which may not have reached police based hate crime units through self-reporting. As Karen Mock notes, “... the League’s annual Audit of Anti-Semitic Incidents serves as a barometer of racism in Canada” (Mock 1996, 3). The League uses a 24 hour Anti-Hate phone line and its online hate crime reporting tool to access both reported and unreported hate crimes. In 2003, 584 incidents were reported to B’nai Brith, which represents a 27.2% increase in reporting over the previous year. Over the course of 2001-2003, the number of reported incidents has doubled. The cases reported were classified as harassment (66.6%), vandalism (32.2%), and violence (2.6%) (The League for Human Rights of B’nai Brith Canada 2003).

3.2 Challenges to Data Collection

The few hate crime statistics available are hindered by chronic underreporting of these crimes by victims. In fact, “of all forms of criminality, hate crimes are likely to be among the most unreported of offences” (Roberts 1995). There have been several documented reasons behind this trend of underreporting, primarily, the victim is afraid of reprisal. Like non-hate crime victims, victims of hate crime are generally found to express fear over the potential of a reprisal attack. Unlike non-hate motivated crime victims, however, it is the identity of the victim which is attacked by a hate crime, and the fear of losing one’s identity can generate stronger feelings of fear and anxiety. Victims may also be frightened to face the offender, and they fear future contact with the perpetrators within the justice system (Janoff 2005; Herek et al. 1999; Janevich 2001).



There is also often a cultural or linguistic barrier between the victim and police and victim services, further compounding the underreporting of hate crimes. Immigrants from countries where the police and state may act in an oppressive fashion may not feel comfortable or safe going to the police to report a hate crime incident. In viewing police as a source of oppression or victimization, victims of hate crime may fear the police as they fear the perpetrator. Other factors that may account for underreporting include: a fear of secondary victimization by the criminal justice system; a strongly held belief that their victimization would not be taken seriously; and a belief that reporting an incident would not result in any action or help (see Roberts 1995).

Douglas Janoff, the author of a recent Canadian study on homophobic violence, makes note of data collection challenges. He found that “queers who are closeted - or in their early stages of coming out - will have less “resilience and support” and may be afraid of “double disclosure” - not only of the attack, but also of their own sexual orientation” (Janoff 2005, 67). Gregory Herek, an American academic, also found that there is a possibility of secondary victimization by identifying one’s self with a targeted group. This is particularly the case when dealing with hate crimes based upon the victim’s sexual orientation, or at least the perception of a specific sexual orientation (Herek 1992). A member of the gay and lesbian community may not be prepared to reveal their sexual orientation, or may want to avoid the victimization that they may encounter from revealing their sexual orientation. Special care must be taken by services to avoid secondary victimization and to provide hate crime specific support to victims.

In addition to the victims’ reluctance to report a hate crime, the reporting of hate crime can vary from one region to another. As a result, it is very difficult to estimate prevalence nationally, or even provincially or territorially. Derek Janhevich, of the Canadian Centre for Justice Statistic at Statistics Canada, notes that there is little consistency in the collection of hate crime statistics (Janhevich 2001, 11). There is little agreement on the best methods to collect data, and this, along with the very real and understandable fears of victims, makes underreporting a troublesome reality in terms of understanding the nature of hate crime and the needs of the victims of hate crime.

3.3 Alternative Data Collection Methods

Roberts and Janoff, as well as several other Canadian researchers, utilize a variety of methods to gather information on hate crime, including the use of official national statistics, as well as personal interviews and contacts with victim services agencies, police forces and community organizations which often deal with victims of hate crime in order to compile a more accurate idea of the reactions and needs of victims of hate crime. It is important to recognize the availability and need for various sources of information to achieve a better idea of the needs of victims of hate crime.

3.4 Needs of Victims of Hate Crimes

3.4.1 Research from Canada

This section focuses specifically on literature on the needs of victims of hate crimes. Some of the literature describes empirical research and in these cases, detail of the methodology is provided. Other articles examine theoretical or policy questions regarding hate crime victimization.

In a study funded by the Policy Centre for Victim Issues of the Department of Justice Canada, Dr. James Hill summarizes the literature on cognitive changes in victims of crime (Hill 2003). He notes that the process of victimization does not end with the crime. Trauma associated with criminal behaviour can affect how victims view themselves, their world and their relationships. Trauma and loss have the potential to threaten one's sense of meaning in life. Furthermore, the psychological effects of trauma can be longstanding and potentially debilitating.

Victims of crime in general often experience a wide variety of emotions following victimization including shock, disbelief, denial, anger, fear, frustration, confusion, guilt, shame, or grief, according to the Canadian Resource Centre for Victims of Crime. There are physical, financial, and psychological repercussions of crime on victims and on their families, friends, and communities. There is also the risk of secondary victimization not through the criminal act itself, but rather through the reactions of services providers and individuals to the victim (Canadian Resource Centre for Victims of Crime 2005), particularly if that victim is a member of a minority group.

Pink Blood: Homophobic Violence in Canada, by Douglas Janoff, was published in June 2005. It is the first Canadian book to be published on the topic. The author spent nine years collecting Canadian cases, finding 120 homophobic-related homicides and more than 350 assaults that occurred between 1990 and 2004. Janoff looks at types of victims throughout his research, including youth, students, prostitutes, prisoners, refugees, etc. He found that half of all attacks in his data occurred in “queer identified spaces” and “40 percent involved multiple perpetrators” (Janoff 2005, 104). He found that many hate motivated killings were those of victims perceived to be queer (Janoff 2005, 156), and occurred in every province save Newfoundland, and while the majority took place in urban centres, they were also found in a variety of settings: “farms, small towns, and isolated areas” (Janoff 2005, 157). Through the examination of Canadian data and experiences, Janoff sheds light on the Canadian problem of homophobia, and more broadly on hate crime and its effects on its victims.

Hate crime victimization is not limited to the individual to which the event occurs. Victimization as a result of hate crime has a profound ability to affect the community or the group with which the individual identifies. A Jewish man, for example, may encounter hate crime in the form of vandalism to his home, but the community in which he lives, the synagogue in which he practices his faith, the schools which his children attend, all can be affected by the incident. Hate crime attacks both the individual and the community, often serving as a public reminder of inequality and fear.



Mock, in reference to the study of six racial and religious minority communities in Toronto over six weeks, entitled *Victim Impact of Racially Motivated Crime*, notes that racially motivated crime “inflicts a great amount of pain which crosses community boundaries” and “increases the isolation of minority communities” (Mock 1993, 1).

While there are some police-based, court based, and community based services which seek to aid all victims of crime, it is likely that victims of hate crime require additional services and specialized support which recognizes their status as a victim of a crime which was motivated by hate. While existing victim services may be able to effectively support a victim of hate crime, victims may not have contact with police-based services, as they may turn to others for support and help. Many victims are unaware of the services that exist to help them, or may be unable to reach services for a variety of reasons.

Mock argues that there is a general lack of awareness of victim services, and even when there is awareness “accessibility does not always follow” (Mock 1993). She argues that victim services and programs are needed to reach racial and ethno-cultural minority communities. She outlines that the basic needs for this goal to be achieved would be the ability to provide multilingual outreach and interpretation and multicultural representation within the services (Mock 1993). Mock also states that tools such as education and a “coordinated community response [have] proved effective in fighting racism” (Mock 2000, 10) and would provide the ideal space in which to aid victims of hate crime.

3.4.2 Research from the United States

In the *International Journal of Sociology and Social Policy*, Jenny Ardley argues in a discussion piece, that victims of hate crimes can be doubly victimized as “their ethnicity sexual orientation or race is not merely a demographical statistic in connection with the crime, but it is the reason for their victimization” and goes on to argue that “this not only has a deep and long lasting impact on the victim, but also on their community and the wider community around them” (Ardley 2005, 62). This concept and sentiment is echoed throughout several articles and studies that have been conducted in the United States and the international community.

In the spring and winter of 1999 in Boston, Massachusetts, researchers undertook a series of interviews with 16 key informants that were designed to examine the perceived value of hate crime legislation. Building on the information gathered for this study, Iganski (2001, 629) argues in the article, “Hate Crimes Hurt More”, that there are five “waves of harm” created by hate crime:

- (1) harm to the initial victim,
- (2) harm to the victim’s group (neighbourhood),
- (3) harm to the victim’s group (outside the neighbourhood),
- (4) harm to other targeted communities, and
- (5) harm to societal norms and values.

At the level of the individual, there is psychological and possible physical distress and harm. At the level of the neighbourhood group, there is a potential for “retaliation and communal tension”

(Iganski, 2001, 630). At the level of the group outside the neighbourhood, there is further evidence of how hate crimes serve as “message” crimes, “particularly cases of hate crimes given a high profile by the news media” (Iganski 2001, 631). The waves of harm then extend to other targeted communities, and risk affecting the norms and values of greater society. Iganski also argues that “the distinctiveness of hate crimes is not about the severity of the injury sustained by the individual victim...it is instead about the injuries inflicted over and above the circumstances of any particular crime” (Iganski 2001, 635).

Through a theoretical discussion of the concept of social identity, Blake maintains that hate crime is based on the concept that “the victim is attacked solely in [sic] virtue of membership in some socially disfavored group” (2001, 123-124). The crime is committed on a basis of characteristics or aspects of the victim which are “immutable” or “exceptionally difficult or costly to change” and usually characteristics which are ascribed to “identity” groups which offer their members means by which they might understand their place in the social world” (Blake 2001, 125). Blake (2001, 133) goes on to argue that:

... one does not have to believe in one’s membership in the group or endorse that group as a fundamental part of one’s identity, in order to be made aware that one is vulnerable in virtue of the perception of membership. An attack upon a socially isolated individual creates an awareness in other socially marginalized individuals that they are vulnerable to violent attack.

In discussing the argument surrounding the punishment of hate crime offenders and its relation to the concept of equality, Adams argues that, “Hate violence indisputably has severe consequences for those who are its victims; and it is easy to agree with those who have argued that victims of hate attacks experience emotional trauma, feelings of humiliation, insecurity, and distrust, and are left to struggle with a diminished sense of self-worth” (2005, 26). He continues to argue that “these experiences and feelings arise out of the awareness of the role that hatred or prejudice has played in the attacker’s reason for action” (2005, 26).

In a 1989 study, McDevitt (1989) found that victims of hate-motivated violence experience 21% more of the standard psychological symptoms associated with stress than non hate crime victims. Data for the study were taken from police incident reports and thus, were limited to only those cases that were reported to the Boston Police Department between 1983 and 1987. Using information drawn from the National Crime Survey, Levin and McDevitt (1993) suggest that for victims of hate crimes, feelings of stress and fear can be persistent over a long period of time. Schaffer argues that, “These results provide additional support for viewing hate-motivated violence as different from and more severe than other forms of violence” (1995, 212).

A 1998 position paper by the American Psychological Association entitled, *Hate Crimes Today: An Age-old Foe in Modern Dress*, shows that hate crime victims often express emotions of “...vulnerability, anger, and depression which subsequently can lead to the formation of a number of physical ailments, learning problems, and interpersonal conflicts” (American



Psychological Association 1998, para.18). The paper provides a good overall summary of research on hate crime and victimization in the nineties.

With a sample of 59 victims of hate crimes from 9 cities across the United States, Barnes and Ephross were able to identify several reactions of victims following victimization. While most victims (68%) felt anger towards the perpetrator, many (51%) felt fear that either they or their families would be injured further (Barnes and Ephross 1994). Many reacted by increasing their home security through buying security devices or guns, or even moving out of the neighbourhood in which the attack took place.

In a national telephone victimization survey with 2,078 respondents, Ehrlich et al. (1994, 27) found significant differences in the impacts of hate violence. Among four subgroups (non-victims, group defamation victims, personal crime victims, and bias crime victims), bias crime victims showed the most number of symptoms and behaviours variations on a scale of 19 psychophysiological symptoms of posttraumatic stress and 12 social and behavioural changes.

In her article, “Defending the Color Line: Racially and Ethnically Motivated Hate Crime,” Perry examined white violence against racial and ethnic minorities. She argues that this racially motivated violence is “itself a mechanism of social power” (Perry 2002, 84). She reinforces the concept of community victimization as an individual who belongs to a victimized group does not need to be a victim herself, rather “they are all too aware of their consistent vulnerability because of their race” and “the immutability of their racial identity invokes hopelessness - they are victimized for reasons they cannot change” (Perry 2002, 85). Perry identifies the results of this victimization as being the reinforcement of “the subordinate status of minority communities” (Perry 2002, 85).

In a study published in 2004, “Distinctive Characteristics of Assaults Motivated by Bias,” Messner, McHugh and Felson looked at the relationship between the offender and the victim. This study looked at how assaults motivated by hate/bias differ from conventional assaults. Using a large data set, the National Incident Based Reporting System for 11 states, they examine factors such as substance use, demographics of victims and offenders, victim/offender relationship, location, and injuries. They also distinguish between assaults motivated by racial bias and those motivated by bias of other types (sexual orientation, religion, etc.). They found that African Americans, as well as other ethnic minorities, were more likely to be a victim of a bias crime than white Americans, and the results of this study also show that males, who already show a higher risk of assault than females, “run a particularly high risk of bias crime victimization” (Messner, McHugh, and Felson 2004, 607). They also found that victims of bias crimes were more likely to be injured by their offender than victims of non-bias crimes (2004, 608). The authors note that this type of quantitative research is very limited and it is also to be noted, that this type of research would not be possible in Canada because the *Criminal Code* does not have a specific offence of hate-motivated assault.

These results are similar to those found by McDevitt, Balboni, Garcia, and Gu (2001). McDevitt et al. sent a survey by mail to each victim of bias motivated aggravated assault in the years 1992-1997 and took a 10% random sample of non-bias assault victims as comparison. Despite attempts to improve the low response rate, the ultimate number of respondents was 91 bias

victims and 45 non-bias victims. The authors provide a good discussion of the challenges of recruitment and ethical issues for studies of this type (2001, 48-49). The study looked at demographic variables, relationship to the offender, how victims reacted to the assault, if they sought medical attention, if they reported the incident to the police.

Forty-six percent of victims of non-bias crime felt unsafe after the attack; however a significantly higher number of victims of bias crime felt unsafe (59%) (McDevitt et al. 2001, 54). Also, through utilizing Horowitz's Impact of Event Scale,¹² while only 6 items showed significant differences between the bias crime group and the non-bias crime group, "every psychological impact measure from this scale had a higher mean value from the bias group than from the non-bias group" (McDevitt et al. 2001, 53). The authors summarize that, "these conclusions support the claim that bias crimes do in fact affect their victims differently and that consequently law enforcement and social service agencies should be cognizant of these differences in assisting bias crime victims" (2001, 56).

In studying the psychological impact of hate crimes based on sexual orientation in Sacramento in the mid 1990s, Herek found that victims of hate crimes based on sexual orientation were more likely to have higher or more signs of distress than lesbian or gay victims of similar non-bias motivated crimes. Herek uses interview data from 450 volunteers. The larger sample (n=2,259) of sexual minority adults in Sacramento completed a lengthy survey about victimization and mental health. This sample was recruited through a variety of outreach methods and those who indicated they were willing to be interviewed were then contacted.

Herek describes this heightened distress as potentially a result of a "heightened sense of personal danger and vulnerability that becomes associated with their identity as a gay man or lesbian" (Herek 1999). These victims are also likely to link this feeling of vulnerability or helplessness with their gay or lesbian identity. While other groups may not have the same experiences with hate crime as gay or lesbian people, Herek states that:

it is reasonable to expect that victims of hate crimes based on race, ethnicity, religion, or another comparable characteristic may also experience heightened psychological distress because the incident represents a serious attack on a fundamental aspect of the victim's personal identity.

(Herek 1999, 2)

Herek and his colleagues found that victims of hate crime based on sexual orientation displayed "significantly less belief in the benevolence of people," increased fear of crime, and increased feelings of vulnerability than other victims of comparable non-bias motivated crime (Herek et al. 1999). The authors further note that "hate crime survivors have special concerns in addition to

¹² Horowitz, M., Wilner, M., and Alvarez, W. (1979). Impact of Event Scale. The Impact of Event Scale was developed by Horowitz, Wilner, and Alvarez to measure distress associated to a specific event. It is a self-reporting measure which consists of 15 items which subjects are asked to rate on a 4 point scale as to how often each item has occurred within the past week.



those of victims of other crimes” (Herek et al. 1999) and therefore may require additional, specialized services in addition to those that already exist for all victims of crime. He also noted that there exists justification in identifying and differentiating hate crime from other types of victimization as “hate crimes appear to have a more serious impact on the victim than other crimes” (Herek et al. 1999). There may be a need for the expansion of existing victim services or development of new victim services geared towards the identified needs of victims of hate crime.

In a more recent article drawing upon the same data, “Victim Experiences in Hate Crimes Based on Sexual Orientation” (2002), Herek, Cogan, and Gillis suggest that the labelling of the victim’s experience of crime as a hate crime is generally well founded, as “typically, the perpetrators made explicit statements, the attack occurred in a gay-identified location, or the crime was closely associated with behaviors by the victim that identified her or him as gay” (2002, 332). While Herek and his associates did not record significant differences in levels of fear during the attack, they were surprised by the “physical and psychological brutality of the hate crimes described in the interviews” which resulted in “heightened and prolonged psychological distress after the crime” (2002, 336).

Importantly, the researchers note that, “Because research on the psychosocial impact of antigay [sic] crimes is still in its early stages, systematic description of the experiences associated with such crimes is needed.” (Herek et al. 2002, 320). They note the value of close-ended questionnaires, but argue that qualitative, in-depth data from in-person interviews are data needed to fully understand the intricacies of hate crime victimization.

Cogan, in a 2002 article entitled, “Hate Crime as a Crime Category Worthy of Policy Attention,” identified two specific impacts of hate crime. The first is the impact on the community, which Cogan argues is particularly devastating, as hate crimes are “message crimes in that the perpetrator is sending a message to the members of a certain group that they are despised, devalued, or unwelcome in a particular neighbourhood, community, school, or workplace” (Cogan 2002, 177-178). The second impact, the impact on the individual victim, may result in the rejection of “the aspect of themselves that was the target of the attack or associating a core part of their identity with fear, loss, and vulnerability” (Cogan 2002, 178).

In an article entitled, “Psychological Distress, Crime Features, and Help-Seeking Behaviors Related to Homophobic Incidents”, Rose and Mechanic identified that “homophobic sexual assaults...resulted in significantly more Post Traumatic Stress Disorder symptoms than other types of bias crime” and that “this effect was long term, lasting even for assaults occurring more than 2 years” prior (2002, 22). While victims of hate based threats of violence may not receive the most attention, they were the largest victim group according to this study (49%) and the authors argue that “under some circumstances, even threats of assault could be quite distressing for victims” (2002, 24).

3.5 Summary

In 2005, Alden and Parker argued that even the study of hate crime itself has experienced little empirical testing with regard to the motivations of offenders and the effectiveness of hate crime legislation (Alden and Parker 2005). Much of the research reviewed herein is from the United States. While Canadians have been working on many elements of hate crime (investigation, reporting, prevention, research, etc.) for years, research on victims is only emerging. Janoff's (2005) multi-method approach to documenting the tragedies of hate-motivated crime against one particular group of individuals provides one example of how to address the challenges of straightforward data collection. The Canadian Centre for Justice Statistics data collection initiative, funded by Heritage Canada, is another example and will be discussed in more detail in the following sections.

Clearly, more research can be done in Canada and elsewhere to better understand the issue from all perspectives. The importance of quantitative and qualitative data has been identified as this is an emerging area of research (Herek et al. 2002, 320). The discussion section of this report will suggest research that can support and respond to the needs of victims of hate crimes.



4. Services in the Jurisdictions

In order to develop a preliminary understanding of what services are currently being offered to victims of hate crimes, the questions below were sent to some members of the Federal Provincial Territorial Working Group on Victims of Crime (see Appendix B for a list of those who were sent questions). The members of this permanent Working Group meet on a bi-annual basis as part of the Victims of Crime Initiative and include provincial and territorial directors of victim services. These particular members were asked to respond to the following questions:

- 1) Are there any services specifically for victims of hate crimes in your jurisdiction? If yes, could you provide a brief description (what, where, who it serves).
- 2) What are the main barriers for victims of hate crimes accessing regular victim services in your jurisdiction (e.g. language, lack of knowledge about the service, particular needs that cannot be met)?
- 3) What are the special needs of victims of hate crimes and what do victim services require to address them? (e.g. resources for additional languages/culture, additional training on hate crimes, long term counselling, etc.)

Follow-up emails were sent to those jurisdictions who had not responded by the deadline. Ultimately, nine out of the thirteen jurisdictions responded and a summary of the responses is provided below. The responses were, for the most part, unvarying in their consistency, which was expected. Italics are used to denote direct quotations taken from responses. Alberta undertook to respond in a more fulsome manner and their response is summarized in Textbox 2 below.

In addition to these email responses, the Policy Centre for Victim Issues had the opportunity to meet with and have discussions with members of the Ontario Hate Crimes Community Working Group during the research and writing of this report. A list of Working Group members can be found in Appendix A.¹³ Learnings from these discussions are incorporated into the next two chapters. Specific quotations from members are noted.

4.1 Summary of Responses

Examples of some incidents noted in responses included: gay bashing; Jewish cemeteries being vandalized; and crosses on lawns of homes belonging to Black Canadians.

¹³ The Ontario government established the Hate Crimes Community Working Group in December 2005 to identify potential barriers to the delivery of programs and services that help victims of hate crimes. In addition, it looked at best practices for combating crimes motivated by hate in Ontario, across the country and internationally. It presented recommendations to the Attorney General and the Minister of Community Safety and Correctional Services in December 2006.

4.1.1 Services for Victims of Hate Crimes

No jurisdiction reported providing specific services to victims of hate crimes. In general, victims would receive the generic service available to all victims of crime. Victim services workers would provide victims with information on the specific sentencing provision in the *Criminal Code*, that courts should take into consideration at sentencing for crimes which show “evidence that the offence was motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor” (*Criminal Code* 718.2 (a)(i)).

As well, specific referrals would be made to appropriate community and support groups. In most cases, victim services do not provide long term support or counselling so referrals to other services are common and considered part of the mandate of many victim services organizations.

The services that would be provided could include, depending upon the specific model and mandate of the organization:

- information about the status of the investigation and court proceedings,
- information about the justice system and how it operates,
- assistance in preparing for court,
- emotional support and counselling,
- referrals to other agencies and services,
- assistance in preparing victim impact statements (see Appendix C for *Criminal Code* provisions),
- information to help recover financial losses resulting from the crime, including application for (where available) Criminal Injury Compensation.

Several police services across the country have established hate crime units, which are designed to be the focal points for the reporting and investigation of hate crimes. Many are working directly with the Canadian Centre for Justice Statistics which provides training to front-line police officers to identify and document hate-motivated crimes. This training has a particular segment on victims.

The jurisdictions noted that the number of hate crime victims is low as compared to all victims who require assistance. Given that the current generic services for all victims are very limited in scope and victim needs are generally not being met, it may not be realistic to expect specific services to address the special needs of these victims who represent a small sub-group.

* In BC, there is a 24 hour a day/7 day a week toll free victim information line (VictimLINK) that provides services in 130 different languages including 17 Aboriginal languages. In addition there are specialized Chinese and Indo-Canadian programs, as well as services to immigrant and refugee populations.

* Ontario's Victim Witness Assistance Program now treats victims of violent hate crimes as a priority client group.

The reality is that we have to significantly improve services available to all victims before we can consider providing specialized services to individual groups of victims.

- Response from jurisdiction



4.1.2 Barriers to Services

The barriers reported by the jurisdictions are similar to those noted in the literature that was reviewed in Section 3. There can be language or cultural challenges in accessing services, or these can contribute to a lack of awareness of victim services in general. As well, there can be a reluctance to engage with the criminal justice system, the police, victim services, the courts. This reluctance could stem from a variety of issues: fear (of the police, of retribution from the alleged perpetrator/s), shame (of being a target, of being associated with a particular group), a belief that the criminal justice system would not be able to assist, etc.

The same barriers to accessing victim services for all victims apply to victims of hate crimes. For example:

- lack of awareness of services,
- lack of transportation to service,
- service not provided in their local community, and
- limitations on the range of services offered.

There are no specific barriers to their accessing the “regular” victim services.

- Response from jurisdiction

4.1.3 Special Needs

Several jurisdictions acknowledged that victims of hate crimes do face particular challenges due to the nature of these crimes. First, the impact of a hate crime can be particularly significant because the acts are directed to an individual because of an identity (e.g. race, sexual orientation, etc.) characteristic. As one respondent noted,

Victims of hate and bias crimes are uniquely affected. They are specifically targeted for something that they do not have power to change. A Break & Enter victim can put locks on doors, put (an) alarm system in, however, a victim of a hate crime cannot change who they are.

- Response from jurisdiction

Second, unlike certain other categories of crimes, whole communities can be victimized when a hate crime occurs. In that respect, support and remediation programs need to consider both the individual and the community.

Finally, as hate crimes are symbolic acts, the character of the crime (e.g. a violent act or a property crime) may correlate imperfectly with the degree of impact and damage to the victim and his/her community. For example, it was noted that defacing a mosque or synagogue could have a greater impact on an entire community than an assault on an individual.

Researchers and advocates in the United States call for special services for victims of hate crimes (see for example Herek 1999). Responses to the e-mail survey show that jurisdictions strongly support the enhancement of current generic services, rather than the development of specific or

special services for victims of hate crimes. This is likely due to the low numbers of hate crime victims and the limited resources for general victim services. It is important to remember that the United States has been developing awareness through legislation (e.g. the Hate Crimes Statistics Act, 1990), policy, data collection and other research, and education for many more years than Canada.

In response to the needs of victims of hate crimes, jurisdictions broadly identified two areas where immediate action would be warranted:

i) Training - Overall, jurisdictions did not believe that specific services would be the appropriate response, given the small numbers of victims and limited capacity. More training and resources (public legal education and information, interpretation services) were identified. The training would probably need to address what is a hate crime, who might it affect, how does a hate crime affect a person, how can a staff member help such a victim and who might they refer them to. Improved training and increased coordination in the investigation and prosecution of hate crimes for all criminal justice professionals would benefit victims.

ii) Recognition - Victims need the hatred behind these crimes identified and acknowledged by the criminal justice system. Materials that are directed toward police and prosecutors to assist them to identify the hatred aspect of these crimes and to make the case before the courts may be helpful. A pamphlet or brochure that outlines the provisions in the *Criminal Code* in relation to hate crimes may be a helpful tool for victim services in dealing with victims of these crimes. Special projects or special funding to provide victim support in major cases in relation to hate crimes could build knowledge on service issues and service models that could be adopted to provide services when subsequent cases arise.



Alberta gathered answers through the following means:

1. An e-mail survey was conducted through the Education Coordinator of the Alberta Police-based Victim Services Association;
2. A phone call was made to the RCMP “K” Division Hate/Bias Crime Coordinator/Diversity Program Manager; and,
3. Calling/e-mailing a sampling of victim service unit coordinators from large and small municipal police services, as well as from victim service units (VSUs) located in RCMP detachments. The coordinators or other contacts from the police services were either police members or civilians.

Barriers

The themes regarding barriers to victims of hate crime, in no particular order of importance, included:

1. Fear of reporting the crime by victims who have come from countries where the police/judiciary cannot be trusted. Similarly, a low reporting rate among victims of hate crimes was identified as a possible consequence of fear, since female victims may be too embarrassed to report the crime, especially if the culture in their country of origin is male-dominated, and the outcome could result in a backlash against the victim from family members.
2. In a similar vein, fear about what kind of reaction they may get from the police or victim services advocates.
3. Most coordinators and advocates in Alberta’s VSUs are Caucasian. To help ameliorate the differences between the victim advocates and victims of colour, many Coordinators indicated that the VSU personnel worked closely with not-for-profit agencies that assist immigrants or specific ethnic/cultural groups, so that they are aware of services available to all victims of crime.
4. Isolation – a coordinator whose service area encompasses three First Nations said that for Aboriginal people living on the reserve, once the criminal justice process is in motion, and the victim returns home where support from the community doesn’t exist, he or she will feel totally isolated.
5. Lack of understanding by VSUs of history of other cultures.
6. Lack of knowledge.
7. Language – As might be expected, all coordinators and police members identified language as a barrier to victims of hate crimes. Calgary, Edmonton, Lethbridge and Medicine Hat Police Services use telephone translation services, which charge monthly fees. Coordinators of VSUs that serve smaller communities were aware of these services, but indicated that they were cost-prohibitive. One respondent noted that small communities also lack the agencies that could assist in dealing with diverse language and cultural needs.

Special needs

- a. Translation services - in particular that they are independent of family members in cases where the victim doesn’t want family members to know what has happened;
- b. Referrals – to counselling or to other agencies that provide services specifically developed to assist victims who are immigrants or minorities, or to people who are gay and lesbian.
- c. Special sensitivity on the part of police and advocates – although it is expected that police who work in the area of hate crimes, and victim service advocates in general, are sensitive to the needs of victims of crime, it was suggested that a higher level of sensitivity on the part of advocates is necessary when assisting victims of hate crimes, who may feel embarrassed, ostracized or fearful in coming forward; and,
- d. Access to counselling services in rural and isolated communities.

In order to address these needs, VSUs require:

1. Readily accessible and affordable access to translation services;
2. Training on hate crimes, in addition to the module in the Victim Advocate Training Manual;
3. Education about other cultures - their values, beliefs, customs and criminal justice systems; and,
4. Resources directed to accessing any service specific to the hate crime victim’s “group.”

5. Discussion and Summary

This discussion is framed by the literature and statistical reports reviewed in Section 3, the responses from the jurisdictions in Section 4, and from two scheduled conversations with members of the Ontario Working Group, first in March and then June of 2006. Given the similarities between the mandate of the Working Group and the modest objectives of this project, efforts were made to share information and to not duplicate efforts.

5.1 Victims of Hate Crimes – Their Needs

There are numerous initiatives and organizations in Canada today that are actively working to raise awareness on these issues with the objective of combating hate-motivated crimes. The research that has been reviewed for this report was conducted for the most part with identifiable groups, e.g. with gays and lesbians, with Jews, with Afro-Americans. While specific groups may have specific needs when targeted by hate crimes, this discussion encompasses the needs of all victims of hate crimes. Next steps in three key areas - research, training and education, services – will be explored. Given the overlap between training and education and services, these two areas have been combined. All are intended to support further work in policy development for victims of hate crimes in Canada.

To better understand the needs of victims of hate crimes and the rationale for the suggested next steps, this discussion will begin by referring again to the legal context for combating hate crime in Canada. Caselaw in Canada has acknowledged the intense emotions implicit in hate crimes. In the case of *R. v. Keegstra*, the Supreme Court of Canada has defined “hatred” as:

... emotion of an intense and extreme nature that is clearly associated with vilification and detestation. Hatred against identifiable groups thrives on insensitivity, bigotry and destruction of both the target group and of the values of our society. Hatred is an emotion that, if exercised against members of an identifiable group, implies that those individuals are to be despised, scorned, denied respect and made subject to ill-treatment on the basis of group affiliation.

R. v. Keegstra [1990] 3 S.C.R. 697 at 777

There have been numerous calls from community groups active in anti-racism advocacy for amendments to Canada’s *Criminal Code*. From a victim’s perspective, there are several aspects of the legislation that bear further scrutiny because of the specific nature of hate crimes. While the use of hate crime legislation remains important, both as a practical tool and a symbolic one, there are limitations of the law. Field (2001) provides a summary of concerns/limitations found in the literature and advocated by groups. They include (cited directly from Field 2001, 36-39):

Practical arguments

- The successful prosecution of cases relies upon the difficult task of proving “hateful” motivation.



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- Hate crime legislation does not address the problem of non-reporting.
 - Hate crime legislation can be used against the groups they are intended to protect.
 - Hate crimes legislation is not a deterrent, for hate crimes are of a “mindless” nature.
 - Low conviction rates can send the message that hate/bias crimes are not serious crimes.
 - Hate crime legislation may increase rather than prevent hate/bias.
 - Laws cannot dictate to police how to respond to hate/bias crimes.

Ideological arguments

- Legal remedies are reactive rather than proactive.
- Hate crimes legislation respond to specific incidents, when in fact the problem of hate/bias is an on-going process.
- Hate crimes legislation provides us with a false sense of security.
- Hate crimes legislation may produce a backlash against minorities.

Groups have also made arguments to amend the specific provisions in the *Criminal Code* including (cited directly from Field 2001, 98):

- The requirement for the Attorney General’s consent to a hate propaganda prosecution should be dropped.
- An amendment to s.319.2 (incitement of hatred) to drop the word “wilfully” as a requirement for public incitement of hatred.
- Certain defences used to prevent, under certain circumstances, prosecutions for promoting hatred mentioned in s.319.3 should be abolished.
- The territorial limitation for the commission of the offence should be removed, making the offence one of universal jurisdiction.

Along with a consistent definition, creating a new crime or crimes of hate-motivated violence, groups have called for new provisions that would update the *Criminal Code* to penalize Internet hate crimes and the use of new technologies to promote hatred.

In response to some of these concerns, initiatives have begun and demonstrate the importance of long-term and multi-faceted approaches to the issues. One example is the data collection project that is currently being undertaken by the Canadian Centre for Justice Statistics and funded by Heritage Canada through *Canada’s Action Plan Against Racism*. Canada’s data collection pilot survey on hate crimes and the current initiative have been recognized as a superior model by the Organization for Security and Co-operation in Europe.

The pilot survey, which collected data from 12 police forces, the 1999 General Social Survey on Criminal Victimization, and the Ethnic Diversity Survey clearly demonstrated the gaps in reporting and recording at the police level. As a result, after significant consultations with

community groups and the Canadian Association of Chiefs of Police, a common definition of hate crime was agreed upon:

Hate crime is a criminal violation motivated by hate, based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation or any other similar factor.

- UCR 2.2 Definition

This definition includes the same factors as *Criminal Code* s.718.2(a)(i) for sentencing purposes.

Working with an agreed-upon definition is itself an important step forward. This particular initiative takes several more steps forward as it involves training police to recognise and report these crimes, thereby improving data collection in the long term. With approximately 3,000 police forces in Canada, the training goal will be achieved in a number of ways: with regional training sessions, training trainers, and training in the police colleges. In February 2007, CCJS released hate-motivated crime data for the Ottawa and London police forces¹⁴ and is aiming for complete data for other police forces. CCJS is also working towards an electronic version of the training package so that forces can provide on-going training and reach all officers.

What is particularly important about the training for the purposes of this report is the focus on victims. The training incorporates findings from the research on victim and community impact and uses video clips, photographs, and excerpts from newspaper articles to provide the victim's perspective to the audience. The trainer covers areas such as: how to talk to victims, how to acknowledge their perception of the incident, and how to acknowledge the community impact. One suggestion is that this training be adapted for victim services as well and be delivered nationally.

By training officers to recognize and record comprehensively all hate crimes, Statistics Canada is working towards more accurate statistics on the prevalence and characteristics of hate crimes in Canada. By extending this level of awareness to victim services workers, similar improvements in capturing data on victims of hate crimes may also be possible. As well, there is the additional benefit of raising awareness and sensitivity in all police forces and with victim services workers about hate crimes and about victims of hate crimes. It is intended that all suggested next steps will similarly achieve more than one objective.

5.2 Further Research

At the time of writing this paper, the Ontario Hate Crimes Community Working Group was completing its mandate and cataloguing programs and services for victims of hate crimes. The work of this group will undoubtedly complement this preliminary report in terms of understanding what work is being done in Canada.

¹⁴ See Daily release at <http://www.statcan.ca/Daily/English/070206/d070206b.htm>



While there is certainly a body of Canadian literature on hate crimes, the review revealed very little empirical research in Canada on victims of hate crimes. With the exception of Janoff's 2005 work, which utilizes a variety of methods to better understand hate-motivated crimes against the gay/lesbian/bi/transgendered individuals in Canada, there was little research specifically on the victims of these crimes. While work from other countries, the United States in particular, is insightful, the lack of Canadian research does not permit us to develop a core of knowledge based on Canadian experience. Changing demographics in Canada and global events will ensure that social issues with racial/religious/ethnic elements will continue to be or increasingly be in the media spotlight.

Field also made specific recommendations regarding research and data collection (2001, 42-50), many of which have already been addressed, again through the initiative of the Canadian Centre for Justice Statistics. In his examination of the use of s.718. 2(a)(i) in sentencing cases, Roberts (2001, 20) recommended that:

Views of Victims: As noted earlier, the victim's perspective is central to the sentencing of offenders convicted of hate crimes. The enhanced sentence imposed as a result of the hate crime provision is supposed to recognize the increased harm inflicted as a result of hatred or bias. Yet we know nothing about the reaction of victims to specific sentencing decisions . . .

Herek (1999, 2) also made recommendations for further research that included: replicating his study in other regions of the US; replicating the study with hate crime victims from other minority groups; identifying the ways in which the mere threat of hate crime victimization affects the well-being of entire communities; and identifying ways in which services for hate crime victims can be improved through training of police, health and mental health professionals, and social service providers.

While an individual may report a hate crime to the police and be a witness in the criminal proceedings, the commission of the offence is against not only the individual, but the entire community. David Matas notes that people live in communities and as well, that rights are exercised in communities (Matas 2006). As we consider the role of research to foster awareness among the public and among criminal justice professionals, there are at least two elements in terms of victim impact to note.

The first element is the impact on the community, which Cogan argues is particularly devastating. Hate crimes are "message crimes in that the perpetrator is sending a message to the members of a certain group that they are despised, devalued, or unwelcome in a particular neighbourhood, community, school, or workplace" (Cogan 2002, 177-178). The second element is the impact on the individual victim, which may result in the rejection of "the aspect of themselves that was the target of the attack or associating a core part of their identity with fear, loss, and vulnerability" (Cogan 2002, 178).

Research on the issue of community and individual impact will be important as it would support policy and law development, particularly on the issues of community impact statements, Attorney General's consent, and standing for community groups. The following list represents possible and proposed projects that would be intended to address some of the principal gaps in Canadian research.

1) The Sentencing of Hate-Based Offences in Canada

It is proposed that the sentencing practices of Canadian courts regarding the treatment of those accused of hate crimes in Canada would be examined. This study would require a variety of different methods. First, a caselaw review of s.718(2)(a)(i) sentencing cases would be required. As well, original data collection from a random sample of hate and non-hate based offences/files with similar circumstances would be necessary. Of particular importance will be the presence of victim and/or community impact statements (rare) and whether the judge refers to this in his/her decision. Interviews with victims themselves would enable us to better understand their reactions to sentences in cases of hate crimes, as per Roberts' recommendation.

2) Community Impact

This area could include several distinct research projects in order to fulfill the objective of better understanding the community impact of hate crimes and the implications for society in general, as well as the justice system in particular. Projects may include:

- i) An examination of approaches in other countries such as the UK, US, and selected European countries.
- ii) Community surveys could be conducted with populations most at risk in order to gauge the extent to which they have confidence in the justice system's response to reports of hate crimes.
- iii) Community and victim impact studies with those communities recently affected by hate crimes could be undertaken to provide a better understanding of the community impact in cases of hate crimes. Such awareness might assist Crown and judges with arguments regarding s.718.2(a)(i) at sentencing.
- iv) The General Social Survey on Criminal Victimization, conducted every 5 years by the Canadian Centre for Justice Statistics, could include additional questions on community impact of hate crimes.

3) Catalogue of Best Practices

Building on work completed by the Ontario Working Group, a catalogue of best practices for services for victims of hate crimes is proposed. Such a study should assess the transferability to other jurisdictions and identify ways to reduce barriers to accessing victim services. Sources of data would include: existing catalogues and resources and interviews with key stakeholders working in this area to determine what projects demonstrate best practices.

These areas do not represent an exhaustive list of possible research, but rather a modest beginning.



5.3 Further Services, Training and Education

As noted in the literature review, Herek et al. found that “hate crime survivors have special concerns in addition to those of victims of other crimes” (Herek et al. 1999) and therefore may require additional, specialized services in addition to those that already exist for all victims of crime. Similarly, as discussed earlier in the 1989 study conducted by the National Institute Against Prejudice, now the Prejudice Institute of Baltimore, researchers found that “victims of hate-motivated violence experience 21% more of the standard psychological symptoms associated with stress than non hate crime victims” (Schaffer 1996). Herek (1999, 2) notes that:

It is reasonable to expect that victims of hate crimes based on race, ethnicity, religion, or another comparable characteristic may also experience heightened psychological distress because the incident represents a serious attack on a fundamental aspect of the victim’s personal identity.

He also noted that given the more serious impact on victims, “...it is appropriate for legislation and public policy to treat hate crimes as a special case of criminal victimization, one that requires special strategies for prevention, prosecution, and victim services.” (Herek 1999, 2).

The results of the email survey of the Federal Provincial Territorial Working Group indicated that for the most part, there are no specific services for victims of hate crimes. Victims of hate crimes are able to access victim services in any jurisdiction and indeed, these excellent services will respond to the needs of these victims. Victims of hate crimes represent victims of a particular type of crime. Victims of hate crimes can benefit from the services provided by the generic victim services in each province and territory. These services provide information about the status of the investigation and court proceedings, information about the justice system and how it operates, assistance in preparing for court, emotional support and counselling, referrals to other agencies and services, and assistance in preparing victim impact statements.

What was evident from the responses from jurisdictions was that victims of hate crimes are victims of crime who may have specific needs, as do victims of sexual assault, or victims of family violence. By providing services to victims of hate crimes that address these specific needs, victim services organizations may also send a strong, positive message to the targeted individuals and their communities that they are part of a larger Canadian society that does care and can provide assistance. If victims of hate crimes are only referred to community organizations to respond to their specific identity needs (e.g. a Jewish organization, a gay/lesbian organization), they may feel that it is only within their community that they can receive the necessary support, that it is “their” problem. When a hate crime occurs, support for the victim and community must come from both the larger society, and the targeted community, and indeed, other identity communities, in order to repair the tear in the social fabric that hate crimes create. Training victim services workers – and indeed, all social service providers - to recognize the needs of victims of hate crimes may assist in providing that “special” support from general victim services.

As the jurisdictions noted, their staff are trained to respond to the needs of victims of crime. Dr. Wesley Crichlow noted in a presentation at the Fourth International Metropolis Conference (1999):

... we may neglect the ability of crime victims assistance professionals and other court counsellors to help victims of racist crime. Since most helping and counselling professionals, such as psychologists, social workers, and therapists are usually not trained to work with a multicultural and multiracial population (for instance, most social work schools in Canada have no compulsory courses on anti-racist social work and integrated anti-racism or multiculturalism in their curriculum), it is pertinent to ask whether victims of hate crime can receive adequate support from crime victims assistance programs. This is often crucial for these victims to go through the process, or to participate in the prosecution process.

Given the nature of hate crime, special attention needs to be paid to the consequences of hate crime on the so-called indirect victims, i.e. other members of the group who can be equally but silently aggrieved by the violence visited upon the direct victims of hate crime. Are crime victims assistance or compensation program managers trained to respond to hate crime? This remains an open-ended question, still.

Police, along with victim services workers, also require training. Warren Silver, Technical Officer with the Canadian Centre for Justice Statistics, is currently responsible for the hate crimes police training and noted (2006) that:

One of the best ways to anticipate victims' needs is by training police in a sensitive compassionate and professional manner to address hate-motivated crimes and deal appropriately with victims and their communities.

While most victim services do not provide long-term counselling services, they are able to provide referrals for those who might benefit from additional support. While victims can access generic victim services, all jurisdictions who responded to the e-mail survey indicated that there are at least two issues:

- 1) Training for staff and volunteers, and,
- 2) Potential barriers to accessing the services.

This training becomes extremely important to enable victim services workers to address the findings in the research that point to special needs of victims of hate crimes.

1) Support training for victim services on a nation-wide basis

Some key elements would include:

- consistency in content, with flexibility for regional/local variations;
- victim-orientation; and, a
- practical-orientation.



2) Support funding proposals that aim to reduce barriers to accessing services for victims of hate crimes

These proposals might be related to all victims of crime, but special recognition should be included for victims of hate crimes. Examples might include:

- i) materials developed specifically for communities; this could include cultural translations of victim services materials; and,
- ii) workshops/training/networking events to increase collaboration between community groups and victim services.

3) Support funding proposals to develop, implement and evaluate training and training materials for those who work with victims of hate crimes

Some examples of further initiatives that could be supported include:

- i) Materials that are directed toward police and prosecutors to assist them to identify the hatred aspect of these crimes and other elements particular to these cases, may be helpful, similar to the Prosecutor's Handbook for Criminal Harassment.
- ii) A pamphlet or brochure that outlines the provisions in the *Criminal Code* in relation to hate crimes may be a helpful tool for victim services in dealing with victims of these crimes.

There are at least two important objectives in terms of training for victim services workers and other players in the criminal justice system:

- 1) Understand and acknowledge the impact of hate-motivated crimes on individual victims; and,
- 2) Understand and acknowledge the impact of hate-motivated crimes on the community as a whole.

These objectives must be considered and recognized when developing and implementing training.

5.4 Summary

The discussion above provides suggestions for further research, training/education and improvements to current services through training and reducing barriers to access. The results of this literature review and survey have already been instrumental in identifying gaps in training for those who provide services to all victims. While a modest beginning, often small initiatives can have significant impacts. Each suggestion in this chapter was designed to be feasible and not require significant resources. Much more can be achieved through the combined efforts of government, academics, and communities – not just those targeted, but all communities in Canada.

Victims of racism and hate-motivated crimes need to be aware that there are more options to doing nothing. The CCJS initiative is ensuring that police are being trained to better understand the dynamics of hate crime victimization. Front-line officers are learning about victims' fear and reluctance to report due to lack of understanding and awareness of the police, fear of being "identified", fear of reprisals, and other concerns. Victims' sense of fear and injury can be addressed through concrete legal remedies. It is through reporting a hate-motivated activity that the avenues of legal recourse are triggered. It is also through reporting that accurate statistics can be compiled on the prevalence of such activities. Accurate information can assist learning and awareness and potentially reduce incidents of hate crimes.

Those who have been working in this area for decades may question the need for more research given their awareness of the need for concrete responses. This preliminary study has clearly shown the gaps; Canada does not have thorough research or a well developed literature on victims of hate crimes.¹⁵ Indeed, the number of scholars working on victims of crime research in general in Canada is few. In this light, the national data collection initiative being currently undertaken by the Canadian Centre for Justice Statistics is extremely important. With limited resources, those working in the area will need to ensure that any initiative is strategic and collaborative. As we develop a larger body of research in this area, attention must be given to policy and research evaluations; to enhancing sensitivity among service providers; to meeting the needs of victims; and, to developing awareness among the general public. Research can contribute to these goals. The general public, policy makers, and stakeholders all need to benefit from the greater awareness that results.

¹⁵ Canada does have significant research on the issues of homophobia, sexism, racism, etc.



Appendix A

Members of the Ontario Hate Crimes Community Working Group

Dr. Karen Mock, Chair, who has received worldwide recognition for her work in countering hate crimes and developing multicultural anti-racist resources, received a doctorate in applied psychology from the University of Toronto. She has also been recognized by the courts as an expert on hate groups, hate group activity, discrimination and anti-Semitism. Dr. Mock served from 2001 to 2005 as executive director of the Canadian Race Relations Foundation. Prior to this appointment she spent 12 years as national director of the League for Human Rights of B'nai B'rith Canada.

Members

Marie Chen: Chen is a lawyer at the African Canadian Legal Clinic. Her work is focused on test cases, litigation and interventions representing the interests of African Canadians to address systemic racism, racial discrimination and anti-Black racism. Prior to 2000, Chen practised immigration and refugee law with a major Toronto law firm.

Germaine Elliott: A member of the Serpent River First Nation, Elliott is second vice-president of the Ontario Metis Aboriginal Association, managing the health portfolio. She has more than 25 years experience in community and social development, race relations and cross-cultural learning.

Bernie Farber: National Chief Executive Officer of the Canadian Jewish Congress (CJC), Farber is a leading national expert on anti-Semitism and human rights. He has battled hatred and racism and worked to strengthen relationships with police services across the country for more than 20 years.

Raja Khouri: Raja Khouri is a managing consultant at The Knowledge Centre, specializing in organization and community development. As national president of the Canadian Arab Federation (CAF), he advocated against hate, discrimination and the erosion of civil liberties. In 2001, Khouri directed a landmark national study of the Canadian Arab community.

Dr. Ijaz Qamar: Promoter of multiculturalism, pluralism and inclusion for more than 30 years, Dr. Qamar has held positions with the Manitoba government as a community outreach coordinator and race relations policy researcher. He also worked internationally, as chief of the technical assistance team with the World Bank and Government of Zambia project.

Uzma Shakir: Executive director of the Council of Agencies Serving South Asians, Shakir is also president of the Ontario Council of Agencies Serving Immigrants. In addition to her 14-year work history in the social service sector, Shakir has been active as a researcher, advocate and activist.

Howard Shulman: Shulman is the coordinator of The 519 Anti-Violence Programme at the 519 Church Street Community Centre. The program offers advocacy and support for individuals who have experienced violence or harassment based upon sexual orientation or gender identification and for persons who are in abusive same-sex relationships. Shulman also provides workshops for police officers who undertake domestic violence work.

Anne-Marie Stewart: Former assistant deputy minister of the Ontario Anti-Racism Secretariat and chair of the board of directors for Interval House, Toronto's oldest shelter for battered women, Stewart has more than 25 years of professional experience in helping to create and lead effective organizations with an emphasis on equity and diversity management.

Jane Tallim: Tallim was the director of education for the Media Awareness Network, recipient of the inaugural Canadian Race Relations Foundation Award of Excellence. She is also an education specialist for the Provincial Centre of Excellence for Child and Youth Mental Health. A former teacher, Tallim is a nationally recognized expert on a wide range of media and Internet issues affecting youth, including online hate.



Appendix B

Members of the Federal Provincial Territorial Working Group on Victims of Crime

(partial list, only those to whom questions were sent)

Ms. Susanne Dahlin (D)
Director, Victim Services Division
Policing and Community Safety Branch
Vancouver, British Columbia

Ms. Barb Pratt (D)
Manager, Victims Programs
Public Security Division
Edmonton, Alberta

Mr. Patrick Thiele (D)
Director, Victim Services
Regina, Saskatchewan

Ms. Suzanne Gervais (D)
Acting Director
Victim Services
Winnipeg, Manitoba

Ms. Sonia Faryna
Director, Programs & Community Dev. Branch
Victims Services Secretariat
Toronto, Ontario

Monsieur Robert Caron
Sociologue, Directeur
Bureau d'aide aux victimes d'actes criminels
Ministère de la Justice du Québec
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Ms. Brenda Thomas (D)
Program Support Manager
Victim Services
Community and Correctional Services Division
Fredericton, N.B.

Ms. Joanne Marriott-Thorne (D)
Director of Programs
Policing and Victim Services Division
Department of Justice
Halifax, Nova Scotia

Ms. Wilma MacInnis (D)
A/Provincial Manager, Victim Services Program
Provincial Headquarters, Department of Justice
St. John's, Newfoundland

Ms. Susan Maynard
Provincial Manager
Victim Services
Charlottetown, Prince Edward Island

Ms. Sandra Bryce (D)
Manager of Victim Services/Family Violence Prevention Unit
Department of Justice
Government of the Yukon
Whitehorse, Yukon

Ms. Dawn McInnes
Community Justice Division, Victim Services
GNWT Department of Justice
Yellowknife, NWT

Ms. Judy Anilniliak
Director for Community Justice
Department of Justice
Government of Nunavut
Iqaluit, Nunavut



Appendix C

Criminal Code Provisions on Victim Impact Statements

722.(1) For the purpose of determining the sentence to be imposed on an offender or whether the offender should be discharge pursuant to section 730 in respect of any offence, the court shall consider any statement that may have been prepared in accordance with subsection (2) of a victim of the offence describing the harm done to, or loss suffered by, the victim arising from the commission of the offence.

Procedure for victim impact statement

- (2) A statement referred in subsection (1) must be
- (a) prepared in writing in the form and in accordance with the procedures established by a program designated for that purpose by the lieutenant governor in council of the province in which the court is exercising its jurisdiction; and
 - (b) filed with the court.

Presentation of statement

(2.1) The court shall, on the request of a victim, permit the victim to read a statement prepared and filed in accordance with subsection (2) , or to present the statement in any other manner that the court considers appropriate.

Evidence concerning victim admissible

(3) Whether or not a statement has been prepared and filed in accordance with subsection (2), the court may consider any other evidence concerning any victim of the offence for the purpose of determining the sentence to be imposed on the offender or whether the offender should be discharged under section 730.

Definition of “victim”

(4) For the purposes of this section and section 722.2, “victim,” in relation to an offence,

- (a) means a person to whom harm was done or who suffered physical or emotional loss as a result of the commission of the offence; and
- (b) where the person described in paragraph (a) is dead, ill or otherwise incapable of making a statement referred to in subsection (1), includes the spouse or common-law partner or any relative of that person, anyone who has in law or fact the custody of that person or is responsible for the care or support of that person or any dependant of that person.

R.S., 1985, c. C-46, s. 722; 1995, c.22, s.6; 1999, c.25, s.17 (Preamble); 2000, c.12, s.95

Copy of statement

722.1 The clerk of the court shall provide a copy of a statement referred to in subsection 722(1), as soon as practicable after a finding of guilt, to the offender or counsel for the offender, and to the prosecutor.

1995, c.22, s.6; 1999, c.25. s.18 (Preamble)

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