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topics

HATE CRIME A CANADIAN PERSPECTIVE

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Hate motivated crime has many faces and wide reaching consequences; in most cases it represents the voice of intolerance and bigotry intended to harm and intimidate someone because of their race, ethnicity, national origin, religion, sexual orientation or disability.

However experienced or otherwise displayed, be it actual violence, threats of harm, intimidation or damage to property, hate crimes diminish the cherished values of a free and democratic society by creating an environment of fear, community anxiety and the feelings of disenfranchisement of human rights and entitlements.

Over the years, there have been many studies and a great deal has been reported about the many aspects of hate crime. In general, the findings of the research indicate that hate motivated crime transcends beyond the intended victim. By their very nature, hate crimes convey a message of intimidation and fear to all members of the community to which the intended victim belongs.

Therefore, the full impact and severity of hate crime, however committed, cannot be fully appreciated without also taking into account the element of community fear and intimidation that results. The extent of the harm caused to a whole segment of people becomes the added aggravating feature of all hate motivated crimes.

All of this requires a proactive, sensitive and effective response by all components of society, especially law enforcement in confronting the problem head on. Obviously, law enforcement leaders must be on the forefront in the fight against hate crime by actively pursuing prevention strategies, diligent investigations, protecting and supporting vulnerable communities and the aggressive prosecution of offenders to the full extent of the law.

Properly identifying and effectively investigating hate motivated crimes has an important relationship to the rights of victims and even the credibility of the Justice System itself. For example, if a crime is motivated by racism and this fact is not identified or considered by the various components of the Justice System, then the System has failed to reflect the true extent of harm to the specific victim and the general harm caused to the greater community as a whole.

The manner in which law enforcement officials respond to hate crimes can have a lasting positive or negative impact on the victims and whole communities. It can also influence the degree of confidence that victims have in reporting such incidents to the police. The failure of a police officer to properly identify a crime as being hate motivated has the potential to result in escalated violence and additional harm to the victim, as well as reducing even further the probability that in the future such occurrences will be reported to

the police. Experience also indicates that hate crimes are amongst the most under reported forms of criminality.

Because hate crimes are directed both at an individual victim, as well as a group or class of people, they include an added aggravating feature of harm that is not normally present in other forms of criminality and victimization. For this reason, many nations have enacted specific laws intended to elevate the severity of penalties for crimes motivated by hate.

In 1998, the International Association of Chiefs of Police (IACP) examined various aspects of hate crime, the 'Hate Crime in America Summit' produced 46 recommendations intended to address a number of critical areas; namely prevention, response and measuring the effectiveness of the prevention and response efforts. The Summit also produced a comprehensive Law Enforcement Action Agenda consisting of 12 essential steps to help police address hate crime. This is an excellent resource that is readily available in the 'Publications Section' of the IACP Internet site.

Following the review of a great deal of material written about hate crime, it is reasonable to conclude that an effective criminal justice response to hate crime requires a number of critical elements including the accurate collection of data based on a well-defined and consistent criteria used to classify hate motivated criminal activity.

For example, the collection of hate crime data by different Police Departments in Canada is sufficiently variable to preclude a fully integrated analysis. The data from the United Kingdom is derived from disparate sources that do not reference hate crime as the general classification, rather the data collected references racially motivated crime only. A somewhat similar disparity exists in the United States where some jurisdictions include mental disability and even political affiliation with differing criteria for penalties respecting hate crimes. Then there are those who oppose hate crime specific legislation altogether, arguing that incitement, vandalism, assault and murder are already included in the criminal law.

The magnitude of the hate crime problem, however defined, is evident as reported by the Federal Bureau of Investigation (F.B.I.) 2001 Crime Statistics. In the United States, state and local law enforcement agencies reported 9,730 incidents of hate crime involving 11,451 separate crimes of which 44.9% were motivated by racial bias, 21.6% were driven by prejudice against an ethnicity or national origin, 18.8% resulted from bias against a particular religion, 14.3% involved a bias against sexual orientation and 0.4% were motivated by a disability bias. Ten hate crime victims were murdered in 2001.

(Ref. F.B.I.-Uniform Crime Reporting 02/11/25)

Criminologist, Dr. Jack McDevitt stated "Hate Crimes are message crimes. They are different from other crimes in that the offender is sending a message to a certain group that they are unwelcome." And with the advent of the Internet, the message of hate is growing exponentially. It has been stated that the Internet is one of the best things that ever happened to hate; promoting not only hate but also facilitating networking and alliances amongst hate groups at an international level through the medium of virtually thousands of hate sites that have flourished over the past few years.

Hate crime like other crimes in cyberspace have become the new investigative beat for modern day crime fighters. In his July 20, 2001 Cybercrime announcement, U.S. Attorney General John Ashcroft stated: "The

growing frequency of sophistication and cost of computer crime means that law enforcement must constantly rededicate itself to the vital mission of keeping cyberspace safe for all Americans". A reality that has become acutely important following the terrorist attacks of September 11, 2001 and since.

The majority of hate groups have gone underground. In the past, recruitment of followers was a labour intensive task; now, most hate groups have web sites that are easily accessible and available. These web sites are used as a tool for recruitment of new members and followers. Also, message boards and chat rooms on the hate groups' web sites are increasingly used for communication within the groups.

There are, however, some significant wins in the fight against hate propaganda. In a landmark ruling in the first ever human rights complaint involving an Internet Hate Site, the Canadian Human Rights Tribunal found Ernest Zundel, a well known hate mongerer, to have contravened the Canadian Human Rights Act. The Tribunal's Chief Commissioner stated: "Hate messaging and propaganda have no place in Canadian Society. As a tool of mass communication, the Internet has a tremendous impact on our daily lives. We now know that the Internet is not a 'Lawless Zone' and cannot be used to promote hate". The Commissioner went on to state: "This is all the more important in light of the tensions that have emerged since last September's terrorist activity."

Not surprisingly the terrorist attacks on America, September 11, 2001, brought out the best and worst in people. There have been many repercussions around the world including an exponential increase of hate motivated activity especially directed at Muslims and their institutions; a situation that has added significant pressure on the already strained resources of law enforcement.

Conclusion:

It must be stressed that an effective response to the many and varied complexities of hate motivated crime is not solely the responsibility of the criminal justice system and although the criminal justice interventions of arrest, prosecution and punishment of offenders is critical, for the most part, these are reactive and only invoked once a crime has been committed.

For obvious reasons, greater prevention efforts must be made by the whole of society by educating young people, especially about the extent and severity of harm caused by hate crimes, and that more than other crimes, hate crimes attack and victimize the heart and soul of diverse and multicultural communities. Changing attitudes towards the seriousness of hate crimes by educating the public in general and young people in particular is considered an effective long-term strategy to combat hate crime.

Passing laws and setting-up systems to accurately collect hate crime data are simply not enough. Law Enforcement agencies must elevate their response by training their people how to detect and effectively investigate hate crimes. While a uniform definition of what constitutes a hate crime is helpful, police officers must have the requisite training and skills needed to correctly identify and classify reports of hate crimes, a true magnitude and significance of this particularly aggravating crime will be greatly diminished.

Police training should also include how to properly interact with the victims of hate crimes in a sensitive and responsive manner. In essence and because

hate crime is a problem that will surely confront every police officer and not just the members of specialized hate crime investigators, police leaders should give serious consideration to making hate crime training an integral part of basic recruit training.

To recap, a sensitive, efficient and effective criminal justice response to hate motivated crimes involves a number of critical elements:

- A close police-community relationship especially with vulnerable communities who are the target of hate propaganda and victimization.
- Public confidence in the effectiveness of the police response to all reports of hate motivated criminal activity.
- Proactive monitoring and intelligence gathering of the presence of hate propaganda and those who promote hate in the community.
- Specialized training for hate crime investigators, prosecutors and judges.
- Hate Crimes training for police recruits.
- Consistency of hate crimes prosecutions where hatred or bias in whole or in part are identified as the aggravating features of the crime.
- Enhanced publicity of prosecutions and penalties imposed in hate crime convictions.
- Vigorous prosecutions resulting in severe and certain penalties for all suspects convicted of a hate crime.
- Establish policies and procedures to be used as a guide in the investigation and prosecutions of hate crime cases.
- Establish links and cooperation amongst law enforcement agencies at all levels to share information, training, resources and expertise in the pursuit of hate motivated criminal activity.
- Stronger laws and authority for law enforcement to be used against hate crime and hate propaganda, including elevated penalties upon conviction where hate is an aggravating feature of the crime.

When crime occurs in a community, it is both fitting and proper that it causes concern for those who live and work within that community. That concern must be intensified, when the perpetrator's motive for such crime is based on prejudice they might have towards the victimized person or group, simply because they are perceived to be different, and not as a result of anything they have done.

Hate is the finality of human relations.

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