Joanna Goodey & Kauko Aromaa (eds.)

Hate Crime

Papers from the 2006 and 2007 Stockholm Criminology Symposiums

Helsinki 2008

Contents

Introduction

Jo Goodey
Programme Manager, Research
European Union Agency for Fundamental Rights (FRA), Vienna[1]

This publication brings together six papers that were presented at different sessions on the subject of hate crime during the 2006 and 2007 Stockholm Criminology Symposiums. The sessions were organised in cooperation with the European Institute for Crime Prevention and Control, affiliated with the United Nations.

The papers present an introduction to the situation in selected European countries with respect to recognition of and responses to different manifestations of 'hate crime'; which can range from incitement to hatred on a web posting through to murder.

As a reflection of the fact that different countries have experienced and therefore perceive 'hate' crimes differently, there is no single unified definition of hate crime in Europe; neither in law nor the social sciences. Even the term 'hate crime' is relatively new in many European countries, which have traditionally focused their attention on particular manifestations of hate under specific articles of the criminal law - such as anti-Semitism, the activities of right-wing extremists, and racist violence.

A 2005 publication by the Office for Democratic Institutions and Human Rights (ODIHR), which is part of the Organisation for Security and Cooperation in Europe (OSCE), includes a useful non-legally binding 'working definition' of hate crime, which, in its comprehensive list of vulnerable groups, illustrates the potential scope of hate crime:

> A hate crime can be defined as: (A) any criminal offence, including offences against persons or property, where the victim, premises, or the target of the offence are selected because of their real or perceived connection, attachment, affiliation, support or membership of a group as defined in Part B; (B) a group may be based upon a characteristic common to its members, such as real or perceived race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation or other similar factor.[2]

---

1 The views expressed in this paper are those of the author alone and not those of the European Union Agency for Fundamental Rights (FRA).
2 OSCE/ODIHR (2005) Combating Hate Crimes in the OSCE Region: An overview of statistics, legislation, and national initiatives, OSCE: Vienna, p.12; http://www.osce.org/publications/odihr/2005/09/16251_452_en.pdf

The papers collected here reflect different responses to hate crime in selected European Member States. Two of the papers also explore criminal justice responses to hate crime in the USA. However, the focus of the publication is with Europe, and outlines, often critically, some of the most progressive developments to date with respect to criminal justice and civil society responses to hate crime.

The first paper, by Erik Bleich, presents a succinct and highly informative overview and comparison of hate crime policies in the United States, Britain, Germany and France. Using a matrix to characterise policy responses to hate crime, the paper charts the historical development and current place of hate crime interventions in each country. Bleich critically addresses different approaches to hate crime in each country, looking at the role of legislation, criminal justice reform, civil society intervention, and, importantly, sources of funding for different projects.

Bleich comments on the lack of prosecutions in France in comparison with other countries, and this theme is taken up in the second paper, by Jo Goodey, which presents a critical overview of the current status of data collection in the European Union with respect to one specific aspect of hate crime, namely racist crime. The paper focuses on the inadequacies of data collection in many EU Member States, and looks at the need for enforcement of legislation together with criminal justice data collection for the development of informed policies to combat racist crime. This discussion takes place in consideration of the place of hate crime recognition in European countries more generally, and with an insight into current European policy responses that endeavour to address the problem of racist crime and related intolerances.

The third paper, by Nathan Hall, also presents a comparative overview of criminal justice responses to hate crime with respect to two global cities – London and New York. The paper explores the social construction of 'hate crime', which is contrasted with operational criminal justice-based definitions of hate crime that determine what is and is not captured as a potential hate crime for police investigation. Based on fieldwork research in both cities, Hall presents a rich insight into the costs and benefits of the two cities' very different approaches in responding to reported incidents of hate crime. Herein, the paper offers some warnings with respect to the system adopted in London for recording every potential incident of hate crime, as reported by the victim or any other person, for the strains it can place on an over-burdened police.

The fourth paper, by Klara Klingspor, offers a detailed insight into the Swedish model of data collection in the field of hate crime. In 2006, the Swedish National Council for Crime Prevention (Brå) took over from the Swedish Security Service to produce Sweden's statistics on hate crime. Brå has encompassed a wider range of hate crime data collection than its predecessor, which includes offences with a xenophobic, anti-Semitic, homophobic and, since 2006, Islamophobic motive. Klingspor explores the process by which crimes are assessed and recorded under specific hate crime categories, and outlines the criteria of the Swedish model with respect to who can and cannot

be considered the victim of certain hate crimes. Based on Brå's data collection, the paper presents an overview of what is known about hate crime in Sweden, which serves to highlight the benefits of having comprehensive and regularly updated information on hate crime for the purpose of developing crime prevention strategies.

Another Nordic paper, by Juha Kääriäinen and Noora Ellonen, also examines how hate crime, or more specifically racist crime, is identified and recorded by the Finnish racist crime monitoring system. It has been possible to monitor trends in racist crime in Finland since 1997, when the police were first required to make a special entry in police records identifying racist crime. However, as the paper indicates, the police tend to under-record racist crime, which, given that many racist crimes are not reported in the first place, results in an undercount of the problem. The authors outline the step-by-step approach they adopted to critically assess the extent to which police registration practices in Finland may be undercounting racist crimes. They also explore the attrition rate between recorded racist crime, prosecuted cases and court, and conclude that a system is needed whereby individual cases can be monitored as they are processed through the criminal justice system – a challenge for criminal justice data collection that applies to other crimes, and other countries, too.

Finally, Paul Iganski's paper charts the development of criminal justice and civil society responses to racist crime in the UK, focusing on the example of the London-Wide Race Hate Crime Forum. Based on his field research, Iganski critically assesses the success of the Forum as a multi-agency partnership model for police and civil society cooperation, one which sets out to provide a uniform service for victims of hate crime across London. The paper illustrates the different standpoints and expectations that each person brings to a Forum meeting – be this a victim or a police officer. Echoing current debates in consideration of restorative justice and the place of the victim in traditional justice, the paper examines the victim's participation in the Forum and the impact this has on them and the meetings. The paper concludes with a critical assessment of imbalances that exist in the Forum's set-up, which tend to favour statutory agencies participation at the expense of the voluntary sector.

Each paper offers some interesting examples about monitoring and responding to hate crime in different countries. There is no single model that can be offered as a good practice 'gold standard' for all countries to adopt. Rather, by reading about some of the best current examples in Europe, and the USA, for responding to hate crime, and racist crime in particular, we are able to see how far progress is being made towards improving responses to an age old problem.

At the level of the European Union, the new Directive on Combating Racism and Xenophobia (COM (2001) 664 final) is an encouraging step towards approximation of criminal law with respect to racist crime. At the same time, this EU-wide legislation needs to be accompanied by practical initiatives that promote law enforcement and criminal justice cooperation, and which are developed alongside data collection practices to monitor and report on the extent and nature of hate crime for the purpose of informing policy

decisions. To this end, countries can learn from each others' approaches by looking for transferable good practices, particularly with countries that share similar legal and criminal justice models, or which have similar responses to the place of civil society and victim involvement in justice. Countries can also learn from each others' practical approaches with respect to data collection in the area of hate crime, with the knowledge that good data collection is essential for the formulation of policies to address and combat this social ill.

Responding to Racist Violence in Europe and the United States

Erik Bleich
Department of Political Science
Middlebury College, USA

Introduction

In this short paper, I provide a brief overview and comparison of hate crime policies in the United States, England, Germany, and France.[1] I will describe the major trends in these four countries, identifying some of the broad patterns of policymaking in each location and illustrating them with specific examples. I argue that thus far, each country has taken a distinct path, and that it is time to gauge the positive lessons that can be learned across international borders in order to strengthen the fight against hate crimes.

The United States

The United States was the first country to directly address in a sustained way contemporary problems of hate crimes. It has done so primarily by focusing on "Congress, courts, and cops." Its highest profile actions have been passing laws and beefing up police forces to counter racist and other forms of violence. Concentrated state and federal efforts to fight hate crimes began in the late 1970s and early 1980s. The Anti-Defamation League helped to raise the profile of the issue in 1979, when it started to publish annual statistics on anti-Jewish incidents across the United States. Other NGOs and politicians soon followed suit by taking up the issue.

In 1985, Rep. John Conyers, Jr. of Michigan popularized the term "hate crime," in Congressional hearings, and this term has now become the best known international rubric for understanding violence directed at a wide range of individuals because of their particular identity. My home state of Vermont, for example, has a hate crimes statute that enhances the penalty for crimes motivated by the victim's "actual or perceived race, color, religion, national origin, sex, ancestry, age, service in the armed forces of the United States, handicap, sexual orientation, or gender identity." That's one of the longest lists in the nation. But virtually every state has some form of hate crimes law, and these laws always punish violence against people defined by race and ethnicity.

---

1 For a longer review of hate crime policies in Britain, Germany, and France, see Bleich 2007.

These laws are particularly important, because in the American federal system, most violent crimes are tried in state courts.

Federal laws are also important, however, and starting in 1990, Congress began passing laws to track and to penalize hate crimes. It enacted the Hate Crimes Statistics Act in 1990, which mandated data collection; it passed the 1994 Hate Crimes Sentencing Enhancement Act, which enhanced penalties for hate crimes; and in the wake of a rash of arson attacks that began in 1995, it passed a 1996 law increasing penalties for crimes against houses of worship. American federal and state legislatures have therefore passed a significant number and range of laws since the late 1970s.

These laws have put the courts and the cops on the front line in the fight against hate crimes. State District Attorney's offices often have a special branch set up to deal with these kinds of crimes. State and federal supreme courts have heard and decided a wide variety of cases related to the constitutionality of hate crimes legislation. And police forces in big cities like Boston, New York, and LA have developed hate crimes task forces dedicated to these issues. Focusing on courts and cops and Congressional laws has not been the only thing that the United States has done, but it has been the heart of how the US deals with the problem of racist violence.

England

For England, the story has been quite comparable.[2] If the US strategy has been one of Congress, courts and cops, the traditional English approach has been one of "cops and courts." By this I mean that the overall focus on law enforcement has been similar, but the timeline and emphasis has differed. England began to deal with hate crimes a little bit later than the US: more like the early 1980s than the late 1970s. Throughout the 1980s and 1990s, the police were coming under a lot of scrutiny for their handling of issues in ethnic minority communities and for the bungled investigation of the 1993 racist murder of black teenage Stephen Lawrence, which culminated in the stinging official criticism leveled by Sir William Macpherson in the Stephen Lawrence Inquiry Report.

Police forces began tinkering with their policies in the 1980s, but it wasn't until the late 1990s that London's Metropolitan Police Service (for example) created a full-blown Diversity Directorate to respond to some of these criticisms. The Met's Diversity Directorate employs about 200 police officers specialized in hate crimes issues, and, when setting up this unit, English police officers looked to their American counterparts in cities like New York for

2 This paper focuses on England and not on Britain or on the UK as the English legal system has elements that the Scottish and Northern Irish systems do not. What applies in England also applies in Wales in terms of the legal system; but the focus here remains on England as most of the dynamics that resulted in policy choices emerged in England and not in Wales.

10

inspiration and for strategies. In some significant ways, as Nathan Hall reveals in his study of New York and London police departments in this volume, English police forces went well beyond those in the United States in developing tools for gathering information on perceived hate crimes.

Another way in which England echoed US policies was in passing the 1998 Crime and Disorder Act. "Racially aggravated offences" are now a standard tool for enhancing the penalty for crimes if there is evidence of racial motives. Moreover, racial motive can now be examined and penalized for any freestanding crime in England. In addition, as of 2001, the British government extended similar provisions by penalizing religiously aggravated offences and anti-religious motives. As this brief overview of policies in comparative perspective demonstrates, English policy responses to hate crimes started with the cops, and have now taken root in the court system too.

Germany

If in the United States and in England, the story began in the late 1970s and early 1980s, in Germany it began in the early 1990s. Shortly after the 1990 reunification, there were violent attacks against minorities in a number of German cities, such as Hoyerswerda, Rostock, Mölln, and Solingen. The German state responded in part by changing some aspects of its policing, prosecution, and information-gathering policies. This may sound similar to what happened in the US and England, but, in spite of evidence of police passivity and even brutality in Germany, the police have never come under the prolonged scrutiny of politicians or the public, and the reforms in the police have been piecemeal compared to those in the US or England.

Where the German government has been innovative has been in supporting "grants to the grassroots." These are local projects designed to deter potential perpetrators and to support victims of extremist violence. In the early 1990s, for example, the *AGaG* program funded programs for young people thought to be at risk of committing hate crimes. These specific programs had debatable success. Critics said that spending resources on trips and youth centers for potential perpetrators was being too soft on them and in fact rewarded them for their delinquency. Some also suggested that bringing lots of potential perpetrators together in one place made it easy for the really bad apples to recruit sympathizers to their cause.

By the late 1990s and early 2000s, the strategies of NGOs and political leaders had shifted away from an exclusive focus on potential perpetrators. But an emphasis on funding grassroots and local initiatives remained intact. Following two gruesome attacks in the summer of 2000, the German government announced a plan to spend over 200 million Euros on four civil society programs. In other words, the state pledged to provide a pot of money that civil society groups (NGOs) could access to carry out projects designed to ameliorate local conditions. These projects had to be designed to do one of four things: build networks against right-wing extremism; foster political education

for a democratic culture; promote acceptance of diversity in the workplace; or provide advice to victims dealing with right-wing extremism. Thousands of projects have already been financed under this scheme. Supporting civil society has become a staple of the German response to racist violence.

France

France was one of the earliest countries in Europe to pass comprehensive antiracism legislation. Its 1972 law targeted incitement to racial hatred, outlawed racial discrimination, and permitted the state to ban racist groups. But it did not specifically address racist violence. In fact, France came to the issue of racist violence and hate crimes much later than its neighbors. It really only began coordinating state measures in the early 2000s, in the wake of several surges in violent anti-Semitism following the onset of the second intifada in the Middle East. After a slow initial reaction, the French state responded with a number of policing measures. Approximately 1,200 police officers and 15 million Euros were dedicated to security for "sensitive sites," such as synagogues and other Jewish institutions, but also mosques.

Many French initiatives, however, seem designed more around a strategy of "symbolism and socialization."The most prominent symbolic act was passage of the "Lellouche law," a penalty-enhancement hate crimes law that was fast-tracked through Parliament with very little debate or revision. The bill introduced in November 2002 became law in early February 2003 following the unanimous approval of the National Assembly and the Senate. Legal protections were extended in March 2003 to cover homophobic crimes. Yet, these laws have been primarily symbolic because there have only been a handful of prosecutions invoking them. By contrast, in the first year of the British Crime and Disorder Act, there were over 4,000 charges for racially aggravated offences.

In addition to the symbolic acts, there are policies in France that aim to socialize actors to oppose racist violence. France has undertaken several initiatives in schools to socialize children against racism. In October 2002, France sponsored a Council of Europe initiative to create a Holocaust memorial day. French schools participate in this program on the 27th of January, the anniversary of the liberation of Auschwitz. In February 2003, the state also announced an action plan of 10 measures, including: the creation of a group in each educational area (*rectorat*) responsible for tracking racist and anti-Semitic incidents; scheduling meetings with textbook editors to remind them to eliminate possible racist elements in their publications; and the development of a guidebook for teachers explaining how to respond to racist and anti-Semitic acts in the classroom. Former Minister of Education Luc Ferry summed up the state's goal of socialization when he declared "it is important to intervene over the smallest incident, even verbal, and to let nothing go without punishing or explaining."

12

It is possible to summarize each country's strategy toward hate crimes with the following matrix:

Relative Policy Emphasis of the United States, England, Germany, and France with Respect to Hate Crimes

Policy goal

		Repression	Diversion
Central Actor	State	United States England	France
	Society		Germany

Thus, the two basic questions countries ask are: (1) should policy ideas and initiatives come primarily from the state or from civil society? And, (2) should the primary goal of policymaking be aimed at repressing or punishing actors once crimes have been committed (through laws and police work), or should it be to divert potential perpetrators and undermine the bases for hate crimes before they happen?

This matrix cannot capture the widest variety of measures taken in each country, but it does help focus thinking on the relative emphasis countries give to different types of approaches. It also suggests that there is room for each of these countries to learn from the steps taken by the others. For example, while Germany and France have taken some steps toward stronger laws and policing, their moves have not led to the level of enforcement present in the United States or England. On the whole, there has been far less training for police forces and prosecutors in how to manage hate crime cases in continental Europe than has been available across the Channel or across the Atlantic.

It is perhaps more interesting, however, to discuss the lessons that can be learned about diverting potential perpetrators since there is less international consensus on best practices in this domain. For example, how valuable are community-based initiatives aimed at potential perpetrators? On the one hand, these seem vital; yet the German experience suggests that not all local-level initiatives are equal. Its 1990s *AGaG* program indicates that there can be a danger associated with gathering potential perpetrators in one place. This may be especially true where the influence of the far right is strong, as it can lead to recruitment and to further development of racist networks.

A second question relates to the value of actions taken in schools and in the workplace. Both France and Germany place a lot of emphasis on educational institutions as arenas for socialization. They focus on policies like curriculum development (such as textbooks, national curriculum units, or optional stand-alone units); national educational days symbolizing opposition to racism; training peer leaders and mediators; and designating professional liaisons to be responsible for individual schools or zones. Some of this is done in England and the United States, but why is it more of a central focus of hate crimes research and policy development in France and Germany than in other countries? It may be the case that the pragmatic Anglo-American tradition of measuring policy effectiveness through concrete metrics steers these countries' policymakers away from steps that might have a diffuse effect on the general political culture. In a similar vein, whereas Germany has developed policy initiatives aimed at the workplace, few other countries have any parallel policies in place. Would rallying businesses around opposition to hate crimes be a productive use of civil society and policymaker energy?

This last point leads into a second set of questions having to do with the role of NGOs. Is it vital to secure the interest and energies of NGOs in fighting hate crimes? Germany has placed a particular emphasis on civil society as the most dynamic and creative source for addressing this problem. The United States also has vibrant NGOs such as the Anti-Defamation League that have done a tremendous amount of work in this area. But England and especially France have lagged behind these other countries in putting the spotlight on civil society in the fight against hate crimes. Is it possible in these (and other) countries to ensure sustained interest in and attention to hate crimes by national and local NGOs?

One way to do this may be through funding structures. In most countries, funding for racist violence projects is catch-as-catch-can. There are multiple sources of funds to which NGOs turn, but there is no central source of support. Establishing large and permanent national pots of money for specific work on hate crimes would rectify this problem. Such a pool of resources would provide a focal point for local governments, practitioners, NGOs, businesses and other groups to draw on. While Germany has experimented with this structure, its funds are not permanent, and as they dwindle over time, the momentum of work against hate crimes is likely to slow. Ultimately, whether countries offer such a resource will depend on the perceived magnitude of hate crimes within each society. The extent to which countries can effectively make use of such funding will depend in part on the vibrancy of domestic civil society groups.

Comparing national tendencies in the fight against hate crimes shows significantly different paths across countries. That most societies have developed their policies in relative isolation has drawbacks. However, it also has allowed a variety of ideas to emerge. Now that international momentum against hate crimes is building, the time is right to assess the different domestic approaches for lessons that can be fruitfully applied elsewhere in the world. In this context, a tremendous opportunity is emerging for international institutions to build bridges across national borders. Several institutions have become

active in the field of hate crimes over the past decade and their efforts to aggregate knowledge and to derive best practices are noteworthy.

In particular, the European Union Fundamental Rights Agency (formerly the European Union Monitoring Center on Racism and Xenophobia) has mobilized its national RAXEN networks to gather information from members and to push states toward better practices in dealing with racist violence. More recently, the Organization for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights (ODIHR) has established a project on hate crimes that has resulted in excellent comparative overviews of statistics, legislation, and national initiatives as well as in a police training course on hate crimes. The Council of Europe's European Commission against Racism and Intolerance (ECRI), and the civil society-based European Network Against Racism (ENAR) and Human Rights First have also shown an increased interest in recent years in racist and anti-Semitic violence and in hate crimes more generally.

While these transnational civil society groups, international organizations, and supranational institutions have converged on issues of hate crimes, it may take a while for them to shift the prevailing views of key policymakers at the domestic level. Most national policymakers remain attached to their particular approaches, which are often deeply embedded in pre-existing domestic institutions and supported by key coalitions of local actors. Fostering cross-national learning at the highest levels is both admirable and necessary. But it is not an easy task.

References

Bleich, Erik (2007). 'Hate Crime Policy in Western Europe: Responding to Racist Violence in Britain, Germany, and France', *American Behavioral Scientist*, vol. 51, no. 2, 149-65.

Racist Crime in the European Union: Historical Legacies, Knowledge Gaps, and Policy Development

Jo Goodey
Programme Manager, Research
European Union Agency for Fundamental Rights (FRA), Vienna[1]

Introduction

This paper is based on presentations given by the author, as part of a series of sessions on the subject of hate crime, during the 2006 and 2007 Stockholm Criminology Symposiums. The paper focuses on a specific aspect of hate crime, namely racist violence and related crime, and looks at its manifestation across the Member States of the European Union (EU).

The paper begins by exploring what we mean by 'hate crime' and, specifically, 'racist crime' in the context of Europe, which serves to inform us about how we currently respond to the problem. It looks at what we know and, importantly, what we don't know about the extent and nature of racist crime in Europe, and examines the challenges of trying to document racist crime in the EU's twenty-seven Member States. The importance of good data is highlighted in the paper with respect to the needs of policy makers and practitioners who are trying to raise awareness of, combat, and effectively respond to this social ill. The paper also refers to current policy and research developments in the EU that serve to address the phenomenon of racist crime.

The paper draws on published work by the European Union Fundamental Rights Agency (FRA), which is the successor, since March 2007, to the European Monitoring Centre on Racism and Xenophobia (EUMC).

Recognising Racist (Hate) Crimes in the EU

Defining a problem

Europe has a long history of hate crime and intolerance, which has manifested itself in various forms across different countries. In the twentieth century, the Holocaust was, and still is, Europe's most infamous episode of mass hate crime; with Jews, as well as homosexuals, the disabled, and dissenters, among

---

1 The views expressed in this paper are those of the author alone and not those of the European Union Agency for Fundamental Rights.

others, the victims of the Nazis. However, the lessons of the Holocaust were short-lived as Europe went on to witness 'ethnic cleansing' and systematic rapes of Bosnian Muslims during the 1990s war in the former Yugoslavia.

The history of each European country shapes how it currently experiences, acknowledges, and responds to the problem of hate crime. Histories that are steeped in slavery, colonialism, immigration, and dictatorship, serve to inform us about how and why a country responds to hate crime in a particular way - through its legislation, social and practical action. For example, the role of Austria and Germany in the Second World War explains these countries' particular concerns to address right-wing extremism and anti-Semitism. While the UK's history of slavery and colonialism, and subsequent history of immigration from former colonies, helps to explain the country's focus on hate crime as a 'race' based phenomenon.

Given the diverse histories of intolerance and hate towards various groups across Europe, it is perhaps understandable that there is no single legal or social science definition of 'hate crime' or 'racist crime' in Europe. At the same time, the law typically steers clear of trying to provide legal definitions of abstract concepts such as 'racism' and 'hate', and instead lists the characteristics of persons or groups that make them particularly vulnerable to being victims of hate crime.

In the EU, 'hate crime' is a term that is increasingly used by policy makers and criminal justice practitioners to refer to an ill-defined and diffuse set of intolerances – encompassing, variously, hate based on race, ethnicity, religion, sexuality, disability, gender, and related intolerances.

In practice, particular EU Member States have tended to focus on certain manifestations of hate; with 'hate crime', in the main, traditionally limited to racial, ethnic and religious hatred (notably anti-Semitism), and less so to hate with respect to sexuality, disability, new manifestations of religious intolerance, and gender. In comparison with current US hate crime laws and programmes, which tend to be wide-ranging in their recognition of hate crime as impacting on many different social 'groups', European legislation and recognition of hate crime is relatively narrow and under-developed. Although legislation does exist on paper in some Member States to combat a wide-range of hate related crime and intolerance, in the main, European responses to hate crime remain with established notions of hate, such as racism and anti-Semitism, which reflect European histories of intolerance.

Legislative Context

Focusing in this paper on racist crime as a specific manifestation of hate crime, three main strands of legislative response can be identified, which variously reflect Europe's diverse histories of oppressive dictatorship, immigration, and adherence to international law; namely: (1) legislation that sets out to combat National Socialist/fascist ideologies; (2) general anti-discrimination legislation, which has emerged from the United Nations 1969 International Convention on the Elimination of all Forms of Racial Discrimination (ICERD); and (3)

particular offences under national legislation that variously address aspects of 'hate'; such as prohibition of 'hate speech' and 'incitement to hatred'. Over time, many EU Member States have developed a hybrid legislative response to hate crime, which incorporates different aspects of these three approaches; with, increasingly, a number of Member States having recognised racist or religious hatred as an aggravating factor that can result in enhanced sentencing (EUMC 2005a). Yet, while all Member States' legislation can, in theory, address various manifestations of hate crime, there remains a gap between what is prohibited in law and what is actually punished in practice.

At the European level, various efforts have been made since the 1990s to recognise and respond to the problems of discrimination, intolerance and hate. In 1993, the Council of Europe established the European Commission against Racism and Intolerance (ECRI); an independent body that monitors Council of Europe Member States' efforts to 'combat violence, discrimination and prejudice faced by persons or groups of persons on grounds of race, colour, language, religion, nationality and national or ethnic origin'. This was followed in 1994 by the Council of Europe's adoption of a Framework Convention for the Protection of National Minorities. The OSCE's Office for Democratic Institutions and Human Rights has, since 2003, actively renewed its commitment to address the problem of hate crime; regularly calling on OSCE Member States to improve their monitoring of the situation and initiating a Law Enforcement Officer Programme on Combating Hate Crime.

Working alongside other international institutions, the European Commission seeks to address racism and discrimination through new EU legislation that is binding on Member States, together with accompanying Action Programmes. In 2000, following on from Article 13 in the Treaty of Amsterdam - which includes provisions on non-discrimination on the basis of racial or ethnic origin, religion or belief - two Directives were enacted: the Racial Equality Directive 2000/43/EC and the Employment Equality Directive 2000/78/EC. The Race Directive was accompanied by a Community Action Programme that sought to enhance data collection, for statistical purposes, to tackle discrimination. Although none of these initiatives address racist crime, their emergence illustrates a general movement in Europe towards recognition and monitoring of racist discrimination, which is accompanied by recognition of other forms of intolerance - such as discrimination on the basis of disability or sexual orientation.

More recently, in April 2007, political agreement was reached at EU level concerning a Council Framework Decision on Combating Racism and Xenophobia, which was first mooted in 2001 (COM (2001) 664 final). The Framework Decision is the first of its kind to tackle specific manifestations of hate crime at an EU level, as it sets out to approximate legislative and sentencing responses to racist and xenophobic crimes in EU Member States; including provision for consideration of racist or xenophobic motivation as aggravating factors in determining sentencing. However, as with all legislation, the Framework Decision's worth, beyond symbolic condemnation of certain

crimes, can only be measured over time by looking at its application in practice in each Member State.

Recognising a more diverse concept of 'hate'

A handful of Member States, such as Sweden and the UK, are engaging in data collection practices and policy initiatives that recognise crimes against vulnerable groups that have traditionally been neglected by all except a few dedicated NGOs. In Sweden, the Swedish National Council for Crime Prevention, Brå, has a progressive registration system in place for recording a range of hate crimes – with separate categories for Islamophobic and homophobic crimes. In the UK, the Crown Prosecution Service makes information available in the public domain on religiously aggravated crime according to the victims' religion, which distinguishes between offences against Muslims, Hindus, Sikhs, Christians, Jews and Jehovah's Witnesses (EUMC 2006)[2].

One notable shift towards a more diverse concept of 'hate' has occurred in the first decade of the twenty-first century, as attention has gradually turned to Muslims as potential targets of revenge crimes in the aftermath of Muslim-led attacks in EU Member States (EUMC 2005b[3], EUMC 2006). For example, after the London bombings in 2005, the London Metropolitan police's weekly monitoring of 'faith hate' crimes noted a marked increase in the number of crimes in the period immediately following the bombings when compared with the same period the previous year[4]. Although the monitoring of 'faith hate' incidents by the Metropolitan police does not distinguish between anti-Semitic, Islamophobic, or other faith-related incidents, supporting evidence from NGOs indicated that a greater proportion of incidents after the London bombings were targeted against Muslims[5].

As with recent recognition of crimes against Muslim targets, a more general shift can be noted in the EU among some academics, NGOs and policy makers towards a wider, and sometimes critical, concept of 'hate' crime recognition (Iganski 1999, Hall 2005). This shift is influenced by developments outside the EU; most notably in the United States. At the same time, work-related initiatives concerning 'diversity management'– again emanating from the US – are reflected in increasing references to grounds of multiple discrimination, rather than single-issue discrimination, as the lens through which intolerance should be examined and responded to (Wrench 2007). Yet, while the concept

---

2 http://fra.europa.eu/fra/material/pub/muslim/Manifestations_EN.pdf - pp.84-85.
3 http://fra.europa.eu/fra/material/pub/London/London-Bomb-attacks-EN.pdf
4 http://fra.europa.eu/fra/material/pub/muslim/Manifestations_EN.pdf - pp.86-87.
5 The French police collect data on crimes involving violence and threats against people with a 'Maghrebian origin' (namely, North Africans who are, typically, Muslim), but do not put this information in the public domain themselves. Instead, information on anti-Maghrebian crime is released through the Commission Nationale Consultative des Droits de l'Homme (CNCDH), while official French criminal justice publications focus on anti-Semitism and racism more generally.

of hate crime has emerged as a field ready for intervention, there is a real paucity in available data on the extent and nature of many of these crimes to which attention is now turning. In parallel, criminal justice authorities are only slowly engaging with new mediums in which hate crime is manifested; in particular, the internet. However, the potential for monitoring and recording hate crime on the web is under-developed.

This situation – lack of data – is not exceptional to 'newly' recognised forms of hate crime, such as Islamophobia and homophobia. As reported by the FRA and its predecessor (EUMC 2005a[6], FRA 2007a[7]) and other sources (OSCE 2005[8], Human Rights First 2007[9]), data collection on 'established' forms of hate crime – such as anti-Semitism and racist crime – is inadequate in much of Europe. In turn, inadequate documentation is not exceptional to hate crimes in the EU, as this problem is shared by other crime types. However, given the seriousness of hate crime, which serves to instil fear in vulnerable communities and sends out a message that 'outsiders' are unwelcome in EU countries, there is a pressing need for its documentation, which can serve to inform policy and practitioner responses. Importantly, effective State documentation of hate crime can demonstrate a State's solidarity with victims and its condemnation of perpetrators. With this in mind, the next section will explore what we do and what we don't know about the most widely documented hate crimes in Europe – racist violence and related intolerance.

What do we know about Racist Crime?

Criminal justice data collection practices

In each EU Member State data on racist crime, and crime in general, is collected differently (WODC 2006[10]). These differences reflect different legislation and, therefore, different ways of classifying crime under criminal codes. More tellingly, differences in recorded racist crime tell us a great deal about differences in public reporting and criminal justice recording practices, and the degree to which each Member State gives priority to racist crime and related offences as social problems in need of addressing.

Differences in how data is collected means that direct comparison of absolute criminal justice figures between Member States is not possible. Direct comparisons are also problematic as periods for data collection and publication differ between Member States. Consideration should also be given to the relative size of populations in a Member State who are potential victims. However, in the absence of directly comparable data between Member States, another way of looking at available data is to document trends in recorded

6 http://fra.europa.eu/fra/material/pub/comparativestudy/CS-RV-main.pdf
7 http://fra.europa.eu/fra/material/pub/racism/report_racism_0807_en.pdf
8 http://www.osce.org/publications/odihr/2005/09/16251_452_en.pdf
9 http://www.humanrightsfirst.info/pdf/07601-discrim-hate-crimes-web.pdf
10 http://www.europeansourcebook.org/esb3_Full.pdf

racist crime in a Member State over time; taking into account any notable changes in legislation and recording practices that can influence shifts in recorded crime.

In sum, figures on racist crime tell us more about the quality of data recording mechanisms in individual Member States than about the actual extent of racist crime. A general rule is that EU Member States with well-developed criminal justice mechanisms for recording racist crime will tend to show higher figures for racist crime. In contrast, Member States with under-developed recording mechanisms will tend to show lower figures for racist crime. In this regard, while Member States with high racist crime figures do undoubtedly have a problem in need of a response, Member States with non-existent or very limited data on racist crime also have a problem with respect to under-reporting and under-recording. With this in mind, the next paragraphs outline the status of criminal justice data collection mechanisms on racist crime in EU Member States.

The quality of criminal justice data collection

Drawing on information published by the European Union Agency for Fundamental Rights (FRA 2007a), the following striking generalisation can be noted with respect to the collection and availability of criminal justice data on racist crime; namely:

> *In any twelve month period, the criminal justice system in England and Wales collects and processes more reports of racist crime than the other twenty-six EU Member States combined.*

Looking at data for either 2005 or 2006, as published by the FRA (2007a) in its report on 'Racism and Xenophobia in the Member States of the EU' (pp.121-122), the following situation exists in the EU; namely:

- Five Member States – Cyprus, Greece, Italy, Portugal and Spain – have no publicly available official criminal justice data on racist violence and related crime.

- Ten Member States – Bulgaria, Estonia, Hungary, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Romania and Slovenia – have 'limited' data collection mechanisms in place to record racist and related crime; for example, reporting refers only to a handful of investigations and court cases. Or, as in the case of the Netherlands, there is a general focus on discriminatory acts that does not allow for the ready distinction of racist crimes.

- Ten Member States – Austria, Belgium, Czech Republic, Denmark, France, Germany, Ireland, Poland, Slovakia and Sweden – have 'good' systems in place for registering crimes, and/or the system focuses on right-wing extremist acts and/or antisemitic crimes.

- Two Member States – Finland and the UK – have 'comprehensive' systems in place for extensive data collection that is able to offer detail about factors such as the characteristics of the victim and where victimisation occurred.

The UK's system for data collection on racist crime and related offences is comprehensive for a number of reasons (including the political significance that is attached to racist crime, which is also highlighted as a priority area for policing (particularly in London)). Of particular note is the fact that data collection on racist incidents has developed from a police-centred to a victim-centred practice (Goodey 2005). Whereas the police traditionally determined whether an incident should be recorded as potentially 'racist'[11], policing in England and Wales underwent a major change in the aftermath of the Macpherson Inquiry into the police's handling of the racist murder of Stephen Lawrence, which resulted in the victim's perception of an incident as potentially racist being given priority (Macpherson 1999)[12]. Consequently, a much wider pool of potentially racist incidents is recorded in England and Wales than is the case in those Member States which remain with a police-centred categorisation of racist incidents. This means that the police have more incidents to follow-up as possible racist crimes.

For example, in the twelve month period April 2005-March 2006, the police in England and Wales recorded 60,407 racist incidents, and, in the same period, recorded 41,382 racially or religiously aggravated offences[13].

Finland experiences relatively few racist crimes – 748 incidents of racist crime reported to the police in 2006 – which largely reflects its low immigrant population that is available as targets for victimisation. However, Finnish data is provided in regular police reports, and other mechanisms such as victim surveys, and is rich in detail about the characteristics of victims, offenders and offences. For this reason, Finland, like the UK, finds itself in the 'top' category with respect to the quality of its data collection mechanisms for the period 2005-2006.

---

11 The common definition for collecting information on racist incidents was, between 1986 and 1998, 'Any incident in which it appears to the reporting or investigating officer that the complaint involves an element of racial motivation; or any incident which includes an allegation of racial motivation made by any person' (ACPO, 1985); see http://www.justice.gov.uk/docs/race-and-cjs-stats-2006.pdf (p.10).
12 In 1999 the Macpherson Report developed the following working definition of a racist incident: 'any incident which is perceived to be racist by the victim or any other person'.
13 Ministry of Justice, England and Wales, 2005/06 data; see: http://www. statewatch.org/news/2007/oct/uk-race-and-cjs-stats-2006.pdf

Trends in racist crime

As stated earlier, given that data on racist crime is collected, recorded and reported in very different ways across the EU, any analysis of patterns and changes in racist crime should focus on developments within individual Member States over time.

Within the EU only a few Member States collect and publish sufficiently robust criminal justice data to be able to do a trend analysis; these are: Austria, Czech Republic, Denmark, Finland, France, Germany, Ireland, Poland, Slovakia, Sweden and the UK. The FRA regularly publishes information outlining trends in recorded racist crime in these Member States (FRA 2007b)[14]. Herein, fluctuations within Member States can be explained by a range of factors besides actual increases or decreases in racist crime. For example, in the case of France, peaks in recorded crime can be noted in certain years, which coincide with uprisings in the Middle East between Israel and Palestine. Therefore, it can be suggested that conflicts on a world stage are transferred to conflicts at the local level on the streets of France.

However, any notable peaks and troughs in recorded crime should also pay close attention to changes in how the police record crime, which can give rise to reductions or increases in overall figures. At the same time, looking at trends in recorded crime for countries with low absolute figures – such as Denmark, Ireland and Slovakia – should be undertaken cautiously; for example, an increase from 50 to 100 reports of racist crime will be reported as a 100 per cent increase in a Member State with low absolute figures, whereas an increase in the hundreds, for a country such as Germany with much higher recorded figures, will only be reported as a slight percentage increase.

With these cautious points for interpretation of trend data taken into account, findings from the FRA's 2007 Report on Racism and Xenophobia can be noted with respect to those Member States that have collected sufficient criminal justice data in the period 2000-2005 or 2000-2006 to undertake a trend analysis. By calculating an average of the year-by-year percentage changes in recorded crime for each Member State, which serves to alleviate some of the starker peaks and troughs in recorded crime if differences are looked at for just two different years, a general trend analysis for the period can be noted. In sum, of eleven Member States, for which data exists, the following can be noted (FRA 2007a):

- Eight of the eleven experienced a general upward trend in racist crime during the period 2000-2005 or 2000-2006: Denmark, Finland, France, Germany, Ireland, Poland, Slovakia, UK (specifically England and Wales, and Scotland for which data is available separately for the years 2002-2006);[15]

---

14 see http://www.archive.official-documents.co.uk/document/cm42/4262/4262.htm
15 http://fra.europa.eu/fra/material/pub/racism/report_racism_0807_en.pdf - page 124.

- Three of the eleven experienced a general downward trend in racist crime during the period 2000-2005 or 2000-2006: Austria, Czech Republic and Sweden.[16]

Given Europe's legacy of focusing on specific types of hate crime, it is also possible to look at trends in anti-Semitism (FRA 2008)[17] and right-wing extremism in those Member States that annually record separate information on these offences. For example, France, Germany and Sweden collect official criminal justice data on anti-Semitic crime[18], and also collect data on recorded crime with an extremist right-wing motive. Austria also collects criminal justice data on crime on extremist crime. With this kind of detailed information, Member States can more accurately gauge what is happening in their country with respect to particular types of crime. The benefits of robust and detailed data collection are that resources can be more accurately placed to address specific manifestations of hate crime.

Data for Policy Development

Alternative data sources

Where criminal justice data on racist crime is absent or inadequate, then NGOs and research institutions play a vital role in a number of Member States in recording and bringing to public attention information about racist and religiously motivated crime. For example, in the Netherlands, the 'Monitor Racism and Extremism' initiative, which is run by Leiden University together with the NGO Anne Frank House, plays an important role in bringing together police and other data sources that would otherwise not be systematically analysed and reported. Likewise, in Spain, the NGO 'SOS Racismo' documents and publishes reports on racist crime and related intolerance in a country where there is no national reporting on racist incidents.

However, where official criminal justice data is unavailable or inadequate, the burden of filling the gap in data collection and publication should not fall to NGOs and research institutions. Given that many NGOs are typically under-funded and under-staffed, and their resources do not often stretch to national coverage, then what they are able to report will be necessarily limited. NGOs can highlight that a problem exists, and are able to provide rich data on the nature of incidents that is typically lacking in official criminal justice data, but they can only paint a partial picture of reality. In turn, official criminal justice data also paints a partial picture of reality, even in those countries where the

---

16 http://fra.europa.eu/fra/material/pub/racism/report_racism_0807_en.pdf - page 124.
17 http://fra.europa.eu/fra/material/pub/AS/Antisem_Overview_Janv2_2008_en.pdf
18 In the UK, the NGO 'The Community Security Trust' collects comprehensive data on anti-Semitic incidents, which is published in an annual report; Community Security Trust (2008) 'Antisemitic Incidents Report 2007', available at http://www. thecst.org.uk/docs/Incidents%5FReport%5F07.pdf (28.02.2008).

practice of reporting racist incidents to the police has been encouraged in recent years. As criminal victimisation surveys have made abundantly clear, official criminal justice data can only tell us so much about the actual volume and nature of crime – in this regard racist crime is no different.

> *For example: Home Office data for the period April 2004-March 2005 indicates that 57,902 racist incidents were reported by the public to the police. In comparison, the British Crime Survey (which only covers England and Wales) estimated that potentially 179,000 racially motivated incidents occurred in the twelve month period 2004-05 (based on responses to the survey that include both reported and unreported racist crime).[19]*

In other words, the dark figure of unreported crime, which victim surveys seek to shed light on, is as applicable to racist and other hate crimes as it is to crime in general. Hence, there is a need for dedicated victim surveys that can try and unearth information about vulnerable groups' experiences of racist crime that goes unreported and unrecorded in many EU Member States.

FRA victim survey initiative

In response to the absence or inadequacy of publicly available criminal justice data on racist crime in EU Member States, as reported by the FRA in a number of publications, the Agency has launched its own survey in 2008 specifically to explore selected immigrant and ethnic minorities' experiences of discrimination and criminal victimisation in the EU's twenty-seven Member States.

The background and details concerning the survey's development, including its piloting in six Member States during 2006-2007, is reported in depth in another HEUNI publication on victim surveys (which also emerged from a session held at the Stockholm Symposium in 2007). Suffice it to say that the survey will use a translated version of the same questionnaire in all 27 EU Member States, which will ask respondents about their experiences of discrimination in gaining access to and receiving services from both the public and private sector (with respect to employment, housing, education, social and health services, and shops and banks), as well as their experiences of criminal victimisation, including racist or religiously motivated crime and harassment, and their experiences of police contacts.

As a standardised instrument, the survey will be the first of its kind in the EU to produce data for comparison between and across Member States. Although the survey's sample size is small – ranging from 500 in countries such as Luxembourg and Malta – up to 1,500 in some Member States,

---

19 Home Office data; see http://www.justice.gov.uk/docs/race-and-cjs-stats-2006.pdf (p.11).

interview groups have been selected to facilitate result 'clusters'; for example, Turkish and Roma respondents are interviewed in a number of Member States, so their responses can be collectively examined as a 'cluster'.

What the survey sets out to do is to offer a first indication of what selected immigrant and ethnic minorities say they are experiencing with respect to discrimination, criminal victimisation and contact with the police. Whereas existing international surveys that touch on these themes – such as Eurobarometer surveys, the European Crime and Safety Survey, and the European Social Survey (to name just a few) – interview the majority population in Member States, and therefore only pick up a handful of minorities in any normal sampling frame, the FRA survey specifically targets minorities to gauge their experiences. To this end, the survey will provide policy makers and practitioners, in government and civil society, with information about what specific groups are experiencing. This kind of information is invaluable for raising awareness about the existence of specific problems, particularly in Member States where there is a real paucity of data, and can assist the targeting of resources where they are most needed.

The results of the full-scale FRA survey in the twenty-seven Member States will be launched in 2009.

The needs of policy development

Alongside victim surveys and valuable work undertaken by NGOs and research institutions, it remains the case that policy developments in the area of racist crime and related intolerance need to be better informed by comprehensive and good quality data collection that stems from official criminal justice sources. To facilitate this process, a combination of good legislation, legislative enforcement and monitoring, and detailed recording of incidents and crimes needs to be in place. As pointed out earlier, the most far-reaching legislation is, in itself, only symbolic if it is not enacted in practice. While all Member States have legislation in place that could, in theory, punish racist and xenophobic crime, this is not happening due to a combination of lack of political will, and lack of resources and training on the ground with which to drive improvements in recording practices; without which there will be few crimes to investigate and send to trial.

A number of EU Member States do not have a culture of data collection or legislative monitoring that encourages an assessment of whether legislation on racism and xenophobia is working in practice. As argued by the FRA and other organisations (OSCE 2005), these data collection cultures need to be promoted. However, this is not an easy task in countries where data collection and surveys on immigrants and ethnic minorities are not well-established, and are viewed with suspicion with respect to the ends to which sensitive personal data, such as one's ethnicity, will be put. Whereas the UK regularly collects census and other data that asks people to supply information about their ethnicity, which is seen as a means of monitoring discrimination, other Member States, most notably France, view such data collection as a discriminatory practice in itself

because it classifies people according to pre-existing categories that serve to highlight and reinforce differences and prejudice. Once again, these different approaches to data collection, which can be used either to encourage or discourage investigation of minorities' experiences of discrimination, are a reflection of diverse European histories and traditions in responding to immigration and recognition of 'difference'.

At the level of the EU, there are increasing calls for data collection that is able to inform policy development. To this end, the Community Action Programme that followed in the footsteps of the 2000 Racial Equality Directive (2000/43/EC) had, as one its principle objectives, the goal to promote data collection on, among other things, ethnic and racial discrimination. At the same time, moves are afoot to promote harmonised data collection in the EU in the area of crime and criminal justice[20]. Although concrete developments are still a long way off with respect to harmonised data collection, these recent initiatives are an encouraging sign that Member States will have to take the issue of crime statistics more seriously in future – with data collection in the area of racist crime, and hate crime more generally, one area that is in need of urgent attention.

Conclusion

Policy responses to racist crime, and hate crime in general, need to be informed by comprehensive and robust data on the situation in European Union Member States with respect to the extent and nature of offending and victimisation. Criminal justice data collection mechanisms should encourage the public to report crime, by building trust in the police, and need to be accompanied by recording practices that facilitate the categorisation of a wide range of crimes as racially and religiously motivated. Lessons can be learned from those Member States that have developed comprehensive systems for data collection that provide detailed information, on a regular basis, in the public domain; data that serves to inform policy makers and practitioners about the nature of crimes and how best to respond to them.

This brief paper has referred to the challenges for hate crime and, specifically, racist crime data collection in EU Member States, and has set out to contextualise these challenges with respect to the historical legacies and current place of hate crime and racist crime manifestations in Europe. While a number of Member States have under-developed and inadequate data collection mechanisms in place, there is encouraging evidence that some are turning their attention to the need to reform and improve criminal justice responses to racist crime – including data collection. In no small part, the political agreement reached in 2007 concerning the Framework Decision on

---

20 EU Action Plan 2006-2010 on developing a comprehensive and coherent EU strategy to measure crime and criminal justice (COM (2006) 437 final); see http://europa.eu/scadplus/leg/en/lvb/l33264.htm.

Combating Racism and Xenophobia has re-focused attention in the EU on racist crime and related intolerance as a continuing social problem that remains in need of a response. This legislative development – together with evidence of a real paucity of data from sources such as the FRA, ODIHR and the Council of Europe – can serve to highlight the pressing need for good quality criminal justice data on the extent and nature of racist crime in Europe on which informed policies can be built. Whether similar developments will be seen in the future with respect to other areas of hate crime – such as homophobia – has yet to be seen.

References

EUMC (2005a). *Racist Violence in 15 EU Member States*. EUMC: Vienna.

EUMC (2005b). *The Impact of 7 July 2005 London Bomb Attacks on Muslim Communities in the EU*. Vienna: EUMC.

EUMC (2006). *Muslims in the European Union: Discrimination and Islamophobia*. Vienna: EUMC.

FRA (2007a). R*eport on Racism and Xenophobia in the Member States of the EU*. Vienna: FRA, pp.114-133.

FRA (2007b). *Trends and Developments 1997-2005 – Combating Ethnic and Racial Discrimination and Promoting Equality in the European Union*. Vienna: FRA.

FRA (2008). *Anti-Semitism: Summary overview of the situation in the European Union 2001-2007*. Vienna: FRA.

Goodey, J. (2005). *Victims and Victimology*: *Research, Policy and Practice*. London: Longman.

Hall, N. (2005). *Hate Crime*. Cullompton: Willan.

Human Rights First (2007). *Hate Crime 2007* Survey, including companion reports on anti-Semitism, Homophobia and Islamophobia. New York: Human Rights First.

Iganski, P. (1999). '*Why make 'hate' a crime?*'. Critical Social Policy, Vol.19, No.3, pp.386-395.

Macpherson, W. (1999). *The Stephen Lawrence Inquiry, C*m4262. London: The Stationary Office.

Ministry of Justice, England and Wales (2007). *Statistics on Race and the Criminal Justice System*. London: Ministry of Justice.

Organisation for Security and Cooperation in Europe (OSCE/ODIHR) (2005). *Combating Hate Crimes in the OSCE Region: An overview of statistics, legislation and national initiatives*. Warsaw: OSCE.

WODC (2006). *European Sourcebook of Crime and Criminal Justice Statistics – 2006* (third edition). Den Haag: WODC.

Wrench, J. (2007). *Diversity Management and Discrimination: Immigrants and Ethnic Minorities in the EU*. Dartmouth: Ashgate.

Making Sense of Numbers: The Social Construction of Hate Crime in London and New York City

Nathan Hall
Institute of Criminal Justice Studies
University of Portsmouth, UK

Introduction

Despite similarities between London and New York across a wide range of demographic measures, the numbers of recorded hate crimes in New York City are significantly lower than in London. This situation has serious implications for the policing of hate crime and service provision to victims in both cities. This paper will draw upon the author's ongoing research, which began in 2001, into the policing of hate crime in London and New York and will offer some insights into the causes of these disparities in the recorded crime rates. Particular attention will be paid to the definitions of hate crime used, and the crime recording practices in each city. The underlying message from the paper is that hate crime in particular is a social construct over which the police have differing degrees of control, and that in turn this will inevitably impact upon both the size of the hate crime 'problem', the way the 'problem' is responded to, and the effectiveness of this response.

A tale of two cities (and two countries)

Whilst London and New York are comparable on a range of demographic criteria (including most notably population size and diversity, see Hall 2005), the extent of the hate crime 'problem' in the two cities is hugely different. Figure 1 illustrates the number of 'hate crimes' recorded by the police in London and New York between 1997 and 2004. Significantly, the statistics for London represent racist *incidents* only (only statistics on racist incidents are collected nationally in England and Wales). The statistics for New York on the other hand, include hate *crimes* based on race, colour, national origin, ancestry, gender, religion, religious practice, age, disability and sexual orientation.
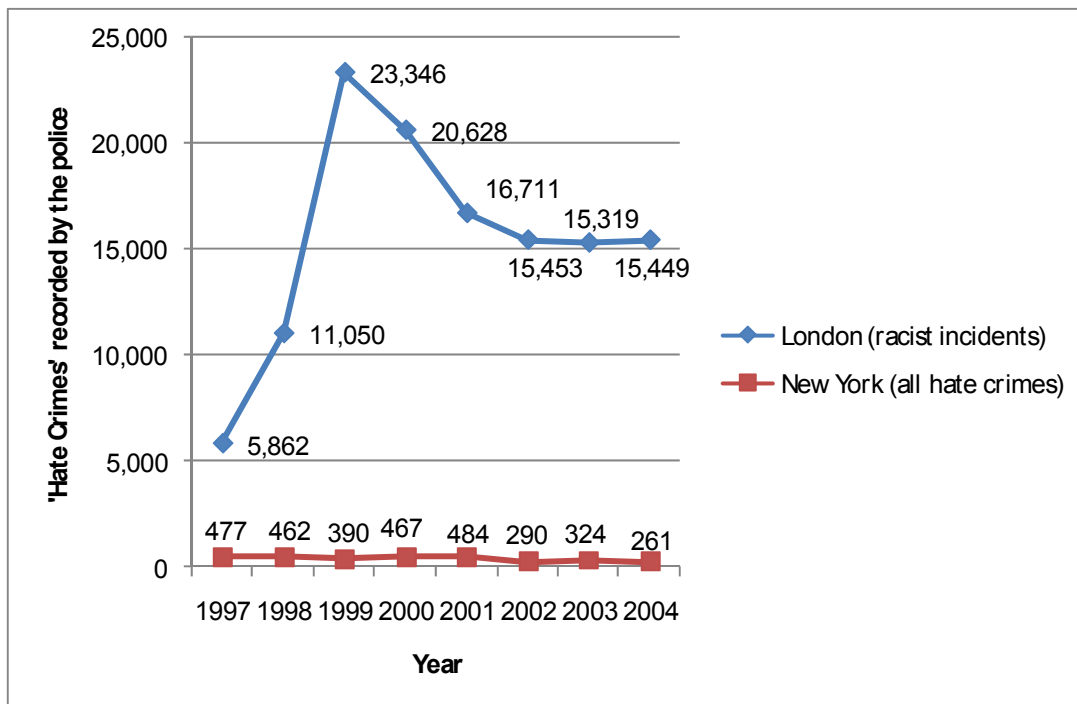
Figure 1. 'Hate Crimes' recorded by the police in London and New York 1997-2004.

This substantial numerical difference is also reflected nationally. In 2001, for example, the population of the United States officially stood at 284,796,887. In that year 11,987 law enforcement agencies recorded 9,726 hate crime incidents, of which 4,366 were racially motivated (FBI, 2002). In the same year the population of England and Wales stood at 52,041,915 and the 43 police forces of England and Wales recorded 54,351 racially motivated incidents alone (Home Office 2002). Statistically, then, in 2001/2 England and Wales recorded almost twelve and a half times as many racially motivated incidents as the US, despite the population of the US being almost five and a half times greater than England and Wales. Indeed, West Midlands police recorded similar figures for racially motivated incidents to the whole of the US (4058 incidents), and the Metropolitan Police recorded just under four times as many racially motivated incidents as the whole of the US (16,711 incidents). By contrast, the NYPD recorded 365 crimes that would likely be classified as racist using English criteria (approximately 46 times fewer than the police in London). The most probable explanation for this enormous disparity lies in the construction and application of the definition(s) of hate crime adopted on both sides of the Atlantic.

Operational definitions of hate crime

The New York City Police Department (2000, 1) recognise hate crime as;

> *"Any **offence or unlawful act** that is motivated in whole or in part by a person's, a group's, or a place's identification with a particular race, religion, ethnicity, sexual orientation or disability **as determined by the Commanding Officer, Bias Incident Investigation Unit**."*

The key statements here (emphasised) relate to the power of the police to determine what is and what is not a hate crime, and the predominant focus on *crimes* rather than just *incidents*. In reality, however, decisions are made by the police concerning the labelling of hate crimes at various stages of the investigative process even before the aforementioned Commanding Officer becomes involved.

In England and Wales, however, the situation is very different. Following the Stephen Lawrence Inquiry, the police service adopted the definition of a racist incident recommended by Sir William Macpherson and as such

> *"A racist incident is any incident which is perceived to be racist **by the victim or any other person**" (Macpherson 1999, Recommendation 12, emphasis added).*

This definition purposefully removes the discretionary element from the police in determining what is and what is not a racist incident. Historically, the discretionary role of the police has been problematic in relation to racist crime, and infamously contributed to the failure of the police investigation into the murder of Stephen Lawrence. On the evening of 22nd April 1993, 18 year-old Stephen Lawrence and his friend Duwayne Brooks were subjected to an unprovoked racist attack by five white youths in Well Hall Road, Eltham, South-east London. Stephen Lawrence was stabbed twice during the attack and died shortly afterwards. The Metropolitan Police investigation that followed failed to bring the killers to justice and has been the subject of fierce controversy. The subsequent public inquiry concluded that the police investigation was *"marred by a combination of professional incompetence, institutional racism and a failure of leadership by senior officers" (Macpherson 1999, 46.1).* The Inquiry also concluded that a lack of appreciation or willingness on the part of the police to accept that racism was a motivating factor in the murder had obscured and impeded the approach to the investigation.

However, since the publication of the Stephen Lawrence Inquiry the debate has widened beyond just issues of race to encompass the much broader concept of 'diversity' and 'hate'. As such, in England and Wales the Association of Chief Police Officers (2000, 13) defined hate crime as

> *"a crime where the perpetrator's prejudice against any identifiable group of people is a factor in determining who is victimised".*

This is further broken down by the category of prejudice to include the definition of a racist incident described above, and similarly a homophobic incident is defined as

> *"any incident that is perceived to be homophobic by the victim or any other person". (ACPO 2000, 13).*

The definition allows for anyone to be a victim of hate crime if they believe themselves to be so, and for any offence to be recorded and investigated by the police as a hate crime. In 2005, however, ACPO revised their definitions of a hate incident and a hate crime. A hate incident is now defined as

> *"Any incident, which may or may not constitute a criminal offence, which is perceived by the victim or any other person, as being motivated by prejudice or hate"* (ACPO 2005, 9).

A hate crime is now defined as;

> *"Any hate incident, which constitutes a criminal offence, perceived by the victim or any other person, as being motivated by prejudice or hate" (ACPO 2005, 9).*

This change is significant because it acknowledges that hate crimes are not always about hate, but about prejudice, which is of course a far more expansive concept that considerably increases the potential for labelling certain behaviours as hate crimes. Crucially however, London's Metropolitan Police Service state that the adopted definition;

> *"...means that if any person feels that an incident is racially/homophobically motivated, it should be recorded as such and...properly investigated"* (Met Police 2000, 10).

The social construction of hate crime

Crime is a social construct. As such, Jacobs and Potter (1998, 27) suggest that

> *"how much hate crime there is and what the appropriate response should be depends upon how hate crime is conceptualised and defined."*

Consider the following theoretical model proposed by Jacobs and Potter. They suggest that hate crime is a potentially expansive concept that covers a great many offenders and situations, and they illustrate this through the use of the following model:

		High prejudice/ **High causation** **I**	**Low prejudice/** **High causation** **III**
Strength of causal relationship	**High**	**High prejudice/** **High causation** **I**	**Low prejudice/** **High causation** **III**
	Low	**High prejudice/** **Low causation** **II**	**Low prejudice/** **Low causation** **IV**
		High	**Low**

Degree of offender's prejudice

Figure 2: Labelling hate crime; the prejudice and causal components (Jacobs and Potter 1998, 23)

Degree of offender's prejudice

The horizontal axis shows the degree of the offender's prejudice (high or low, or in other words, prejudiced or not very prejudiced), and the vertical axis shows the strength of the causal relationship between the criminal behaviour and the officially designated prejudice (high or low, or strongly related or not strongly related). Both of these factors, and combinations of them, have important implications for understanding the size of the hate crime 'problem' in any given country.

As far as defining hate crime is concerned, cell *one* (high prejudice/high causation) is relatively unproblematic. Here we have offenders who are highly prejudiced, and whose prejudice is a strong causal factor in their offending behaviour. These offenders are the ones that we probably associate most when we think of the word 'hate' in its most extreme form. As such this cell represents clear-cut hate crimes where there is little doubt that the offender

hates his or her victim in the truest sense of the word. Examples here might include David Copeland, the racist and homophobic neo-Nazi convicted of nail bomb attacks against London's ethnic minority and gay and lesbian communities in Brixton, Brick Lane and Soho in April 1999. Others might include Robert Stewart, a violent racist who murdered fellow inmate Zahid Mubarek at Feltham Young Offenders Institute in London in March 2000, and

the killers of black teenager Stephen Lawrence in south-east London in April 1993. Jacobs and Potter (1998) argue, therefore, that if hate crimes included only cases like these, the concept would not be ambiguous, difficult to understand, or controversial, and nor would there be many hate crimes occurring because cases like these, generally, are rare.

However, the other three cells somewhat complicate matters. Cell two (high prejudice/low causation) refers to highly prejudiced offenders, such as those included in cell one, but whose offending is not strongly or solely motivated by prejudice. The hypothetical example Jacobs and Potter use to illustrate this is that of a neo-Nazi who shoplifts from a shop owed by a Jew, where the primary motive is to acquire the stolen goods, and not to target Jews. Clearly the offender will be prejudiced against Jews, but it is wrong, Jacobs and Potter argue, to assume that all offences committed by prejudiced offenders against minority groups are primarily motivated by that prejudice. In the strictest sense such offences would not, and indeed should not, be hate crimes because they are not motivated by prejudice, but by some other motive, for example economics or hunger.

Cells three and four present particular challenges for defining and understanding hate crime. Cell three (low prejudice/high causation) contains offenders who are not particularly prejudiced, or whose prejudices may be largely subconscious, but which nevertheless have a strong causal link to the offence. Jacobs and Potter use the example of Dontay Carter, an African-American New Yorker who always targeted white men as his robbery victims. In this case, however, Carter targeted white men because he believed them to be rich and not because he had any other particular prejudice against their skin colour. Therefore, his prejudice was based upon his perception of white men's financial status, and not their ethnic group *per se*. Thus the causal link between his prejudice and his offending behaviour was strong, but his prejudice in terms of 'hating' his victims was not. For Jacobs and Potter it is this group of offenders and this type of offence that dominate the US hate crime statistics. In other words, the strength of the motivation is often overlooked at the expense of the perceived causal relationship; a crime is committed by a member of one group against a member of another group and a hate crime is assumed.

Cell four (low prejudice/low causation) represents many incidents or offences that are described by Jacobs and Potter as being 'situational' in that they arise from ad hoc disputes or short tempers, but are neither products of strong prejudicial attitudes nor are they strongly causally related to the incident in question. Under some definitions and interpretations these are hate crimes, and under others they are not.

34

When we consider Jacobs and Potter's model it becomes clear that hate crime, like any other crime, is ultimately a social construct. Hate crime, however, is more susceptible to this process than other forms of crime because of the additional elements that have to be considered. As Jacobs and Potter suggest, when constructing a definition of hate crime, choices have to be made about the meaning of prejudice, the nature and strength of the causal link between the prejudice and the offence, as well as the types of crimes to be included. The decisions made in these choices will ultimately determine what is and what is not 'hate crime', and will naturally affect the size of the hate crime problem in any given society, which will subsequently impact upon the criminal justice response to it.

The broad definitions adopted in London means that, superficially at least, any incident or crime could be a hate crime, and that anyone could be a victim of hate crime if they perceive themselves to be so. If we apply Jacobs and Potter's model to this then effectively the ACPO definitions cover all four cells. In other words any incident or crime can be a hate crime, any victim can be a hate crime victim, and any offender can be a hate offender. The distinction between crime and hate crime can therefore become very blurred.

In New York, in law enforcement terms more selective decisions are generally made regarding the strength of prejudice and causality before a crime is officially labelled as a hate crime, as reflected in the operational definition used. Where these links are weak, the hate label is generally withheld and the crime remains exactly that, just a crime. Moreover the focus is more concerned with crimes rather than with incidents (Hall 2005).

Some implications for policing and service provision

The number of hate crimes in society is largely determined by how hate crime is defined, conceptualised and interpreted. A central concern therefore relates to the volume of hate incidents and the subsequent impact this may have on the ability of the police to respond to them appropriately. The volume of hate crime is a critical issue where recorded incidents are high. In London there are approximately 300 officers working within Community Safety Units (dedicated hate crime investigation units established as part of the police response to the Stephen Lawrence Inquiry) across the 32 boroughs. If we take the 20,628 racist incidents recorded in 2001 and divide them between the CSU officers then each officer will be investigating 68.8 racist incidents per year. If we then add the other types of offences allocated to CSUs, such as homophobia, domestic violence, offences relating to faith, disability, age and so on, then the number of incidents to be investigated by each officer per year will be potentially very high.

Furthermore, each case has to be investigated to minimum standards and there is no latitude for prioritisation or discretion with regard to the individual merits of cases. In addition, all of this assumes even distribution of offences along geographical and temporal lines and the even distribution of officers

across CSUs which, of course, is not the case meaning that the problem will be more acute in some areas than others and at different times than others. My own research, for example, has revealed some CSU officers in London with a

caseload of up to forty live investigations at any one time (Hall 2005). Such a situation is clearly unsustainable in the long term and risks investigative errors and shortcomings in service provision to victims, and also the occupational health of the service's officers.

A further unintended consequence of the current definition relates to the type of incident that is being reported, recorded and investigated. In unquestioningly accepting the perception of victims (or any other person), there is evidence from my own research and the research of others that the situation is being abused in order to further personal or group interests, and to secure the services available to victims of hate crime. For example, Eugene McLaughlin states that

> *"There is evidence that police officers and white residents in certain neighbourhoods, as part of a backlash, are interpreting virtually any conflictual encounter with non-whites as a 'race-hate' act and reporting it as such. Hence, we are witnessing, through the mobilisation of white resentments, a determined effort to subvert the meaning and purpose of the new policy on racial incidents" (2002, 495).*

The danger is that 'genuine' and deserving victims of hate crime will be lost in the volume of incidents reported, or be potentially denied the services they need because finite police resources are being wasted by false reports over which the police have no discretionary control. In this sense, then, it is conceivable that the situation created to ensure that victims receive the service they need may in fact be contributing to them not receiving those services because, of course, police resources are finite.

There is also evidence (Hall 2002, 2004) that there is now a propensity for officers to err on the side of caution and report incidents as hate crimes, whereas previously they may not have done so. This can cause an entirely new set of problems in terms of the ability of the police, and in particular those dedicated to investigating hate crimes, to respond to the high volume of incidents now being recorded. Ironically this can inevitably lead to officers contravening policy by prioritising offences further down the investigative process out of necessity forced by finite resources, and re-introduces the element of police discretion concerning the merits of individual cases that Macpherson's definition was intended to eliminate. The new definition may therefore have the same, albeit unintended, consequences as the previous one. An effective police response may therefore be hindered by both the size of the problem and the amount of resources available to combat it.

The discretion afforded to the police in New York presents a different set of considerations. The volume of hate crime is clearly more manageable, and when the system works it is clear that 'genuine' victims receive a service

appropriate for them, and non-hate offences are 'weeded out' and appropriately assigned for investigation elsewhere. In this sense the NYPD's Hate Crimes Task Force investigate 'hate crimes' in the truest sense of the term, and their finite resources are not wasted on 'dubious' claims of victimisation. However, there is evidence (Hall 2005) that some victims 'slip through the net', either deliberately or accidentally, as a consequence of the police decision making process at various levels of the service prior to incidents reaching the Task Force. Although the penalties for the misclassification of hate crime are serious for police officers, there is evidence that this occurs, and thus an unknown number of hate crimes (and therefore victims) may never be officially recognised nor assisted by the police. For example, between 2001 and 2002 the New York City Gay and Lesbian Anti-Violence Project (2003) noted a 167% increase in the number of homophobic hate crime cases where a bias classification was refused by the police.

In relation to hate crimes, Cronin, McDevitt, Farrell and Nolan (2007) suggest that the decision-making of patrol officers, whose decisions concerning potential motivations for an offence to a large extent determine whether a hate crime is ever officially recognised as such, is affected by issues of *ambiguity* (where multiple motivations might be evident), *uncertainty* (where only limited information about an incident might be available), and *infrequency* (where hate crimes are so infrequent that officers may ever gain experience in responding to them). Any of these issues, they argue, can affect the accuracy of hate crime classifications made by the police, as of course can the attitudes, beliefs and practices of individual investigating officers (Franklin 2002).

In New York, further decisions concerning potential bias motivation are also made by police officers at higher levels of the organisation, notably by a Sergeant, and then a Captain, before being passed to the Hate Crimes Task Force for a final determination by the Commanding Officer, whose decision is guided by the strict requirements of criminal law and is reflected in the officially recorded statistics. In England and Wales, on the other hand, the need for similar decision-making by police officers for hate crime recording purposes is effectively now redundant under the 'new' definitions.

Of course the stricter definitions and the decision-making of police officers with regard to hate crimes in New York are not the only reasons for the low number of recorded offences (other reasons might include the dramatic drop in crime in general, improved police-community relations, and the greater sense of community post-9/11 – see Levin and Amster (2007) for a discussion of these issues), but they do illustrate the importance of viewing hate crime as, ultimately, a social construction over which the police do in fact have differing degrees of control.

Conclusion

Criminology is about seeking answers to seven basic questions; What is the problem? How much of it is there? Who is involved or affected? Where is the problem occurring? When is it occurring? Why is it occurring? And, crucially, what should we do to make the situation better? The answers to the last six questions are to a great extent determined by the answer to the first. Effectively, everything that we associate with hate crime depends upon how we define and conceptualise it. The significance of defining this phenomenon is therefore crucial. If in our definition we insist that hate crimes must be wholly motivated by prejudice to the exclusion of all other factors then society will not experience many such offences. Few offences can be said to be motivated exclusively and solely by hate. Conversely if we are happy for our definition to require just the slightest hint of prejudice for an offence to be classified as a hate crime then the number of crimes could become astronomical. Either way, the different recording practices in New York and London present an interesting paradox; namely that having a decision-making process may have the same unintended outcome as not having one, in that a victim's needs may not always be met by the organisations that exist to protect them.

References

Association of Chief Police Officers (2000). *ACPO Guide To Identifying And Combating Hate Crime*. London: ACPO.

Association of Chief Police Officers (2005). *Hate Crime: Delivering a Quality Service; Good Practice and Tactical Guidance*. London: ACPO.

Cronin, S. W., McDevitt, J., Farrell, A, and Nolan, J. J. (2007). Bias-Crime Reporting: Organizational Responses to Ambiguity, Uncertainty, and Infrequency in Eight Police Departments. *American Behavioral Scientist*. 51 (2) 213-231.

Federal Bureau of Investigation (2002). *Hate Crime Statistics 2001*. Washington DC: US Department of Justice.

Franklin, K. (2002). Good Intentions: the enforcement of hate crime penalty-enhancement statutes. *American Behavioral Scientist*. 46 (1) 154-172.

Hall, N. (2002). *Policing Racist Hate Crime in London: Policy, practice and experience after the Stephen Lawrence Inquiry*. Unpublished research report presented to the Metropolitan Police Service.

Hall, N. (2004). *A Tale of Two Cities: The social construction of hate crime in London and New York City*. Paper presented to the British Society of Criminology Conference, Summer 2004.

Hall, N. (2005). *Hate Crime*. Cullompton: Willan Publishing.

Home Office (2002). *Statistics on Race and the Criminal Justice System: A Home Office publication under Section 95 of the Criminal Justice Act 1991*. London: Home Office.

Jacobs, J.B. and Potter, K. (1998). *Hate Crimes: Criminal law and identity politics*. New York: Oxford University Press.

Levin, B. and Amster, S. (2007). Making Hate History: Hate Crime and Policing in America's Most Diverse City. *American Behavioral Scientist* 51 (2) 319-348.

Macpherson, W. (1999). *The Stephen Lawrence Inquiry*. Cm 4262. London: The Stationery Office.

McLaughlin, E. (2002). Rocks and Hard Places: The Politics of Hate Crimes. *Theoretical Criminology* 6, 4, 493-498.

Metropolitan Police Service (2000b). *The Investigation of Racist, Domestic Violence and Homophobic Incidents. A Guide to Minimum Standards*. London: MPS.

New York City Anti-Violence Project (2003). *Anti-Lesbian, Gay, Bisexual and Transgender Violence in 2002*. New York: NCAVP.

New York City Police Department (2000). *Patrol Guide: Bias motivated incidents, Procedure No. 207-10*. New York: NYPD.

The Challenges of Collecting Statistical Data in the Field of Hate Crime: The Case of Sweden

Klara Klingspor
The National Council for Crime Prevention (Brå), Sweden

The term hate crime in Sweden is often used to designate offences with a xenophobic, Islamophobic, anti-Semitic or homophobic motive. Even though there is no uniform definition of the concept, what characterizes a hate crime is that it constitutes a breach of human rights and conflicts with the fundamental social value of the equality of all people. Intolerance, prejudice, fear of and hatred towards minorities are a serious social problem. In recent years, many hate-motivated acts of a dramatic nature have caught the attention of the Swedish media – for example violent crimes towards LGBT[1] persons. Other types of offences – such as homophobically motivated graffiti painted on the doors of victims, threats and racist language in schools, and religious discrimination in the workplace, are less visible and have been largely forgotten in the debate. The following example is taken from the most recent report on hate crime published by the Swedish National Council for Crime Prevention, and is illustrative of Islamophobia in Sweden in 2006:[2]

> *"Maryam has been beaten and threatened by a couple of girls from her school. She is Muslim and wears a veil. The student said, "If you don't take off your veil we will kill you." Maryam has a swelling on her face after the incident."*

Hate crimes are unique in their aims and consequences because their intent is to send a message to entire groups that they are unwelcome and unsafe in particular communities. Maryam is not the only victim in the above example – the incident also targets the Muslim community at large. Knowledge about hate crimes, their nature and their prevalence, is central to our ability to combat this phenomenon. The hate crime statistics that are produced annually by the Swedish National Council for Crime Prevention (Brå), which are commissioned by the Swedish government, constitute an important source of information in this regard. This article will address what kind of information the Swedish statistics can provide us with, and point out some challenges associated with the collection of this particular type of data. What do the statistics on hate crime actually measure? What is the nature and character of hate crimes in Sweden?

---

1 The abbreviation LGBT refers collectively to Lesbian, Gay, Bisexual and Transgender people.
2 Names and places in authentic cases have been changed to ensure the anonymity of persons involved.

High prioritization of hate crimes by the Swedish government and within the justice system

The Swedish government emphasizes the importance of preventing hate crimes. Since the mid-1990s, the Swedish government has given an increasingly high priority to racist and xenophobic hate crimes. In 1994, a highly significant step was taken with the introduction of a clause into the penal code that opened the way for the stiffer sanctioning of acts involving motives associated with hate crime. Apart from judging hate crimes more seriously, the clause was intended to focus attention on the motives associated with hate crimes at an early stage in the criminal investigation process. Since the year 2000 homophobic hate crimes have also been prioritized.

The seriousness with which hate crimes are viewed by the state has also been emphasized in non-legislative ways. Since the mid 1990s, hate crimes have been ascribed a high priority by justice system agencies. During the course of 2000, the authorities working within the justice system produced a joint educational strategy to ensure that justice system employees commanded a certain level of knowledge about hate crimes. Other concrete measures that have been introduced in order to prioritize hate crimes include the Prosecutor General's appointment, in the year 2000, of a special prosecutor with responsibility for hate crimes at every prosecutor's office. The following year, the National Police Board appointed special officials for hate crimes at each one of the country's police authorities. According to a report from the National council for Crime Prevention (2002, 7) the results shows that among the police officers working with criminal investigations in the local police organization, one out of four has received special training relating to hate crimes. Furthermore, in 2001 the government of the time adopted a national action plan against racism, xenophobia, homophobia and discrimination. This action plan identified shortcomings in a number of key areas. One key area was the justice system, which was instructed by the government to take powerful action to prevent and deal with hate crimes with racist, xenophobic, anti-Semitic and homophobic motives. One step towards this goal was and remains the production of statistics on hate crime.

A more recent measure, introduced by the Stockholm County Police Authority (2007a), has involved the formulation of an educational strategy on attitude-related issues and hate crimes for all 6,500 employees working within the county police force. A web-based education programme on LGBT-issues and hate crime has been introduced for all police officers, regardless of their assignments. The education programme deals with the definition of a hate crime, provides basic knowledge of issues relating to sexual orientation, and explains the significance of the sentencing severity clause that applies in relation to hate crimes. The police authority in Stockholm County has also provided a one-day training programme for 700 employees who come into direct contact with victims of hate crime. In addition to this educational strategy, the county has established a hate crime group in the City Police District. This group has been assigned the task of preventing and investigating

hate crimes. Additional training is to be provided in the field of xenophobia and racism.[3]

The national Council is now the producer of hate crime statistics

Since 2006, the National Council for Crime Prevention has been under government instruction to produce Sweden's hate crime statistics. The instruction to the National Council differs somewhat from that previously issued to the Swedish Security Service, since it does not proceed from a 'white power' perspective, but rather employs a *direct focus* on hate crimes.[4] Historically, Sweden has collected statistical data on right-wing extremism or white power crimes. Originally the motive for collecting this data was to study increases over time in crimes committed against immigrants and to examine whether it was members of the white power movement who lay behind this specific type of criminality. Since the early 1990s, the Swedish Security Service (2001, 1) has conducted an annual study of reported offences related to the white power movement. More recently, the hate crime data collection focus has changed so that Sweden is now one of the few countries in Europe that has collected and published statistical data on hate crime with respect to xenophobic, anti-Semitic and homophobic hate crimes over a ten-year period.

Definition of hate crime

The Swedish statistics on hate crime comprise crimes that are motivated by the offender's negative attitude towards *foreign origins* – colour of skin, nationality or ethnic background, *religious beliefs* – Muslim[5] or Jewish faith, or *sexual orientation* – homosexuality. Consequently, it is the offender's *motive* for committing the crime that determines whether or not it is a hate crime, not the criminal offence itself. The definition of hate crime employed by the National Council for Crime Prevention (2007a, 22) is as follows:

> *"A crime committed against a person or group, against property, an institution or a representative thereof, that is motivated by fear of, or hostility or hatred towards, the victim due to the skin colour, nationality, ethnic background, religious beliefs or sexual orientation, that the perpetrator believes, knows or perceives the person or group to have".*

3 Information from a telephone call with the project manager at the police authority in Stockholm County on December 6th 2007.
4 Previously the Swedish Security Service would include crimes committed by right-wing extremists or the white power movement regardless of whether or not the crime had a hate crime motive. These so called right-wing crimes are not included by the Council unless there is a hate crime motive.
5 Since the year 2006.

The statistical unit for hate crime is the police report. A police report may contain more than one offence. Therefore a principal offence is selected on the basis of the offence's respective penal value. Consequently, the numbers of offences reported in the hate crime statistics are not comparable to ordinary criminal statistics, where all offences are included.[6]

Which groups can be subjected to hate crimes?

In the statistics, hate crimes are divided into four sub-categories: crimes with xenophobic, Islamophobic, anti-Semitic or homophobic motives. In practice, when encoding a hate crime the first thing that has to be established is that the victim has a *minority position* and that the offender has a *majority position* in society.[7] The main reason for this practice is that minorities are defined in the relevant parts of the Swedish penal code. In addition, this was the definition employed by the Swedish Security Service. Another important factor has been to maintain the time series so as to be able to compare the trend over time.

What constitutes a majority or a minority position differs depending on the motive. In order for a certain event to be encoded as a xenophobic hate crime it has to be established that the victim is, or is perceived by the offender to be of *foreign origin*. The offender has to be of *Swedish origin*. This is established primarily through the use of names, the description of the offender in the police report, statements made by the perpetrator and, finally, the victim's description of the event to the investigating officer. The use of names is of course problematic; a name is not an optimal indicator of origin. But since Sweden does not maintain records on ethnicity or foreign origin, other than the country of birth, it is one of few usable pieces of information that can be considered prior to arriving at a decision.

6 One of the statistical factors that influence hate crime statistics relates to the principles that determine when a crime is recorded in the statistics. In some countries an event is only recorded in the criminal statistics if, after investigation, it can legitimately be considered a crime or where there is sufficient evidence that a crime has been committed. By contrast, Swedish crime statistics include all reported events that are initially recorded as crimes, even if some of them are later found not to constitute criminal offences.

7 The Swedish system for counting hate crimes, primarily regarding the xenophobic motive, is limited by the exclusion of crimes against the majority population, (e.g. when a person of Swedish origin is called "bloody Swede" by a person of foreign origin) and crimes between the minority groups (e.g. when a person of foreign origin calls another person of foreign origin "negro"), which are not counted. This procedure results in fewer hate crimes being counted, compared to other countries internationally. To simplify it - if the offender and the victim are of the same ethnic origin (foreign origin/Swedish origin), religion or sexual orientation then a reported crime can't be identified as a hate crime.

A problem faced by many countries that wish to collect detailed hate crime data is the fact that, at least in the case of many European countries, including Sweden, the collection of data on ethnic origins remains controversial. The statistics on hate crime should therefore be viewed in light of the fact that it is prohibited in Sweden to register sensitive information such as ethnicity, religious affiliation and/or sexual orientation. This makes it difficult to gather official data of xenophobically, religiously or homophobically motivated hate crimes. One example of a quite typical xenophobic hate crime, which was identified during last year's data collection, is as follows:

> *"The injured party meets a neighbour in the apartment building were he lives. The neighbour immediately starts to shout: "Go to hell, you bloody Arab. What's in your bag, Christmas presents or bombs? Get the hell out of here. This is Sweden!"*

In the case of an Islamophobic hate crime it has to be established that the victim is, or is perceived by the offender to be *Muslim*. The offender has to be a *non-Muslim*. In order to separately identify Islamophobic motives a definition of the concept was developed in cooperation with researchers and government agencies during the course of 2006. The definition was formulated to be clearly delimited from that of xenophobic hate crimes – thus the definition of Islamophobic hate crimes has a concrete focus on religion rather than ethnicity. In the case of an anti-Semitic hate crime it has to be established that the victim is or is perceived to be *Jewish*. The offender must be *non-Jewish*. For a homophobic hate crime it has to be established that the victim is or is perceived to be *gay*. The offender has to be *heterosexual.*

The process of hate crime assessment

The collection of hate crime data in Sweden is quite different from the collection of data for the official criminal statistics; in that there has until recently not been any specific marking in the police's data system at each regional police authority for registering offences as hate crimes.[8]. The police authority in Stockholm County has evaluated the use of pop-up windows (2004, 10 and 2007b, 3) when registering crimes, as an attempt to capture hate crimes. The results showed that there were no uniform practices in how the police officers categorized crimes as hate crimes. The National Police Board and the Swedish Prosecution Authority has in 2008 commissioned each police authority in Sweden from January in 2008 to introduce a marking of each police report as a suspected hate crime or not. The quality of this marking has to be evaluated before it is inquired into if the marking can be a complement to the statistics on hate crime.

---

8 This can be explained by hate crimes being assessed and collected on the basis of the offender's motive for committing the crime, rather than on basis of a specific offence code, which is the case regarding the official criminal statistics. The quality of the statistics is greatly dependent on systematic and reliable encoding

Data are collected from local police districts, and are reported via a computerized reporting system (RAR). To search for and identify police reports that might contain a hate crime motive a list containing specific search-terms is employed. Examples of keywords related to different motives are racist, foreign, white, go home, immigrant, ethnic (xenophobia), Muslim, Islam, mosque, veil, Allah, religion (Islamophobia)[9], synagogue, Jew, zog (anti-Semitism), her wife[10], his husband, gay, homo, fags (homophobia). An automated search is conducted of the offence description contained in police offence reports and any of the search-terms that appear in this text are highlighted.

Approximately 27,000 police offence reports were selected by means of this process for the year 2006. These were then reviewed and assessed manually by two research analysts. The use of this double-encoding method produces a more reliable and valid outcome, with the aim being to reduce the risk of systematic encoding errors due to subjective assessments. It is important to be aware that the length and structure of the offence descriptions may vary from a single sentence to a much more detailed description of the incident. Information contained in the short offence description as to the scene of the crime, the date of the crime, the perpetrator and the victim is used to assess whether or not the crime is to be regarded as a hate crime. Statements made by the perpetrator are also important when determining motive.

The statistics have a clear victim perspective, since the information in the offence description on which the statistics are based primarily comes from the victim. Furthermore, it is the perception of and information from the police officers that is key in determining whether an incident is regarded as a hate crime or not.[11] When information is scarce, contact with the investigating officers usually provides more details.[12] In short, every piece of available information is used in the encoding process. Approximately twelve percent of the total number of police reports assessed; that is, 3,000 from the original 27,000 were identified as hate crimes.

---

9 New search-terms specific to Islamophobia have been developed to identify Islamophobic hate crimes.

10 The terms "her wife" or "her girlfriend" and "his husband" or "his boyfriend" are used for targeting police reports that might contain crimes that target LGBT-persons. The police officer may for example make a note of that the female victim and her wife were targeted, without mentioning explicitly that they are a homosexual couple.

11 Finally it is the assessment and the criteria used for identifying hate crimes at the Council, that determine whether the report will be included in or excluded from the statistics on hate crime.

12 The Council has established contact with 21 police officers in the country's 21 police authorities, which operate within the same jurisdictions as the 21 Swedish counties. In addition, contact with other investigating officers is established when required.

What kind of information is collected?

Besides categorizing offence reports by different motives, the information in the police report is then encoded with reference to the type of offence (e.g. violent crime, graffiti or insulting behaviour), the nature of the contact (e.g. physical contact or Internet), the scene of the crime (e.g. workplace or pub), the relationship between the offender and victim (e.g. family member, work colleague or stranger), regional distribution, and whether or not the crime is related to the white power movement. The reports also contain information about the age and sex of suspected perpetrators, where these have been identified.

Results: Reported hate crimes in Sweden in 2006

For the year 2006, a total of approximately 3,260 police reports were identified containing hate-motivated crimes.[13] In the majority of these cases, i.e. in 2,190 reports (67 per cent), the motive was xenophobia. Of the offence reports identified as hate crimes, approximately 250 (8 per cent) were determined to have an Islamophobic motive, 135 reports (4 per cent) to have an anti-Semitic motive, and 685 reports (21 per cent) related to offences with a homophobic motive. The number of xenophobic hate crimes remained relatively stable between 2004 and 2006, with only a slight decline being noted between 2005 and 2006. Anti-Semitic and homophobic hate crimes declined in numbers between 2004–2005 only to increase by approximately 20 per cent in 2006.[14] In the latest Swedish report on the hate crime statistics, a new motive has been added – Islamophobia. By increasing the number of hate crime motives, comparisons with previous years are made somewhat more difficult as regards both the total number of recorded hate crimes and also the xenophobically motivated hate crime category (in which some of the Islamophobic hate crimes were previously included). In short, the number of potential victims has increased and this needs to be considered when interpreting changes over time.

13 One challenging aspect of data collection in this field, which has been discussed in the research on hate crime, is the inherent ambiguity in determining motivation. The guiding principle, if one police report contains several hate crime motives, has been to choose the most prominent hate crime motive.

14 Caution should be exercised when looking at trends since the data collection system used in connection with the hate crime statistics changed slightly in 2004. It is also important to remember that the numbers of offences involved are small. As a result, the percentage change from one year to another may be large even with only a relatively small change in the numbers of offences recorded, particularly when comparisons are made on the basis of the individual offence categories.

Table 1
Number and percentage of police reports, with a hate crime motive, for the years 2004–2006

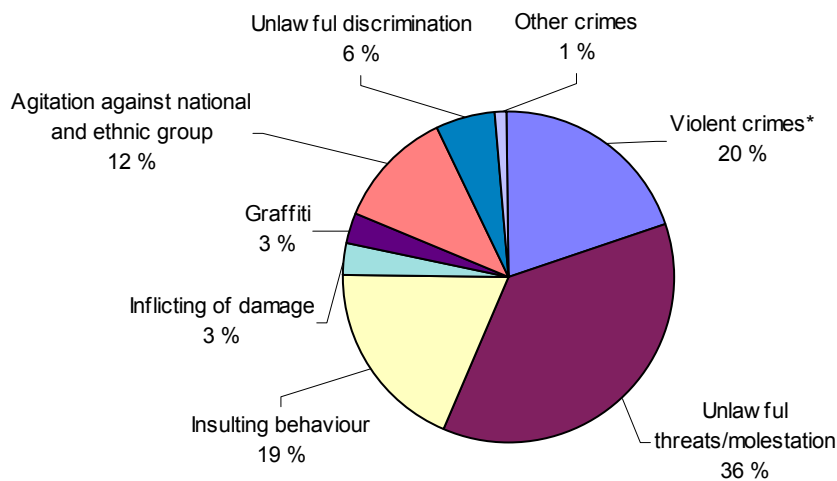| Motive	Year					
	2004		2005		2006	
	N	%	N	%	N	%
Xenophobia	2 263	75	2 272	77	2 189	67
Islamophobia	..	..	..	..	252	8
Anti-Semitism	151	5	111	4	134	4
Homophobia	614	20	563	19	684	21
Total number	3 028	100	2 946	100	3 259	100

.. The information is not available.

What type of offences are most common?

The Swedish media often portray violent crime as constituting the stereotypical hate crime, whereas the justice system mainly refers to agitation against a national or ethnic group and unlawful discrimination. The largest offence category in the statistics comprises unlawful threats/molestation (approximately 1,180 offence reports). This is close to double the size of the second largest category, violent crime (at just over 660 offence reports). The majority – 62 per cent – of the hate crimes for 2006 are thus comprised of non-stereotypical offence categories.[15] The three next most commonly occurring offence categories for hate crime in 2006 were insulting behaviour (almost 620 police reports), agitation against a national or ethnic group (slightly less than 400 police reports) and unlawful discrimination (approximately 200 police reports).

---

15 The non-stereotypical offence categories are unlawful threats/molestation (36%), insulting behaviour (19 %), graffiti (3%), inflicting of damage (3%) and other crimes (1%).

Figure 1. Distribution of principal offences with a hate crime motive among identified police offence reports, for the year 2006 (%).

*Violent crimes can include the following offence categories: murder, assault and violence against a public servant.

Exposure to hate crime is most common in the course of routine daily life

Generally speaking there is no particular place that can be categorized as constituting the typical location for hate crimes in Sweden, since they tend to occur in many different locations. It is equally common for a hate crime to take place in the victim's own home[16] as in town. It is much more common for a hate crime to take place in the workplace or in school, than in a pub or a nightclub.[17]

---

16 Hate crimes that take place at the victims home or its near proximity. For residents in apartment blocks, this means inside the victim's home, in the hallway, on the balcony or terrace. Incidents that take place in the basement, attic or laundry room are categorised as "other places". In residential areas this means inside the victim's house or in the garden.

17 Information is missing in seven per cent of the identified hate crimes.
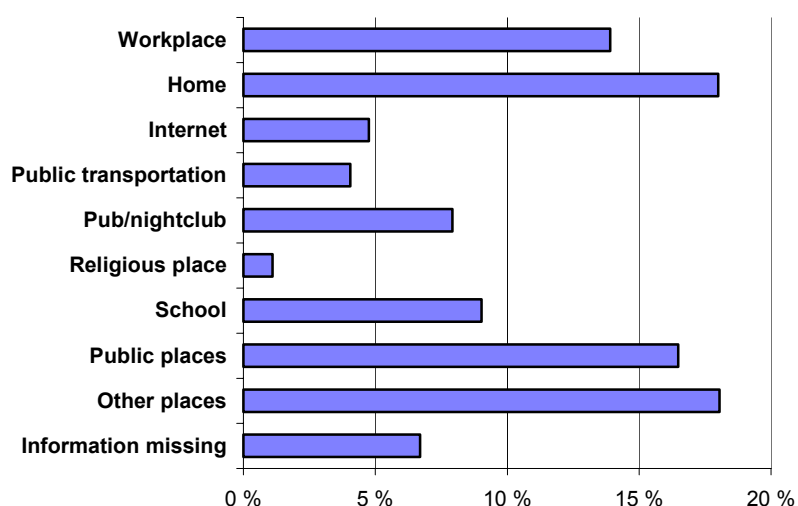
Figure 2. Percentage of police reports with a hate crime motive, by crime location, for the year 2006.

Incidents most commonly involve no physical assault

The nature of the contact associated with a hate crime differs depending on the type of offence involved. Broadly speaking, the nature of the contact can be broken down into three categories – physical contact, close proximity and offences that take place at a distance. For hate crimes as a whole, the most common scenario involves the offender being in close proximity to the victim, but without physical contact taking place (50 per cent). In practice this means that in every second case the offender threatens, harasses or insults the victim at close quarters. One in five hate crimes (20 per cent) involve the offender physically assaulting the victim – i.e. a violent crime somewhere along a scale ranging from violence against a civil servant to murder. Less than one-third (30 per cent) of the hate crimes are committed at a distance. In just under ten percent of the offence reports, the victim is threatened or insulted by telephone, while one percent involve reports of insults perpetrated in the media.[18]

The offender is generally not known to the victim

Most commonly the victims of the hate crimes identified have *no prior acquaintance* with the perpetrator.[19] In one in three cases the perpetrator is a neighbour, a friend from school, a work colleague or is otherwise *known to the*

18 Hate crime located in media reporting is mostly related to the offences "insulting behaviour" or "agitation against national and ethnic group".
19 In one quarter of the reports containing a hate crime motive, the information about the relationship between the offender and victim is missing.

victim by name or appearance. It is quite uncommon for the perpetrator to have been involved in a *close relationship* with the victim; only five percent of the cases involve a spouse, an ex-spouse, a family member or a friend having committed the crime.

In 2006, just under 1,050 people were suspected of committing hate crimes. The majority, 78 percent, of the perpetrators were men. When studying the hate crime motives for men and women suspected of committing hate crime respectively, the results show that xenophobia is the most common category for both sexes but slightly more common among women (75 per cent) than men (67 per cent). Regarding hate crimes with other motives, the majority (both in numbers and shares) of the suspects are men. The average age was relatively high among those suspected of crimes with an Islamophobic motive (33 years) or a xenophobic motive (31 years), and was low among those suspected of crimes with an anti-Semitic motive (22 years). Just over 50 per cent of all people suspected of crimes with a homophobic motive were under 20 years of age, while the average age for those suspected of homophobic hate crimes was 25 years.

Regional distribution

In order to explore whether there are regional differences among reported hate crimes in Sweden, six groups of municipalities, defined on the basis of population density, have been studied (Statistics Sweden 2007). The classification may be employed to describe factors that appear typical; for example, municipalities that are similar with regard to population density. When differences in population size in the different groups of municipalities are taken into consideration, reported hate crimes for 2006 were most common in the *Stockholm* region, with 48 reported hate crimes per capita of population. Reported hate crimes per capita were lowest in *sparsely populated areas* (municipalities with fewer than 27,000 inhabitants), with nineteen hate crimes per capita. When population size is taken into consideration, reported hate crimes with a xenophobic and homophobic motive are most common in the region of *Stockholm*. By contrast, Islamophobic hate crimes are most common in the region *Göteborg/Malmö*. Anti-*Semitic hate crimes are equally common in Stockholm and Göteborg/Malmö.*
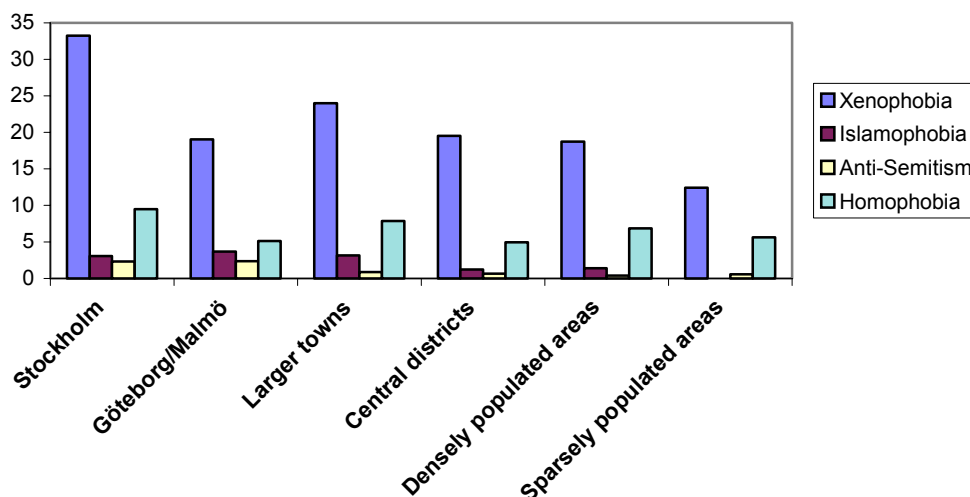
Figure 4. Number of police reports with a hate crime motive, by H-regions, per capita of population, for the year 2006

Anti-semitic hate crimes more often ideologically motivated

When analyzing the data one can see that in the course of 2006 just over nine per cent of the total number of reported hate crimes (about 300 reports) were identified as constituting ideologically motivated hate crimes. By comparison with other hate crime motives, anti-Semitic hate crimes are ideologically motivated to a much greater extent, involving, in other words, reports where the offender has expressed sympathy for right wing extremism or white power movements, e.g. by daubing swastikas. Unlike xenophobic hate crimes (where ten percent are ideologically motivated) and Islamophobic and homophobic hate crimes (five percent of each), anti-Semitic hate crimes are ideologically motivated in 35 percent of cases.

Important to identify hate crime motives in reported offences

The hate crime statistics, in Sweden as in other countries, are an important source of information and provide us with a good deal of knowledge about the prevalence and nature of hate crimes. One challenge is that the statistics are closely tied to the police's work on hate crime issues. Increasing or redistributing resources and further educating personnel may lead to more hate crimes being detected. In order for this to be achieved hate crime motives must be acknowledged at every stage of the investigation process. Focusing special attention on the question of motive at the earliest stage of the investigation – i.e. when the crime is first reported to the police – would greatly assist both the police and the victim in swiftly identifying presumptive hate crimes. Another relevant problem is that of determining the extent to which incidents that have

been *reported to the police* are detected and identified as hate crimes.[20] For example, consideration must be given to the following: Was it the victim's impression that the incident had been motivated by xenophobia, Islamophobia, anti-Semitism or homophobia, and if so was this mentioned in the police report? Did the recording police officer recognize and document correctly the story of the victim or a witness's story correctly?

Another challenge is that the statistics are also affected by the propensity of different groups to report exposure to hate crime to the police. First, victims must recognize that they are the victims of potential hate crimes and must decide to report the crime to a police authority. This is in turn affected above all by circumstances such as the relationship between the victim and the perpetrator, the seriousness of the offence, whether the victim has some previous negative experience of contact with the police, and whether she or he speaks or fully understand the language. Looking at the problems surrounding the hate crime statistics described above, it is clear that drawing conclusions about the crime rate on the basis of the data at hand is associated with difficulties. This however also constitutes a challenge for crime statistics in general. It is important to bear in mind that the level of hate crime that is identified probably constitutes the tip of an iceberg. It is well known that crime statistics substantially underestimate the true extent of crime because many victims do not report their experiences to the police for a variety of reasons. For this reason, the data only lend themselves to *cautious* conclusions on changes and trends over time.

Important to maintain statistics on hate crimes

Hate crime statistics, as they are produced in Sweden, are important in the sense that they illustrate one aspect of the character and extent of hate crimes, namely the hate crimes reported to the police. Understanding the scope of and trends in hate crime is critical for the work of the local police authorities in preventing and responding to hate crimes. Other sources and research methods can and should be used to supplement this picture. In 2005, for example, the Council, in collaboration with the Living History Forum, examined anti-Semitism, Islamophobia, homophobia and general intolerance among school students in terms of their attitudes, victimisation, self-reported criminality, and dissemination of extremist propaganda. Further, in 2005 the Swedish Government instructed the Council to plan and implement an annual survey of exposure to crime. The survey (2007b) covers a very broad range of issues, including some questions about exposure to hate crime, which in the future may be used to further describe the extent of hate crime victimization.

---

20 The reported crimes have to be classified correctly in order to be identified as hate crimes. The police officers have to register relevant information in the offence description, and the text has to contain one of the specific search terms. The identification and construction of hate crimes is a process involving several actors: victims, police officers and research analysts at the Council.

As has been mentioned above, the collection of data on hate crimes is strongly influenced by the work of the police and by their investigatory process. There are few sources of information regarding what happens to cases that have been identified as hate crimes in the statistics as they move further through the justice system. A study was conducted by the Council in 2002 however – with the results showing that eight per cent of reported hate crimes led to an indictment, which is one percentage point more than for the total number of reported offences against the penal code that do so. Of the 360 offences that led to an indictment, the prosecutor invoked the sentencing severity clause in 42 cases. In total, the courts increased the sentence severity in connection with 46 hate crimes. There is no uniform praxis, however, for how a court increases the severity of a sentence when a crime has been committed as a result of racist, xenophobic or homophobic motives.[21] Research by The Living History Forum, in the year 2004, showed that approximately ten per cent of reported homophobic hate crimes led to an indictment.

Other urgent issues relate to the practical response to hate crimes and the challenges involved in the work of preventing such crimes. One possible local community response to the hate crime problem is to work to change attitudes and to disseminate knowledge about hate crime motives. The Council has in 2006 put together an instruction manual for teachers that provides advice on how to work towards changing and rebutting, for example, xenophobic attitudes in schools. The instruction manual aims to involve the pupils and to create an understanding for what the consequences of actions motivated by xenophobic ideas and opinions might be. Educational strategies are of course necessary not only throughout the justice system, but also in the society as a whole, in order to emphasize human rights and the equality of all people.

Future developments necessary in the field of hate crime

The further development of the statistics on hate crime is important in order to gain more information about hate crime and how to combat this type of crime. This constitutes an important future task for the Council and has also been specially emphasised by the Swedish government. Proposals and demands are continually being made with regard to how the hate crime statistics might be improved. On the other hand, every change made may hamper the ability to compare data over time. The challenge is therefore to develop the statistics on hate crime in Sweden in a way that will maintain the comparability of the time series. One proposal that has been made for the development of the statistics concerns what should be taken up in future reports and suggests the inclusion in the analysis of more extensive background information on the victims and perpetrators. Furthermore, new subcategories of motives, may be added in the future. In order to further explore what happens to the hate crimes over the

---

21 The courts are not required to make explicit the legal grounds for increasing the severity of a sentence in their ruling. Of the 46 cases where the court invoked the sentencing severity clause, the use of this clause was only referred to in the court ruling in seven instances.

course of the judicial process a specific type of follow up study is often required where the path of a given year's hate crimes through the justice system is traced from police report to court adjudication. And being able to evaluate the number of hate crimes that result in convictions would produce a much sought-after piece of statistical information.[22]

Another area of development is that of international comparisons of the hate crime statistics. Direct comparisons of hate crime data between member states within the EU are currently impossible since there are significant differences as regards what is counted, how it is counted and how it is reported. Each EU member state collects and produces data on hate crime in its own way. An additional challenge faced by international comparisons is that the countries involved often have very different population sizes and minority groups. As several studies have shown (EUMC 2005a, 2005b, 2006 and FRA 2007, 114–134) it will be extremely difficult to achieve comparability in the statistics in this area. However it is important at the international level to share practical experiences and examples of good practice with one another. Some countries have collected data about this specific type of crime for a long period of time, while some countries have not yet started.

As has been noted throughout the article there are a number of challenges associated with the collection of statistical data in the field of hate crimes. The Council has been working to improve and develop the quality of the data that are collected e.g. by increasing contact with investigating police officers. Some factors lie outside the scope of the Council's work (e.g. the propensity of different groups to report exposure to hate crime), whereas others are more closely connected to the qualitative aspects of the statistical data collection (e.g. how police officers write reports and work towards the prevention of hate crimes). Despite these difficulties, knowledge about hate crimes, their nature and their extent is central to our ability to combat this phenomenon. The information identified with this method makes a useful contribution in the attempt to answer certain questions. The statistics on hate crime, together with other pieces of research and the type of in-depth study mentioned above, may serve as a basis for policy decisions on crime prevention – both in the form of legislation and the introduction of more practical measures.

---

22 The Council conducted one study of this kind in 2002, but at that time there was no simple way of completing the task of tracing reports through the justice system, since all work had to be done manually. At the present time, there is an ongoing feasibility study, "RUS" (Results and follow-up statistics for crimes and suspicions of crimes) at the statistical unit, where a selection of reported crimes are followed in a new database through to the court adjudication. One possible future development would be to follow hate crimes through the justice system using this method.

References

EUMC (The European Monitoring Centre on Racism and Xenophobia) (2006). *Annual report 2006: Situation regarding Racism and Xenophobia in the Member States of the EU*. Vienna: EUMC.

EUMC (The European Monitoring Centre on Racism and Xenophobia) (2005a). *Comparative Report: Policing Racist Crime and Violence*. Vienna: EUMC.

EUMC (The European Monitoring Centre on Racism and Xenophobia) (2005b). *Comparative Report: Racist Violence in 15 Member States*. Vienna: EUMC.

FRA (European Union Agency for fundamental Rights) (2007). *Report on Racism and Xenophobia in the Member States of the EU*. Vienna: FRA.

National council for Crime Prevention (Brå) (2002). *Hatbrott. En uppföljning av rättsväsendets insatser* (Hate crimes. A follow-up of justice system measures). Stockholm: Fritzes.

National Council for Crime Prevention (Brå) (2006). *Du & Jag – Rätt och Fel. Handledning för temaarbete om brott. Åk 6-9* (You & Me – Right and Wrong. Tutorial for thematic work on crime. Grade 6-9). Stockholm: Fritzes.

National council for Crime Prevention (Brå) (2007a). *Hatbrott 2006. En sammanställning av polisanmälningar med främlingsfientliga, islamofobiska, antisemitiska och homofobiska motiv* (Hate crimes 2006. A compilation of police reports with xenophobic, Islamophobic, Anti-Semitic and homophobic motive). Stockholm: Fritzes.

National Council for Crime Prevention (Brå) (2007b). *The Swedish Crime Survey 2006. Victimization, fear of crime and public confidence in the criminal justice system*. Stockholm: Fritzes.

National Council for Crime Prevention (Brå) & the Living History Forum (2005). *Intolerance*. Stockholm: Brå.

Statistics Sweden (Statistiska centralbyrån) (2007). Karta över H-regionernas omfattning (Area range of H regions), viewed 18 December 2007, http://www.scb.se/Grupp/regionalt/rg0104/H_regioner_farg.pdf.

Stockholm County Police Authority (2004). *Kartläggning av hatbrott. Rädsla för det främmande* (Mapping of hate crimes. Fear of the alien).

Stockholm County Police Authority (2007a). Polisarbete med HBT och hatbrott (Policework with LGBT and hate crime), viewed 17 December 2007, http://www.police.se/inter/nodeid=9633971&pageversion=1.jsp.

Stockholm County Police Authority (2007b). Hatbrott i City polismästardistrikt 13 februari till 9 maj 2007 (Hate crimes in City Police District between February 13th and 9th May 2007). LKP-KUT no. 66/07.

Swedish Security Service (Säkerhetspolisen) (2001). *Offences related to national internal security 2000. Report from the Swedish Security Service*. Stockholm: Säkerhetspolisen.

The Living History Forum (Forum för levande historia) (2004). En studie av homofoba hatbrott i Sverige (A study of homophobic hate crimes in Sweden). Stockholm: Forum för levande historia.

The National Police Board (Rikspolisstyrelsen) and The Swedish Prosecution Authority (Åklagarmyndigheten) (2008). Redovisning av uppdrag angående hatbrott (An account of a commission concerning hate crime). Dnr: POA-426-547/07.

The Finnish Racist Crime Monitoring System

Juha Kääriäinen and Noora Ellonen
Police College of Finland

Introduction

The level and characteristics of crime are evaluated in Finland using two principal methods. First, use is made of the records created by the law enforcement system to prepare statistical reviews of crimes reported to the authorities. Usually, such statistics are based either on crimes reported to the police or judgments handed down by courts of law. Second, information about victims of crime is gathered by means of interviews or questionnaires address the public at large in order to explore the experiences of crime victimization in the population or within certain special groups.[1] In 2000 an interview survey targeting the immigrant population was carried out to determine to what extent they were victimised by racially motivated crime (Jasinskaja-Lahti et al. 2002).

The level of racist crime is monitored in Finland mainly through police records. Trends in this type of crime have been monitored in Finland on an annual basis since 1997 by making use of the police reports contained in the Police Information System (Patja). Since 1997, the police have been required to make a special entry to identify any "racist cases", if the incident shows such characteristics. Unfortunately, the Finnish police use this code in their reports only in a little over half of the cases where the motive of the crime is, either completely or partially, racist in nature (Noponen 2007; Ellonen 2006; Keränen 2005). For this reason, efforts have been made to develop the crime monitoring system so as to ensure that as many of the (suspected) offences, recorded by the police that satisfy the criteria for a racist crime are included in the statistics. The purpose of the present paper is to provide a description of the Finnish monitoring system as it has existed in its present form, serving as a basis for the 2003-2005 reviews of racist crime. However, apart from a mere description of the monitoring system, we also make an attempt to assess its shortcomings critically and identify areas where improvements are called for (Noponen 2007; Ellonen 2006; Keränen 2005). Additionally, we discuss a number of empirical observations concerning the characteristics of racist crimes in Finland over the past few years.

---

1 Additionally, surveys based on a self-reporting procedure are used in Finland, particularly when the criminal behaviour of young people is assessed.

Data-mining of racist crimes using the crime-reporting system: the case of Finland

What are racist crimes?

Hate crimes can be defined as crimes motivated by prejudice against an individual because of the ethnic, religious, racial, sexual or disability-based characteristics associated with the reference group that the victim belongs to (Perry 2001, 7-11). However, it is difficult to give an exact and universally applicable definition of hate crime because the identification of such crimes is extremely closely related to the political, cultural and social environment. It is hard to say what constitutes non-acceptable hatred or non-acceptable prejudice. What is acceptable behaviour in one society may be discriminatory to minorities in another. However, what is common to hate crimes is that they, through an individual member, have an impact on an entire group and their implications reach beyond the consequences affecting the individual victim. Hate crimes reinforce prejudice, fear and hatred between groups of people (Perry 2001, 7-10; Hall 2005, 1-21).

The concept of racist crime is narrower than that of hate crime. As a rule, racist crimes are crimes in which the victims are selected according to their ethnic, religious or racial background. More often than not, the targets of racism are people belonging to "visible minorities", meaning individuals who are the most easily distinguishable from the mainstream population, for instance, because of the colour of their skin or the language they speak. In Finland, such minorities include traditionally the Roma and Sámi as well as many of the new immigrant groups. However, even a member of the mainstream population may be a victim of racism; typical examples being people married to a member of a minority or those who speak out against racism. (Makkonen 2000.)

Racist crimes and use of the racism code in police reports

The data used in the Finnish racist crime monitoring system consists of police reports retrieved from the police crime-reporting system using a specific set of search criteria.[2] A police report may be filed by any party to the incident or an eye-witness, and naturally by the police themselves. All police reports are recorded in an electronic nationwide information system. If there is reason to suspect, based on the report or on other grounds, that a crime has been committed, the case will go to a pre-trial investigation. In case of an offence where prosecution rests with the injured party, such as breach of domestic peace or breach of honour (verbal abuse/ racial harassment), a pre-trial investigation is normally initiated if the complainant demands that punishment

---

2 Aside from actual police reports, data was gathered from "S" and "P" reports that include reports of incidents or tasks that may not be actual crimes or require criminal investigation. "S" reports are used to inform other tasks of police than criminal investigations. These could be for example executive assistance of social workers. A "P" report is filed when an intoxicated person is taken into custody.

be meted out. However, most crimes are subject to public prosecution, meaning that the police may investigate them even if the complainant does not demand punishment. As the findings presented in this paper are based on police reports, a crime may not have necessarily been committed in all of the cases. In fact, whether a crime has been committed or not will be determined by a court of law, and the progression of an individual case from a police report to a court may be halted at several points during the process either by the police or the prosecutor. We will return to this question at the end of the paper.

In Finland, a police officer receiving a report of a crime is obliged to make an appropriate entry in the police report form if the report concerns a racist crime. Since 1997 when the code was introduced, the following standard operating procedure has been applied:

> *"The police officer is obliged to make the entry in the RIKI System indicating a racist case when a crime is committed against a member of a minority, either completely or at least partially because he or she differs from the perpetrator with regard to race, colour of the skin, nationality, or ethnic background. Any racist characteristics or motives related to the alleged crime may be disclosed by the victim or some other party, or the police officer may independently arrive at such a conclusion. In case of doubt, the case must be recorded as a racist case."*

One of the problems associated with the foregoing instruction is that it assumes that only a member of a minority group may become a victim of a racist crime. In the present study, we have applied a broader definition of a racist crime in order to ensure that cases in which a racist crime is committed against a member of the majority population are also included in the analysis. Towards the end of 2005, the instructions were revised to the effect that the victim no longer needs to be to a member of an ethnic minority; now it suffices that the perpetrator differs from the victim in terms of race, colour of the skin, ethnic background, or nationality.

Indeed, the determination of the number of police reports involving racist acts would be easy if the police actually entered the appropriate code in all the reports involving an (alleged) racist crime. Unfortunately, this is not the case: only a little over half of suspected crimes that, according to our analysis, could be considered racist, are identified by this code (Noponen 2007; Ellonen 2006; Keränen 2005). Therefore, the annual volume of police reports must be analyzed by other means in order to identify as many as possible of the reports that were not duly coded. The reasons why police officers receiving the reports fail to enter the appropriate code in such a large number of documents can only be speculated on in the absence of any scientific data on the subject. No doubt one of the reasons is simply carelessness because the system allows the user to skip the code. At the same time, it is conceivable that a police officer receiving a report does not necessarily think about whether the act is racially motivated or not because he or she focuses on recording other facts that are important to the pre-trial investigation and related to the obtaining of criminal evidence. There could also be lack of knowledge about using the coding properly. A third

reason may be that the issue of a potential racist motive does not even come up at the time when the report is recorded but later in the course of criminal investigations. While it is true that the code can be added later at various points during the investigative process, people may fail to do for one reason or another.

Description of data gathering techniques

A description of the process we used to collect the data for the review on racist crimes in 2005 is provided below. The data was gathered in February–March 2006. The data was retrieved from the database containing all police reports for the year 2005 in three phases.

In the first phase, we gathered raw data consisting of the following:

- all police reports identified by the racism code by the police;
- all police reports where the crime label was discrimination, workplace discrimination, or incitement against an ethnic group;
- police reports with crime labels (in the criminal law) that are most likely to display racist characteristics (65 names of crimes) and in which at least one of the complainants is a foreigner or of foreign origin or whose country of birth is other than Finland; and
- all police reports with the combination of characters "rasismi" or "rasisti" (racism/racist).

A total of 5,441 police reports were returned by the system for 2005 when these search criteria were applied.

In the second phase, the data for further analysis was filtered from the raw data using a set of key words. The words used in the searches consisted of various abusive names that have been found to appear frequently in reports identified by the racism code. A total of 37 such key words were used. The searches returned 820 police reports that included not only all the cases indicated by the racism code but also cases that satisfied the other criteria used in gathering the raw data and included at least one abusive expression.

In the third phase, all the 820 police reports were read one by one. The reports selected for final analysis consisted of reports:

- that the police had identified with the racism code; or
- that contained clearly abusive and racist language; or
- in which the suspect identified him or herself as being a supporter of an extreme right-wing ideology (such as skinheads), and the victim was a member of an ethnic or national minority; or
- in which any of the parties or the police thought that the act was racially motivated.

A total of 242 reports identified by the police with the racism code were included in the final data. An additional 170 reports were found, not identified by the racism code that could be classified as racist when the reports were read

as explained above. *All in all, the 2005 data included a total of 412 police reports related to racist crimes.*

These reports were then examined to obtain the necessary data concerning the crime, victims and suspects. Some of the variables (basic data such as municipality in which the location was situated, time of commission, date of birth of the victim/suspect, gender, nationality and country of birth) were directly available from the police database. A number of variables were reclassified (such as date and time of commission) and some were created using the information contained in the reports (e.g. location and the victim's relationship to the suspect).

A single police report may involve several crimes and several complainants. The same individual may be a complainant under several names of crimes; for instance, an assault may also involve breach of honour or unlawful threat. *In the analysis of racist crimes, attention was focused on the most serious of the crimes committed against the victim, i.e., the so-called principal crime.* The numbers of various crimes are mostly based on principal crimes. When crimes were divided into principal and secondary crimes, crimes committed against life and health were considered more serious than property crimes. The order of "seriousness" of the crimes from the most serious to the least serious was as follows: homicide or attempted homicide, sexual crimes (rape), physical violence, (assault), threat of violence (unlawful threat), discrimination, breach of honour (verbal abuse/ racial harassment), breach of domestic peace, and damage to property.


Some figures and trends

According to the survey 412 police reports, classified as racist, were registered in 2005. These reports contain a total of 669 racist crimes. The number of the crimes is much larger than the number of police reports, because one police report may contain many crimes. The most common crime in 2005, as well as in the three previous years, was assault (figure 1). A total of 289 cases of assault or attempted assault (attempted assault, petty assault, assault, attempted aggravated assault, and aggravated assault) took place, accounting for 43 % of all racist crimes. The second biggest category was breach of honour (verbal abuse/ racial harassment) (94 instances), followed by unlawful threats (84 instances). Beach of honour (verbal abuse/ racial harassment) and unlawful threats together represented about a quarter of all racist crimes. Various types of damage to property (petty damage to property, damage to property) were also relatively common, being 90 in number and accounting for 14 % of all cases. Other common crime categories were discrimination (37 instances) and breach of domestic peace (24 instances).
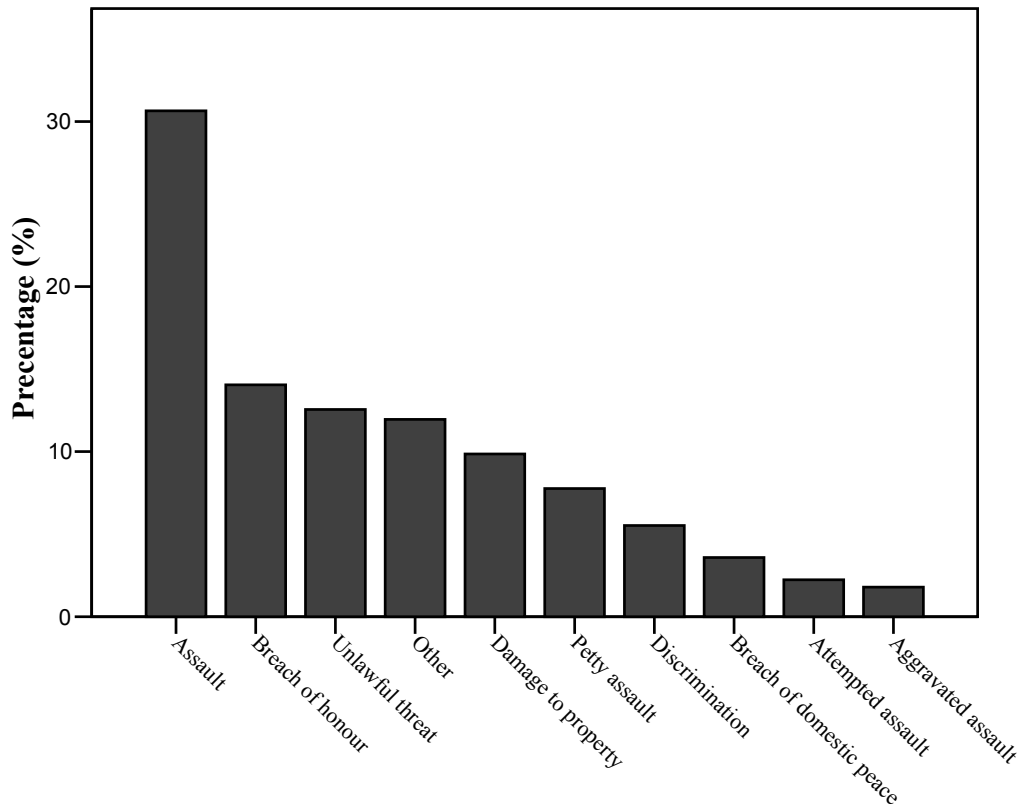
Figure 1. Racist crimes by type of crime in Finland in 2005, % (N=669).

Compared to previous years racist crimes have increased steadily (figure 2). The trend is seen in almost every individual category of crime as well. With the exception of discrimination and petty assault, the curves show a growth for most categories of crime. No clear decline is evident in any of the types of crime, while the increase is the sharpest in assaults. It should be pointed out, however, that even though the number of individual crimes has increased, the number of police reports concerning racist crimes has not increased at the same rate: in 2003 the Finnish Police Information System listed 387 reports of racist crimes while the corresponding figures for 2004 and 2005 were 400 and 412, respectively. Consequently, the number of crimes per report seems to be increasing. Probably this is due to an increase in crimes involving several perpetrators and victims, a typical situation being a mass brawl.
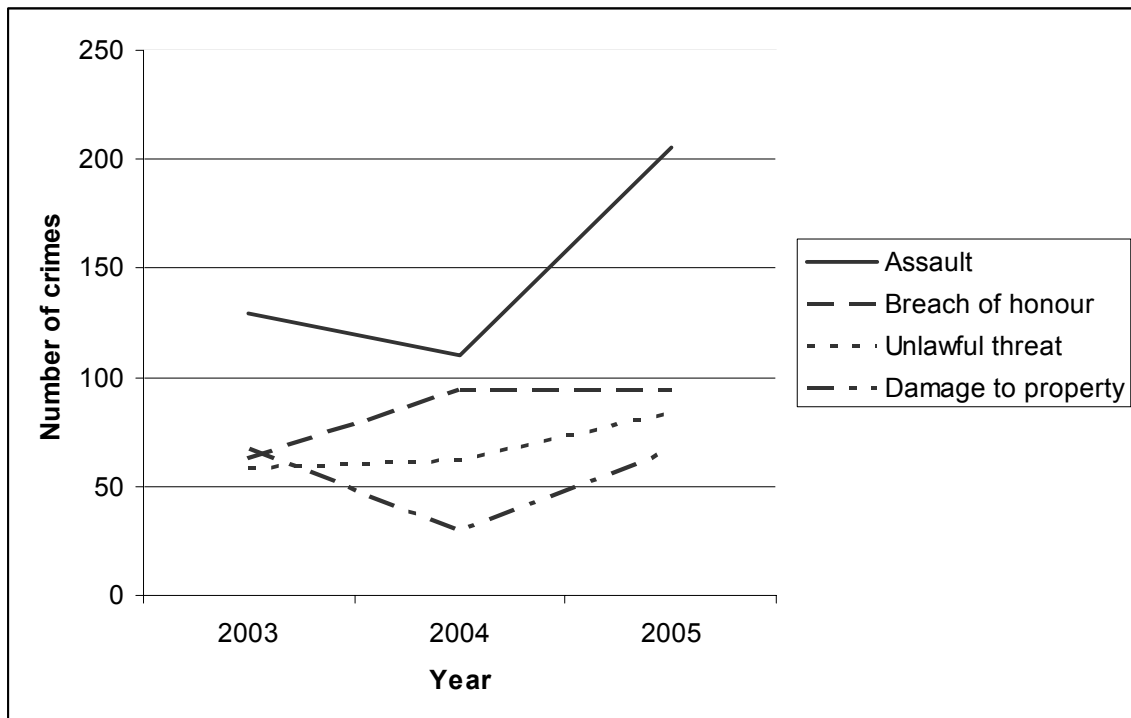
Figure 2. Trends of racist crime victimisation in 2003, 2004 and 2005 (most common types of crime).

Main problems

The figures illustrating the level of racist crime in Finland include several distortions that should be borne in mind when interpreting the numbers. The most important distortions are discussed below.

Police reports only provide information about crimes that come to the attention of the authorities. However, most of crime is hidden, something that applies to racist crime as well. According to a survey of immigrant victims of crime published in Finland in 2002, only 7 per cent of those included in the study had reported every perceived racist crime that they had been victim of, while 69 per cent had not reported a single crime (*Jasinskaja-Lahti et al. 2002*). As a result, victim surveys are the only relatively reliable method of evaluating the overall level of racist crime victimisation. However, it should be pointed out that both the police report data and the victim surveys may include acts recorded as crime even if they do not, in the final analysis, satisfy the applicable criteria when investigated by the police, prosecutor, or a court of law.

Therefore, it is safe to say that the biggest problem with the study is the source data, although we are not alone with this predicament, which is shared by all crime monitoring systems all over the world. As if this was not enough, another set of problems is associated with the way we selected racist crimes from the mass of all police reports. We will discuss some of these problems encountered in the various phases of data gathering.

A description of the data collection method was provided above. At least two problems were identified in this first phase of data gathering. The first problem is that the police report does not indicate the ethnic background or origin of the person involved, only nationality or country of birth. Consequently, racist acts victimising an individual born in Finland with a Finnish citizenship may be left out even though he or she is a member of some original minority (such as the Roma), or he or she is of foreign origin despite a Finnish passport or having been born in this country. However, some of the cases may be returned as a result of the other search criteria used in the selection, for instance when the report includes the item "racism" or "racist". A second problem associated with the first phase of data gathering is that the search may have missed cases in which the victim is a Finn and the perpetrator of foreign extraction. As already suggested, this is related to the instructions given to the police for the use of the racism code, saying, in effect, that only a member of a minority can be a victim of a racist crime. Granted, this problem may be somewhat alleviated by the fact that reports with a victim of Finnish extraction may have been accepted into the sample at other points during the data selection process.

Thus, in the second phase of data gathering, police reports are selected from the raw data using various key words consisting of abusive expressions that have been found to appear in reports identified by the racism code. Naturally, the problem here is to determine a sufficiently exhaustive list of abusive names normally associated with racially motivated crimes. Moreover, it should be pointed out that all police reports pertaining to racist crimes do not necessarily include such abusive language: either such expressions have not been recorded or they have not been used at all.

In the third phase of data gathering, the data for the final analysis is selected by reading all the second-stage police reports. An unambiguous rule at this point is that all cases identified by the racism code are included. Otherwise, it is hard to specify any explicit criteria for defining the final sample. What is, for example, a "clear" racist expression and where should the line be drawn? Also, it may difficult to single out the cases in which the perpetrators have had some right-wing or other ideological motive. Sometimes these things are impossible to determine from the police report. Similarly, it may be hard to discern the motives for the acts based on the text of the police report unless the motive is clearly stated.

Progression of a criminal racist case from police to prosecutor to court – what happens to the crime?

The Finnish monitoring system of racist crimes is based on police reports. However, the progression of a criminal case from the police report to a court resolution is long and complicated. If fact, we are forced to admit that we have no idea how many incidents involving a report of a racist crime are actually determined to be racist offences by the police, prosecution and a court of law. We do know, however, that a total of 760,000 crimes were recorded in reports

received by the police in 2002. In the same year the police referred about 490,000 cases to the public prosecutor while about 133,000 crimes reached a court of law. (In Finland, the prosecutor may, instead of prosecuting, impose a fine through a penal order procedure; the number of such cases in 2002 being 191,000; Lappi-Seppälä 2004, 258). A rough estimate suggests that slightly over 40% of all reported criminal cases end up in court or result in a fine imposed by the public prosecutor. What, then, really happens to the other reported crimes, particularly to racist crimes that we are concerned with here? Below we will give a brief description of the progression of a police report while limiting ourselves to the actions of the police (see Lappi-Seppälä 2004).

Most probably the majority of racist crimes go unreported. Additionally, a certain percentage of the illegal acts brought to the attention of the police may not be recorded as crimes, such as offences where prosecution rests with the injured party, for which no police report is filed because the victim refuses to do so. In Finland the police have the duty to investigate all reported crimes (pre-trial investigation obligation). Under the Pre-trial Investigation Act, a pre-trial investigation must be initiated if the police find that, in the light of available information, a crime may have been committed. If the pre-trial investigation shows that no crime has taken place or that charges cannot be pressed against anybody, the case lapses.

If the police pre-trial investigation shows that a crime has been committed and that the person suspected of such an act is known, the case must be forwarded to be considered for prosecution. However, there are two exceptions to this: a decision may be made not to report the case to the prosecutor, or the pre-trial investigation may be limited in scope. In the first case, the police have the right not to report to the prosecutor's office any crimes that are, as a whole, considered to be minor and/or that most likely carry a maximum punishment of a fine. An additional requirement for such a course of action is that the complainant makes no claims. The idea with the limitation of the scope of the pre-trial investigation is to save investigation resources in cases where a decision to waive charges would be made anyway. However, the provisions on the limitation of pre-trial investigation are seldom invoked in Finland.

When considering the charges, the prosecutor makes a decision either to press charges or to dismiss the case. Additionally, the prosecutor confirms or cancels penal orders (usually fines). The consideration of charges is carried out to determine whether the necessary elements of crime are present and whether it is the suspect who is the actual perpetrator of the crime. In principle, charges must be pressed if it is probable that the suspect is guilty of the crime. However, the prosecutor may drop charges not only on procedural grounds but also when the crime is insignificant, the perpetrator is young, or the victim and perpetrator have settled the matter between themselves.

Conclusion

This paper does not allow us to examine the operation of the Finnish criminal justice system with regard to racist crimes in more detail. However, this brief review shows how little we actually know about the processing of racist crimes in our legal system. A key question is whether crimes, in which the perpetrator has a clear racist motive, are systematically processed differently from other crimes by the police, the prosecution and the courts of law. To be able to give a satisfactory answer to this question, we would need to be able to study the progression of individual cases through the system that comprises several authorities. The problem with this approach is that the individual authorities have their own computer systems with small prospects for integration. Additionally, any perception of the performance of the system based on records only would remain superficial: what would probably be required is a combination of individual monitoring and interviews with the authorities and parties involved.

We have actually launched in the beginning of 2008 a pilot study on these questions. The aim of that study is to follow all racism-motivated crimes reported in Helsinki in 2006 through the legal process: how those cases proceeded in the hands of police, prosecutors and courts of law. In that study we are going to collect all possible data on these cases from the records and by interviewing authorities.

Bibliography

Ellonen, N (2006). *Poliisin tietoon tullut rasistinen rikollisuus Suomessa 2005*. Espoo: Poliisiammattikorkeakoulun tiedotteita 53, Espoo. [Racist crime reported to the police in 2005. Espoo: Reports of the Police College of Finland 53].

Hall, N (2005). *Hate Crime.* Cullompton, UK: Willan Publishing.

Jaakkola, M (2005). *Suomalaisten suhtautuminen maahanmuuttajiin vuosina 1987 – 2003.* Työpoliittinen tutkimus 286. Helsinki: Työministeriö [Public Attitudes in Finland Towards Immigrants During 1987–2003. Helsinki: Ministry of Labour].

Jaakkola, M (1999). *Maahanmuutto ja etniset asenteet. Suomalaisten suhtautuminen maahanmuuttajiin 1987–1999*. Työpoliittinen tutkimus 213. Helsinki: Työministeriö [Immigration and Ethnicity. Public Attitudes in Finland Towards Immigrants During 1987–1999. Helsinki: Ministry of Labour, Helsinki].

Jasinskaja-Lahti, I & Liebkind, K & Vesala, T (2002). *Rasismi ja syrjintä Suomessa. Maahanmuuttajien kokemuksia.* Helsinki: Gaudeamus. [Racism and Discrimination in Finland. Immigrants' Experiences. Helsinki : Gaudeamus].

Keränen, T (2005). *Poliisin tietoon tullut rasistinen rikollisuus Suomessa 2004.* Espoo: Poliisiammattikorkeakoulun tiedotteita 40 [Racist crime reported to the police in 2005. Espoo: Reports of the Police College of Finland 40].

Lappi-Seppälä, T (2004). 'Rikollisuuskontrolli'. In *Rikollisuustilanne 2003*. Helsinki: Oikeuspoliittisen tutkimuslaitoksen julkaisuja 209 ['Crime Control' in *Crime and Criminal Justice in Finland 2003*. Helsinki: National Research Institute of Legal Policy, Publication 209]. Also available on the Internet at www.om.fi/optula/ 26209.htm, accessed 30.5. 2006.

Makkonen, T (2000). *Rasismi Suomessa 2000*. Tutkimusraportti. Helsinki: Ihmisoikeusliitto. [Racism in Finland in 2000. Helsinki: Finnish League for Human Rights].

Noponen, T (2007). *Poliisin tietoon tullut rasistinen rikollisuus Suomessa 2006*. Espoo: Poliisiammattikorkeakoulun tiedotteita 62 [Racist crime reported to the police in 2005. Espoo: Reports of the Police College of Finland 62] Also available on the Internet at: http://www.poliisi.fi/poliisi/pakk/home.nsf/files/Tiedotteita%2062/$file/Tiedotteita%2062.pdf

Perry, B (2001). *In the Name of Hate*. Understanding Hate Crimes. New York: Routledge.

Multi-agency working and victims of race hate crime[1]

Paul Iganski
Department of Applied Social Science
Lancaster University, UK

Much of the scholarly research and writing on victims and the criminal justice process to date has focused on initiatives to include victims in the progress of their own cases. But there has been far less concern with the inclusion of victims as agents in the criminal justice policy process. Given this lack of attention, this paper elaborates findings from research carried out by the author on the London-Wide Race Hate Crime Forum from May 2006 to March 2007 (Iganski 2007), to illuminate and evaluate efforts to include victims of racist crime in multi-agency working at the London-wide level. The inclusion of victims is intended to provide policy learning from their experience and potentially spotlight shortcomings in the response by statutory agencies to race hate crime. The Forum was established in 2003 with the aim of improving co-ordination between the key agencies responsible for dealing with victims of 'race-hate' at the local level in the London boroughs and also London-wide. The goal was to identify and disseminate good practice policy learning and to promote a uniform service across London. The importance of co-operation between the police and other statutory agencies in tackling race hate crime, and between the statutory agencies and NGOs, has long been recognised by the European Union policy community. Significantly, the principle of multi-agency cooperation is enshrined in the European Constitution. Article III-257 states that 'The Union shall endeavour to ensure a high level of security through measures to prevent and combat crime, racism and xenophobia, and through measures for coordination and cooperation between police and judicial authorities and other competent authorities'. The provenance of this article lies in the recommendations of the Kahn Commission in 1995, which set the agenda for policy intervention against racism and xenophobia for the next decade. Amongst its recommendations the Commission called for 'close coordination between the police, the courts, the local authorities and the anti-discrimination centres' and recommended that the police 'should play a role in developing an integrated, preventive security policy in close cooperation with other local authority services, commercial circles and the public' (European Parliament Committee on Civil Liberties and Internal Affairs 1995). Despite this recognition of the importance of multi-agency working, its actual practice, and how victims might be included in the practice, have been subject to little attention in the European Union reports on race hate crime. Evidence of multi-

---

[1] A more extensive discussion of the issues raised in this chapter is presented in Iganski 2008, Chapter 5.

agency working in EU countries is also patchy in the scholarly literature on policy intervention against race hate crime in Europe.

The European Monitoring Centre on Racism and Xenophobia (EUMC) (now the European Union Agency for Fundamental Rights [FRA]) recently proposed in its report *Racist Violence in 15 EU Member States* that "ethical working practices" are a key criterion of good practice when working with victims of race-hate crime. An important ethical practice singled out by the EUMC is for consideration to be given to "the experiences, feelings, and opinions of victims" (EUMC 2005, 195). However, there is a paucity of guidance in the policy literature about how victims of hate crime might be included in the policy process. For instance, in its recent report on *Racist Violence in 15 EU Member States*, the EUMC suggests that: "Although the majority of Member States suffer from a lack of comprehensive data collection and accompanying practical responses to racist crime and violence, examples do exist of 'good practice' responses to racist violence" (EUMC 2005, 193). However, in the few examples of good practice initiatives that the EUMC report provides there is little mention of multi-agency working and none about how victims of racist crime might be included in the process. Similarly, in its recent report on *Policing Racist Crime and Violence* the EUMC concludes that it is "essential that the police work closely in cooperation with all the other agencies who can contribute to the eradication of racism, especially other public authorities and — most importantly — community groups and NGOs" (EUMC 2005, 45). However, policy guidance, or indeed any information, about how such cooperation should work in practice, and how victims should be involved in the process, is absent from the EUMC report. The need for multi-agency cooperation and the involvement of victims in the process is reiterated in the most recent annual report of the European Union Agency for Fundamental Rights (FRA) which recommends that: "Member States should consider developing criminal justice responses to the problem of racist violence and crime with a view to addressing the particular needs and rights of victims of racism. In this regard their work can be enhanced through multi-agency responses that involve close cooperation with civil society organisations" (2007, 161). Whilst it must be acknowledged, however, that the FRA (and previously the EUMC) does not have a direct mandate in its regulation to advise on policy relating to third pillar policing and judicial cooperation issues, and can only offer 'opinions', beyond the presentation of research findings, research into the actual practice of multi-agency working, which would be within its remit, has been lacking. Given these gaps in policy evaluation, the research from which this paper is drawn, aimed to evaluate the London-Wide Race Hate Crime Forum as a model of good practice for multi-agency partnerships in other cities and regions in EU Member States.[2] The research concluded that the model of the London Wide Race Hate Crime Forum is potentially transferable to EU member states, but it would require a high level of political commitment and senior level commitment in the statutory and voluntary agencies potentially involved in the multi-agency arrangements. Furthermore, if victims are to be included in the multi-agency policy process,

---

2 The research methodology is outlined in Iganski 2007.

such participation needs to be very carefully managed and may require new styles of working for the agencies involved to prevent secondary victimisation, as will be discussed in this paper.

Multi-agency working and victims of race hate crime in the UK

The multi-agency approach to dealing with race hate crime has a long provenance in the UK. Central government has a substantial record of evaluating multi-agency initiatives and issuing recommendations for good practice. Across two decades of official policy guidance on multi-agency working since the early 1980s there has been an explicit recognition that not only must multi-agency arrangements be responsive to the needs of victims, but also that community leaders and community organisations representing victimised communities should be represented in multi-agency arrangements as partners with the statutory sector agencies. The 1981 Home Office report *Racial Attacks*, hailed as putting "racial attacks on the political agenda for the first time" (UK Home Office 1989, 1) explicitly identified the need for cooperation and coordination between local agencies, and between local agencies and local communities, in policy and practice against the problem of racial incidents (UK Home Office 1981, paras. 52, 84 & 86). However, the report did not offer any guidance about how multi-agency and community co-ordination might be organised. Consequently, the reference point commonly used in the policy literature for the origins of multi-agency working in the UK is the 1986 House of Commons Home Affairs Committee report *Racial Attacks and Harassment* which proposed a multi-agency approach as critical for dealing effectively with race hate crime (UK House of Commons Home Affairs Committee 1986). Multi-agency working subsequently became one of the dominant official state responses on the future policy agenda for tackling race hate crime over the next two decades.

Following the 1986 Home Affairs Committee's report the Ministerial Group on Crime Prevention established an interdepartmental working party, the Racial Attacks Group, chaired by the Home Office, with representatives from key government departments along with the Metropolitan Police, Commission for Racial Equality, and the Joint Committee Against Racialism. The Racial Attacks Group's first report, *The Response to Racial Attacks and Harassment*, was published in 1989 (UK Home Office 1989). The report's recommendations set in motion a significant volume of specialist guidance over the following decade on multi-agency initiatives coupled with evaluations of the extent to which the guidance was being followed. Most notably, in relation to the focus of this paper on the inclusion of victims of hate crime in criminal justice policy, the report argued that: "The involvement of people from the minority communities is, in our view, particularly important since they will have a key role in identifying the nature of the problem and helping to set the priorities for tackling it" (UK Home Office 1989, para. 206).

Following the publication of the Racial Attacks Group's 1989 report the Government re-established the Group and a second report, *Sustaining the Momentum*,

was published in 1991 which reviewed the extent to which the first report's recommendations had been successfully implemented (UK Home Office 1991). Further guidance on multi-agency initiatives was published by the Commission for Racial Equality (CRE) in 1995 (CRE 1995). A third report from the Racial Attacks Group, *Taking Steps*, followed shortly thereafter in 1996. In the case of community involvement in multi-agency arrangements, of relevance to the inclusion of the victim in the policy process, the report recommended that a member of the voluntary sector or a community leader is given responsibility for chairing the multi-agency group, perhaps on a rotating basis (UK Home Office 1996, 54). The report also recommended that where serious incidents of racial attacks occurred, local community meetings might be called as part of the investigation of incidents and it would be a particular value in building the confidence of the community (UK Home Office 1996, 12).

Race hate crime and multi-agency cooperation city-wide in London

In the late 1990s a further significant official recommendation was made about multi-agency working in the UK that had a direct influence over the establishment of the London-Wide Race Hate Crime Forum. The Stephen Lawrence Inquiry report published in 1999 (Macpherson 1999) noted gaps in the "co-operation, sharing of information and learning between agencies", and recommended that the degree of multi-agency cooperation and information exchange[3] be included as one of a number of performance indicators in a Ministerial Priority to be established for all Police Services with the aim of increasing the trust and confidence in policing amongst minority ethnic communities.[4] The Metropolitan Police Authority[5] formed a working group to consider the Inquiry's recommendation with representatives from agencies covering the statutory and voluntary sectors, local and London-wide. The working group recommended a permanent Forum to provide leadership and guidance on dealing with race hate crime in the capital. Consequently, the London-Wide Race Hate Crime Forum was formally launched at a meeting in the House of Commons in May 2003.[6] The membership of the Forum itself is structured on the basis of a multi-agency partnership drawn from the key agencies that have a London-wide remit in dealing with race hate crime, principally, the Metropolitan Police Service, Crown Prosecution Service, Government Office for London, London Probation Service, and the Greater London Authority. Members have also been drawn from the non-statutory

---

3 Macpherson (1999) recommendation 2(iv), page 327.
4 Ibid., recommendation 1, page 327.
5 The Metropolitan Police Authority is an independent statutory body established in July 2000 by the Greater London Authority Act 1999. It scrutinises and supports the work of the Metropolitan Police Service.
6 'London–Wide Race Hate Crime Forum House of Commons Launch', Metropolitan Police Authority, press release, 13 May 2003; http://www.mpa.gov.uk/issues/race-hate/lrhcf-01.htm

sector, providing a mix of governmental and non-governmental organisations on the Forum.[7]

The core of the work of the Forum has involved the key statutory agencies the police and the local council - responsible for dealing with race hate crime at the local level in the London boroughs making presentations to the Forum about their progress in tackling racist incidents. The presentations have provided a mechanism whereby practice and performance by the statutory agencies can be interrogated and scrutinised systematically borough by borough by the Forum members. Whilst the composition of the London-Wide Race Hate Crime Forum is by no means unique in terms of multi-agency working in the UK, the borough presentations arguably have provided the definitive innovation of the Forum. The presentations began in early 2004 with a selection of eight boroughs that had the highest reported levels of racist incidents for the years April 2002 to April 2004 according to police records. By the end of 2007 all the London boroughs had been invited to make presentations to the Forum.

The process of planning and preparing for the presentations was highly choreographed by the Forum staff, and the presentations themselves were carefully staged performances. Importantly, the preparation involved for the presentation provided for the borough a valuable opportunity for an audit and review of multi-agency working arrangements and of services dealing with race hate crime in their locality, and in some instances a stimulus for action by the participating agencies. The presentations made to the Forum by teams from the statutory agencies in the boroughs were polished and carefully staged events, for as one respondent from the police suggested:

Borough (police) Commanders don't want to go to forums like this to be made to look wanting. They want to go and look professional and so does the team. For that, there's lots of work that goes in beforehand.[8]

Presentation meetings were perceived by some participants from the boroughs, however, as adversarial events given the challenging manner in which some Forum members were reported to have engaged with those presenting. A further challenge, which provides the central focus of this paper, involved the inclusion of an account of a victim's experience of race-hate crime and their subsequent experience with the statutory agencies involved in their case. The aim was to present a case that was sufficiently longstanding to provide policy-learning as a case study in general for the agencies in the borough and elsewhere across London. Ahead of the presentation the boroughs were informed that the Forum would be aiming to present a case, not with the expectation that the particular case would be resolved at the meeting, but to

---

7 Full lists of the Forum's membership are provided in the Forum's annual report at: http://www.mpa.gov.uk/downloads/issues/racehate/lrhcf-annualrep2004-5.pdf (page 14).
8 To facilitate an open discussion in the interviews all respondents were given a guarantee of anonymity in that none of the words they use would be attributed to identifiable persons directly by name or indirectly by other means such as identifying their organisational affiliation and position.

serve the purpose of broader policy learning. One member of the Forum was quite blunt about the value of the victim's perspective:

What's the whole point if you are not going to speak to the victims and find out how they are feeling and what's going on? The borough commander and chief executives have good intentions but it's at the ground roots. What is happening when they are presented with a victim of racial harassment? They don't deal with it. They don't have an idea who deals with it.

In the words of another Forum member the account of the victim's experience served as a 'reality check' on the presentation. Although the provision of a victim's perspective was proposed as one of the strengths of the presentations by some Forum members it was clear that the process needed to be managed very carefully. The practice in one Forum meeting observed in the course of the research was not a positive one as far as the victims were concerned as little time was allotted for them to speak in contrast to the time allowed for the polished performances by the statutory agencies, as emphasised by some of the participants in the meeting:

The time allocation wasn't done properly. The council and the police had the majority of the time to have their say … They get the majority of the time to say how good they are and how they are tackling race hate crimes as such, but the reality and criticisms – there's not enough time for that…Basically the victim wasn't even able to finish. What he said could have been more succinct but he wasn't able to get half, even a tenth of his story across. I think less time for the council and more time for the victim.

The provision of adequate time for victims to present their stories to the Forum meetings was emphasised by one of the respondents from the boroughs:

When you are a victim of racial harassment it consumes your life, it completely takes over your life. Sometimes they do go on, but it's the only time that they felt that somebody was actually listening. Maybe they could have let him have a bit more time to talk about his problems. I don't think he was given enough time to talk about his problems … I don't think he was given the chance.

The impact upon the victim was clear:

He came out feeling very upset and angry because he wasn't able to have the opportunity to have his say. His case has been going on for many many years and obviously he has a lot to say and he wasn't given that chance.

In addition to the lack of opportunity for victims to present their own experiences to the Forum some participants felt that victim advocacy groups and those involved in support for victims were similarly denied a voice at the meetings. This concern was echoed in interviews with some of the non-statutory sector members of the Forum who, although they supported the Forum in principle and were keen to actively participate, expressed some fundamental concerns about the composition and the consequent working of the Forum.

There was a strong view that the voluntary sector does not enjoy parity with statutory sector agencies in terms of the membership of the Forum with the

consequence that ownership and control of the work of the Forum is ceded by the voluntary sector to the statutory agencies involved. Participation in this arrangement, for one member of a non-statutory sector organisation was seen as a starting point to more inclusive working in the future and they would not be content with the organisation of the Forum until parity between the sectors is established. One remedy proposed to the lack of parity was for the establishment of a sub-group of voluntary sector members to work on particular issues of Forum business. Another proposed remedy was for an equal division of membership of the Forum between the non-statutory and statutory agencies, with the chairing of Forum meetings shared between members from the two sectors to give real "ownership" to the voluntary and community sector. But one participant from the voluntary sector who shared the view about the lack of parity between the voluntary and statutory sectors on the Forum also believed, however, that the statutory sector should take the lead:

I think it's right that perhaps the leadership of the Forum, in terms of administering the Forum, ought to rest with a statutory body as it's recognising that the statutory bodies have a responsibility that relates to preventing race hate crime. And I think that where voluntary agencies sit is in influencing that agenda and working in partnership with the statutory body, but not necessarily owning it as their lead responsibility.

For this Forum member, whilst the expertise of the voluntary sector needs to be fully utilised by the Forum in its activities, they recognised that the initial rationale for the establishment of the Forum, in response to the failings of the statutory agencies identified by the Stephen Lawrence Inquiry, was for the statutory sector to respond adequately to the problem of race hate crime, and that rationale still prevails.

At first sight there might seem to be a contradiction in calling for equity in Forum membership between the statutory and non-statutory sectors whilst at the same time calling for the statutory sector to take the lead responsibility for race hate crime. However, there is no contradiction when the different contributions to be made by the different sectors are considered in the light of the statutory sector failings identified by the Lawrence Inquiry. Paradoxically however, putting the onus on the statutory sector to take the lead on interventions against race hate crime, to catch-up for the past shortcomings of the sector, has the potential to inhibit the involvement of the voluntary sector by dominating the agenda.

Conclusions: lessons from the London-wide Race Hate Crime Forum

Multi-agency working is arguably now accepted in the UK as the conventional wisdom for dealing with crime, disorder and community safety, and the importance of co-operation between the police and other statutory agencies in tackling race hate crime has been exhorted across two decades of policy recommendations. Despite this, however, it is notable that research in the late 1990s indicated that no multi-agency forum for dealing with race hate crime

had been established in some of the largest towns and cities in the UK (Lemos 2000). In this context the comprehensive multi-agency provisions against race hate crime established in the London boroughs appear to stand as the exception, not the rule, for the national picture in the UK, and the establishment of the London-Wide Race Hate Crime Forum is a particularly significant innovation. The structure of local government in London whereby the city's population is divided by the London boroughs into the equivalent of thirty-two small cities or large towns (plus the City of London) clearly plays a part. London is not unique, though, when compared with some other cities and regions in the UK and elsewhere in Europe and the Forum offers potentially instructive policy-learning for those areas.

Earlier research has shown that multi-agency working is easier to sustain in smaller conurbations due to the smaller number of agencies involved and with consequently less potential for "confused direction, poor communication, conflict and lack of commitment on the part of some individuals and agencies" (Lemos 2000, 48) that might be found in larger cities. But despite the benefits of smaller scale, local-level arrangements for multi-agency working can be patchy and uneven when assayed from a city-wide or regional perspective. In addition, key statutory agencies participating in multi-agency partnerships at the local level, such as the police, crown prosecution service, and the probation service, are also managed and organised at the city-wide or regional level and a lack of coordination will prevail in the absence of partnerships at that wider geographic level. In the case of London, the London-Wide Race Hate Crime Forum has provided such a partnership providing a third-tier of multi-agency working in addition to the two-tiers of partnerships on service provision and partnerships on policy-making for tackling race hate crime at the local level in the London boroughs.

With regard to that policy learning this paper has specifically focused on the inclusion of hate crime victims in the work of the Forum. Almost a decade ago now, Joanna Shapland argued that "criminal justice has been seen as separate from victims, with victims being a rather annoying group which stand apart from justice, but to whom we now need to consider creating some kind of response and making some concessions" (Shapland 2000, 148). In contrast to the trend identified by Shapland, by including a victim's perspective in the scrutiny process of boroughs, whether by a victim in person, or a voluntary sector agency working with victims, the London-Wide Race Hate Crime Forum provides an example of good ethical practice. The research findings presented in this paper demonstrate both the potentially important role provided by the victim's perspective, but also indicate how the inclusion of that perspective can be one of the most sensitive and challenging elements of multi-agency working against race hate crime. The participation of victims in the scrutiny presentation meetings clearly needed to be carefully managed to allow adequate time for the victim's case to be presented so that they would not be disempowered by the statutory agencies participating in the meetings, and in effect, be re-victimised. It also needed to be carefully managed to ensure that the purpose of presenting the victim's case was to provide general policy learning on tackling race hate crime beyond the particular case in question, rather than it being a casework complaint about a particular individual's

circumstances. Furthermore, despite the success of the Forum in bringing the statutory agencies to work in partnership at the pan-London level, the drawback of the inequitable representation and participation of the voluntary sector in the Forum's work adds to the diminished role that the victim's perspective may play in informing the strategic work of the Forum, and this is particularly pertinent considering that only a minority of hate crime is reported to statutory agencies who are therefore informed by only a partial picture of the problem.

References

Commission for Racial Equality (1995). *Action on Racial Harassment. Guidance for Multi-Agency Panels*. London: Commission for Racial Equality.

European Parliament Committee on Civil Liberties and Internal Affairs (1995). *Consultative Commission on Racism and Xenophobia* (DOC EN\CM\274\274586). Luxembourg: Office for Official Publications of the European Communities.

European Union Agency for Fundamental Rights (FRA) (2007). *Report on Racism and Xenophobia in the Member States of the EU*. Vienna: European Union Agency for Fundamental Rights.

European Union Monitoring Centre (EUMC) (2005). *Policing Racist Crime and Violence. A Comparative Analysis*. Vienna: European Union Monitoring Centre on Racism and Xenophobia.

European Union Monitoring Centre (EUMC) (2005). *Racist Violence in 15 EU Member States*. Vienna: European Union Monitoring Centre on Racism and Xenophobia.

Iganski, P. (2007). *Evaluation of the London-Wide Race Hate Crime Forum*. London: London Probation Service.

Iganski, P. (2008). *Hate Crime and the City*. Bristol: Policy Press.

Lemos, G. (2000). *Racial Harassment: Action on the Ground*. London: Lemos & Crane/Joseph Rowntree Foundation.

Macpherson, Sir William (1999). *The Stephen Lawrence Inquiry*. London: HMSO.

Shapland, J. (2000). 'Victims and Criminal Justice: Creating Responsible Criminal Justice Agencies'. In Adam Crawford and Jo Goodey (eds.): *Integrating a Victim Perspective within Criminal Justice. International Debates*. Aldershot: Ashgate pp. 147-164.

UK Home Office (1981). *Racial Attacks. Report of a Home Office Study*. London: Home Office.

UK Home Office (1989). *The Response to Racial Attacks and Harassment: Guidance for Statutory Agencies*. Report of the Inter-Departmental Racial Attacks Group. London: Home Office.

UK Home Office (1991). *Sustaining the Momentu., Second Report of the Inter-Departmental Racial Attacks Group*. London: Home Office.

UK Home Office (1996). *Taking Steps. Multi-Agency Responses to Racial Attacks and Harassment. The Third Report of the Inter-Departmental Racial Attacks Group*. London: Home Office.

UK Home Office (1999). *In This Together. Tackling Racial Incidents: Good Practice in Multi-Agency Working*. London: Home Office.

UK House of Commons Home Affairs Committee (1986). *Racial Attacks and Harassment*, HC409. London: HMSO.