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Policing hate crime in London and New York City: Some reflections on the factors influencing effective law enforcement, service provision and public trust and confidence

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Nathan Hall

University of Portsmouth, UK

Abstract

The discussion contained within this article is derived from empirical research that explored the policing of hate crime in London and New York City. Through an examination of a range of policies, practices and experiences of those involved in the policing of hate crime, the article argues that this aspect of law enforcement and service provision is shaped by a complex relationship between a number of interdependent variables, which it is suggested can be broadly grouped into four categories: law, the police, the public and social context. The underlying message is that hate crime in particular is a social construct over which the police and public (most notably victims) have differing degrees of control, and that in turn this will inevitably impact upon the extent and nature of the hate crime 'problem', the way in which the 'problem' is responded to, and the effectiveness of these responses. In turn these inevitably have important implications for victims and communities and their experiences and perceptions of police service provision, and the wider social context in which the policing of hate crime takes place.

Keywords

confidence, hate crime, policing, public, service provision, social context

Corresponding author:

Nathan Hall, Senior Lecturer, Institute of Criminal Justice Studies, University of Portsmouth, Museum Road, Portsmouth PO1 2QQ, UK

Email: nathan.hall@port.ac.uk

Table 1. The 'truth table': Comparative information for London and New York

	London	New York
Population (millions)	7.5	8
Area (sq. miles)	620	309
Boroughs/precincts	32	5/74
No. of police officers	c. 26,000	c.39,000
Central Hate Crime Unit	Yes	Yes
Local Hate Crime Units	Yes	No
Uniformed officers responsible for initial investigation	Yes	Yes
Prescriptive policy for investigation	Yes	Yes
Hate crime investigators	300	20
Diverse population	Yes	Yes
History of police-minority group tension/causes célèbres	Yes	Yes
Statutory partnership approach to combating hate crime	Yes	No

Introduction

A cursory glance at the officially recorded police statistics for hate 'crimes' in London and New York makes for interesting reading. Whilst London and New York are comparable on a range of demographic criteria (see Table 1), the extent of the hate crime 'problem' in the two cities is vastly different. Figure 1 illustrates the number of 'hate crimes' recorded by the police in London and New York between 1997 and 2007. Significantly, the statistics for London represent racist incidents only (only statistics on racist incidents were collected nationally in England and Wales prior to 2010). 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.

The purpose of this article is to present a selection of findings from recently concluded doctoral research that sought to explore the policing of hate crime in London and New York. The research aimed to compare issues relating to the policy, practice and experience of policing hate crime in London and New York City, with a view to identifying variations in the organizational responses to the hate crime 'problem', both in theory and in practice. The research also examined the potential impact of these variations on: (i) policing activity, (ii) police officers, (iii) victims and minority communities, and (iv) the relationship between each of these variables.

Methodological approaches

In order to achieve the aims of the study, a triangulatory approach to data collection was employed. In addition to the analysis and review of secondary historical data and other relevant literature, three methodological approaches to data collection were utilized: participant observation (approximately 1000 hours), interviews and process evaluation. This process involved the collection of qualitative data from police officers, both senior and junior, and specialist and otherwise; observations of the policing of hate crime 'in practice', both on the front line and within specialist investigative units; an evaluation of relevant policy documents; and discussions with victims and a range of advocacy groups.

Taken together, the methods chosen provided a holistic analysis that was dynamic in accounting for change in policy and practice over time, and contextual in setting this process and its impact(s)

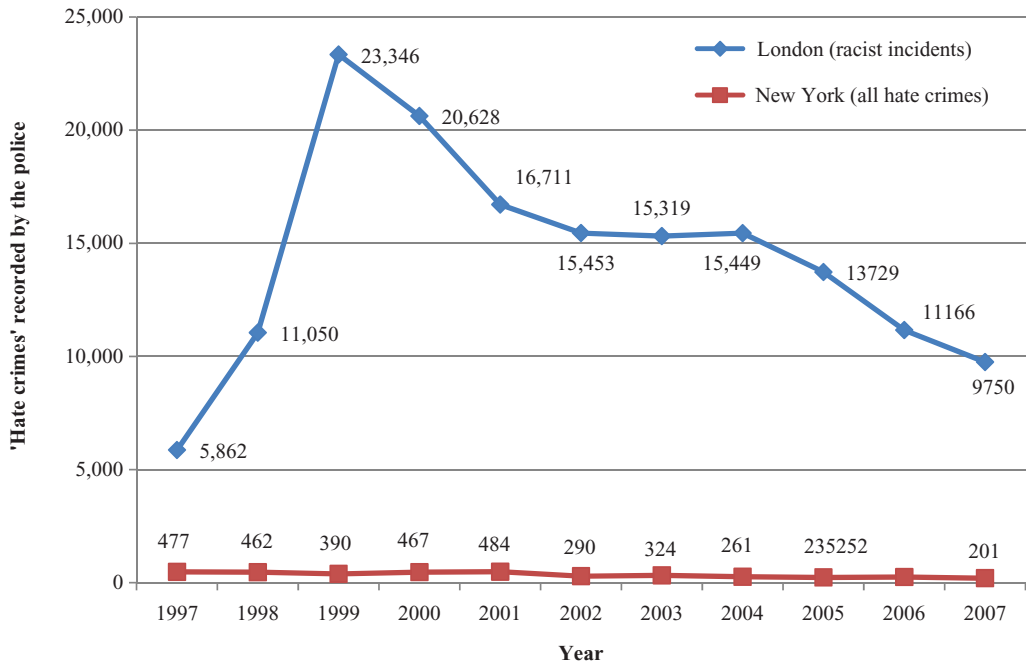


Figure 1. 'Hate crimes' recorded by the police in London and New York 1997–2007

in a 'real world' context. Crucially, the methodological approach offered insights into issues of causality in the relationship between policy aims and operational outcomes by providing 'results' to explain how and why potential gaps between the two exist, and how these impact upon victims and wider communities.

Background to the research

The public inquiry into matters arising from the death of Stephen Lawrence (Macpherson, 1999) served to place the issues of hate, victimization and policing in England and Wales 'under a spotlight of unprecedented intensity' (Bowling, 1999: xiv). The notions of individual and cultural police racism were already well established in criminological literature (Holdaway, 1996; Reiner, 1992), but the Inquiry found that the effects of these were compounded by *institutional racism* found in the policies and practices of the Metropolitan Police Service. Taken together, the effect of individual, cultural and institutional racism was the failure to deliver either a *quality service* or *equality of service* to ethnic minority victims (Bowling, 1999), as exposed by the Stephen Lawrence Inquiry Report (Macpherson, 1999).

Central to the Metropolitan Police Service's response to the findings of the Inquiry was the formulation of new policies and training programmes in the areas of identifying and combating racist hate crime and service provision to victims of hate crime. Of course, as Bowling (1999) states:

The bottom line of an anti-racist policing strategy is effective service delivery to, and equal protection of, a diverse public. Improvements in the way in which victims are treated, their satisfaction with the

service provided, and confidence in the police and local authorities as the guardians of community safety will be the ultimate tests of success (1999: xxii).

However, existing research in this area has consistently demonstrated that the transition of police policies into effective practice is a complex and vulnerable process, especially (but not exclusively) in the area of police-minority community relations. Indeed, the failure of policing in this area has a long history that was encapsulated by the Stephen Lawrence Inquiry Report.

The report found that:

Their [*black and minority ethnic communities*] collective experience was of senior officers adopting fine policies and using fine words, but of indifference on the ground at junior officer level. The actions or inaction of officers in relation to racist incidents were clearly a potent factor in damaging public confidence in the police service (Macpherson, 1999: 45.12, emphasis added).

Research conducted by Bowling (1999) examined in detail discrepancies between police policy and practice and identified many interrelated cultural and occupational issues that impacted upon the experience of victimization and contributed to the failure of the police to protect ethnic minorities. Of specific interest to the present research, one of the dominant issues identified by Bowling was that regardless of policy initiatives very little changed in terms of the police response in practice to hate crime during the 1980s and 1990s. Indeed, Bowling (1999) stated that combating racist crime is not a task to which the police organization is ideally suited. Bowling's study highlighted:

not just a lack of will on the part of the police, but a recognition that their ability to prevent racial incidents from happening, to enforce the law in any but the most serious incidents, and, therefore, to protect individuals and families from violence, is fundamentally constrained (1999: 287).

Another important issue relating to hate crime in England and Wales concerns the historical and contemporary relationship between the police and minority communities. At the numerous public forums held around the country as a part of the inquiry into the murder of Stephen Lawrence (Macpherson, 1999) it became starkly apparent from the views expressed by members of the public that black people's experience of the police in England and Wales was overwhelmingly one of being 'over-policed' and 'under-protected'. It was clear that these views were not simply an angry response to the police handling of Stephen Lawrence's murder but were in fact deeply rooted in lived experience over a significant period of time.

The policing of hate crime in New York City, on the other hand, represents a fascinating contrast to the post-Lawrence policing approach to hate crime in London. Historically the relationship between the police and minority groups (particularly along racial lines) in the United States has been one characterized by suspicion, mistrust, abuse and brutality, although in comparison to police departments in other major US cities the NYPD has not been an especially abusive department (Johnson, 2003). Nevertheless, the history of the NYPD is littered with examples of abuse and brutality directed towards minority groups. Indeed, for most of the twentieth century police brutality in New York has been understood largely as a racial issue, however, Johnson (2003) notes that from the 1970s onwards other long-standing patterns of police abuse became visible for the first time, particularly against members of the LGBT community.

Problems relating to disproportionate use of police powers and targeted abuse are not the only issues of concern. Equally relevant are problems identified with the reporting of complaints to the

police by members of minority groups. For example, the New York Anti-Violence Project (AVP) (Anti-Violence Project, 2007) highlights the point that under-reporting of homophobic hate crime in the city is commonplace. They suggest that even incidents that are reported to the police are notoriously misclassified and that for victims it is often arduous to obtain a bias classification, even in cases with overwhelming evidence of bias.

The AVP also suggests that the average police response to hate crimes is often inadequate, and is still too frequently cited by victims as a revictimizing experience. Many victims reported negative experiences with the police when trying to report a bias crime, in large part due to insensitive and inadequate handling of their complaint by the responding officers. Indeed, the AVP have also argued that the NYPD's hate crime classification and reporting system consciously minimizes the problem of hate crime, and that the institutional slant against recognizing hate crimes (a product of policy, police insensitivity, the negative image that high rates of hate crime bring to a precinct, and the (mis)use of discretion to determine hate crimes) means that in effect the NYPD is an organization that does not want to find hate crimes. In contrast to London, such views concerning real or perceived barriers to reporting, and the aforementioned 'institutional slant', are arguably reflected in the lower rates of officially recorded hate crimes in New York.

These issues are crucial for policing, not least because, as Johnson (2003) implies, the ill will engendered toward police and a prejudiced justice system makes police work more difficult, dissolves trust and confidence, further aggravates the resentments that fuel police-community conflict, and threatens the ability of the police to police by consent. In addition to the comparative historical issues described above, the similarities between the two cities across a range of other factors are striking, thereby making the two ideal for comparison (see Table 1).

Table 1 illustrates approximate figures for a small number of comparable variables. The two cities have a similar population, both of which are extremely diverse in their make-up. Both cities have the largest police forces in their respective countries, yet the approximate number of police officers dedicated to hate crime investigation differs significantly between the two cities. In London, at the time of the research, there were 32 dedicated hate crime units (called Community Safety Units), whilst in New York there is just one (known as the Hate Crimes Task Force). Both work to prescriptive policies that state what action is required of the police in every hate crime investigation, yet the numbers of recorded hate crimes are vastly different (see Figure 1). This research therefore sought to identify both the similarities and the differences in policing approaches between the two cities, and also sought to identify the impact of these similarities and differences on those involved in the policing of hate crime, and in particular the subsequent impact on victims at the point of service delivery.

Theory informing research

Four theoretical perspectives were particularly pertinent to this research. One explanation relating to the routine failure of apparently sound police policies when translated into operational practice can be found in the theoretical framework provided by Grimshaw and Jefferson (1987). Through a theoretical case-study approach to examining policy and practice in beat policing in England and Wales, Grimshaw and Jefferson (1987) build upon the sociological concepts of formal structure, police working practices and subculture, and environmental contexts by taking into account the importance of law, work and the community. In so doing, they conceptualize the structure and process of policework, the impact of policy on this work, and its wider effects.

In terms of police policy-making, Grimshaw and Jefferson (1987: 199) hypothesize that:

policies involving operational and related tasks will be characterised by the values of occupational common sense, and those involving administrative tasks will be characterised by rational scientific values...the 'success' of policy in influencing practice [will be] task related. Thus, the impact of those policies bearing on operational and related tasks where occupational common sense is to the fore will be less decisively calculable and more unpredictable in effect than those policies bearing on administrative tasks where rational-scientific management values come to the fore.

Therefore, following Grimshaw and Jefferson's model, the interpretation and implementation of policy will be subjected to influence by the occupational and cultural values of officers, and as such the effects of these policies in practice are likely to be unpredictable, uncertain and value laden.

Similarly, theoretical models (in particular those of Lipsky, 1980, and Bell, 2002) concerning the decision making of 'street-level bureaucrats', such as the police, are also of interest to this research. The decisions made by police officers – as the 'gatekeepers' of the criminal justice system – and in particular those of the lower ranks, but also detectives charged with investigating hate crimes in specialist units, are crucial in determining what, and how much of what, ultimately comes to the attention of the rest of the justice system, and what services are subsequently afforded to victims, families and communities. Given the amount of discretion inevitably afforded to officers of lower ranks, detective or otherwise, their decisions concerning both *whether* and *how* to enforce the law in individual cases (decisions that for the most part remain unchecked by others in the justice system) become crucial. The decision making of police officers, both in theory and in practice, and the impact of these decisions, were also investigated by the present research.

In the wider context of hate crime, theories concerning the social construction of the hate crime 'problem' are also critical to this research. Of particular interest is the model proposed by Jacobs and Potter (1998). Like all crime, hate crime is a social construction, but the concept of hate crime is uniquely sensitive to a range of influences that make defining and conceptualizing the phenomenon acutely complex. Yet this process of defining and conceptualizing has significant implications for the policing of hate crime. As Jacobs and Potter (1998: 27) suggest, 'how much hate crime there is and what the appropriate response should be depends upon how hate crime is conceptualised and defined.'

Finally, Pound's (1917) principles concerning the limitations of effective legal action are also of particular relevance. Pound argued that the effectiveness of law and law enforcement would be limited by any attempt to control attitudes or beliefs rather than observable behaviour; that it would be limited by the necessity that law be enforced by external agencies and (for the most part) invoked by the public (including, of course, victims), thereby introducing a range of variables relating to the ability and the desire of individuals and agencies to enforce the law; that the effectiveness of law would be limited by the notion that whilst there are interests and demands which it might be desirable for the law to recognize, the reality of such demands, particularly concerning issues of clarity concerning legal precepts and the limitations of law which arise from the difficulty of ascertaining the facts on which law is to operate, means that by their very nature they cannot be safeguarded by law; and finally that the effectiveness of law would be limited if it appeared useless and disruptive rather than serving to repair social relations.

Findings, theory and discussion

By utilizing a modified grounded theory approach, the overriding aim of this research was to explore how hate crime is policed in London and New York City. In pursuit of this aim a number of specific objectives were identified: first, to contextualize the findings of the research relating to both the problem of 'hate crime' and the policing of 'hate crime' through an analysis of existing conceptual and theoretical comparative frameworks (outlined above); second, to examine variations in the organizational responses to the hate crime problem via an analysis of policies, practices and experiences in policing; and third, to establish and evaluate the impact of these comparative variations on policing activity, police officers, victims and wider communities, and the relationship between each.

In pursuit of the first objective, the use of a modified grounded theory approach allowed the researcher to integrate the analysed data with existing theory without specifically testing theoretical hypotheses. The four theoretical perspectives outlined above were highlighted as being of particular interest, and each has been found to have considerable relevance when applied to the findings of this research.

First, as suggested by Jacobs and Potter (1998) the way in which hate crime is officially defined and conceptualized, often influenced by identity politics, does indeed significantly determine both the volume and nature of recorded incidents, which in turn has very serious implications for law enforcement in terms of workload, resourcing, investigative practices, occupational health and, of course, the amount and quality of service provision to victims.

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, and crucially who gets to decide if an offence is motivated by some form of hate. 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 mean 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. In New York, in law enforcement terms more selective decisions are generally made by the police regarding the strength of prejudice and causality before a crime is officially labelled as a hate crime.

Thus, in London, the higher rate of recorded hate crime is the product of definitions that construct the 'reality' of hate crime in ways that predominantly serve to inflate the official statistics. In particular, the overwhelmingly victim-led and victim-oriented approach that characterizes the post-Lawrence agenda concerning hate crimes places the power to formulate and apply criminal definitions, to shape public policy, to shape the enforcement of criminal law, and to apply the label of 'crime' to the behaviour of individuals largely (either directly or indirectly) in the hands of the public rather than those of the police, for whom the influence of discretion and occupational culture in identifying and recording hate crimes is now considerably reduced.

Conversely, in New York, the significantly lower rate of recorded hate crime is the product of definitions that construct the 'reality' of hate crime in ways that predominantly serve to deflate the official statistics. In particular, the overwhelmingly police-led and police-oriented approach that characterizes the various US police responses to hate crimes places the power to formulate and apply criminal definitions, to shape public policy, to shape the enforcement of criminal law, and to apply the label of 'crime' to the behaviour of individuals firmly (either directly or indirectly) in the hands of the police rather than those of the public.

Consequently, the vastly different ways in which the 'reality' of hate crime is constructed in each city means that searching for objective meaning by comparing the official statistics is extremely problematic. In many respects, with regard to what is officially recorded, hate crimes in London and New York are often very different things and the official rates of hate crime cannot be compared meaningfully. The social construction of reality effectively means, in this regard, that hate crime is in the eye of the beholder and therefore the official statistics cannot be taken to reflect any difference in any 'real' hate crime prevalence as it might appear to victims, police, advocacy groups or society at large. Perceptions of what should and what ultimately does constitute 'hate crime' are shaped by a complex network of events, structures and underlying processes that vary between different societies and are frequently determined by those whose perceptions, in official terms, are deemed to matter.

Second, despite definitional changes in England and Wales aimed at curbing the exercise of police discretion, Lipsky's (1980) analyses of the working practices of street-level bureaucrats resonated with many of the findings of this research from both sites. Lipsky stated that the policy-making roles of street-level bureaucrats such as the police are built upon two interrelated facets of their positions, namely relatively high degrees of discretion coupled with relative autonomy from organizational authority, and as such street-level bureaucrats have considerable discretion in determining the nature, amount and quality of benefits and sanctions provided by their agencies. Consequently, slippage between orders (in the form of organizational policy) and the carrying out of orders is inevitable. In line with Lipsky's theorizing, this research has illustrated gaps between policy and practice at various organizational levels of the police in both London and New York and has highlighted the crucial role of street-level bureaucrats in their exercise of discretion and in their decision making (influenced by a complex interaction of a range of factors identified below) in hate crime cases.

Third, in seeking to explain slippage between police policy and police practice, Grimshaw and Jefferson (1987) hypothesized that implementation gaps between what is supposed to happen (policy) and what actually happens (practice) when responding to an incident are likely to be more apparent where the actions of the police in any given situation are guided by operational common sense afforded to them through the opportunity to use their own discretion and make their own decisions, rather than being strictly guided by the requirements of law or management directives and supervision which restrict their discretion. The influence of occupational culture is central to their hypothesis, and plays an important role in explaining the findings of this research.

In both jurisdictions the role of policy was less influential in guiding and determining police activity and behaviour than operational common sense. The influence of occupational common sense was highest where the opportunities for the exercise of discretion were greatest and supervision was least, namely amongst rank and file officers. For the detectives in each jurisdiction, supervision was greater and although opportunities for the exercise of discretion remained, they were fewer.

As such, the research lends support to Grimshaw and Jefferson's hypothesis that policies bearing on operational and related tasks where occupational common sense is to the fore – in this case those tasks undertaken by rank and file officers – will be less decisively calculable and more unpredictable in effect than those policies bearing on administrative tasks, which in this case were more akin to the routine activities of detectives. Prescriptive policy was more likely to be followed more closely by detectives (whether they were conscious of it or not and because of the degree of supervision) than by rank and file officers.

Fourth, the principles concerning the limits of effective legal action proffered by Pound (1917) are very much evident in the findings of this research. Pound's concerns are reflected in this

research particularly in terms of the inherent difficulty experienced by police officers and prosecutors in both jurisdictions in proving hate motivation, which critics argue represents an attempt to control attitudes and beliefs rather than observable behaviour. Closely linked to this issue is Pound's notion of clarity of legal precepts – in this case in relation to the difficulty in identifying and finding evidence of hate motivation – and interpreting the requirements of vaguely worded and constructed legislation. This suggests that equating 'success' only with successful prosecutions, which were low in both jurisdictions, is a poor measure of outcomes in the policing of hate crimes.

Pound's view that the effectiveness of law would be limited if it appeared useless and disruptive rather than serving to repair social relations was harder to ascertain. The research did not aim to establish the extent to which hate crime laws served to shape society or vice versa but evidence of resistance to the policing of hate crimes from sections of the public in both jurisdictions was nevertheless identified, suggesting that public support for law enforcement in hate crime cases was not universal. This is reflected in two issues in particular that have the potential to impact upon policing directly: the deliberate subversion of legal intent by sections of the (often majority) population through the invocation of the enforcement process for any negative inter-group encounter; and the deliberate obstruction of police investigations by sections of the (often majority) population. This research also suggests that these points can apply to police officers as well as the wider public.

Of greater centrality to this research were Pound's seemingly obvious but crucial notions concerning the enforcement and invocation of law, namely the necessity that law be enforced by external agencies and predominantly invoked by the public. Although law enforcement is only one policing activity in hate crime cases, Pound's principles remain pertinent in the sense that service delivery by the police is dependent on the ability and the desire of individuals and agencies to provide that service (be it law enforcement or some other relevant policing activity), which itself is largely dependent on the ability and the desire of the public to invoke the services on offer.

Whilst there is inevitably considerable overlap between those factors that impact upon the ability of the police to respond to hate crimes and those that impact upon the desire of the police to respond to hate crimes, the research suggests that the key factors impacting upon the ability of the police to respond to hate crimes are broadly as follows (see Hall, 2009 for a full discussion):

1. the operational definition and conceptualization of hate crime
2. the volume of hate crime
3. the nature of hate crime
4. resource availability
5. the exercise of discretion
6. the content and propriety of policy instruction
7. the investigative process and case construction
8. quality of training
9. internal and external pressures
10. organizational goals and visions of 'success'.

In addition, the research suggests that the key factors impacting upon the desire of the police to respond to hate crimes are as follows:

1. organizational culture
2. state of staff morale and confidence

3. extent of understanding and appreciation of the issues relating to hate crime
4. calibre of leadership
5. nature of formal rules and sanctions.

In addition to the issues listed above, as both Pound (1917) and Cotterrell (1992) have stated, the citizen's willingness to invoke law is also essential to effective enforcement by state agencies. Again this was highlighted in the present research through discussions with victims, community members and advocacy groups that highlighted the crucial role of the public (and in particular, victims) in the policing of hate crimes. In particular, three interrelated areas – knowledge, ability and desire – were of central importance.

The first issue concerns the extent of public knowledge concerning the services available to them. In his discussion of the factors inhibiting the effective voicing of grievances, Cotterrell (1992) suggests that the poor and inarticulate in particular lack knowledge and opportunity to complain against abuses. With reference to hate crime, knowledge might well be inhibited by the issues Cotterrell identifies, but also more specifically by factors such as language and understanding of a foreign (both literally and metaphorically) criminal justice system. Indeed, the police in both London and New York were acutely aware of the importance of making a diverse public knowledgeable about what services were available and also how they could be accessed, and both were proactive in their attempts to impart knowledge concerning the services available (through, for example, publicity campaigns, community outreach, and so on).

Having knowledge of available services is one thing, but being able to invoke them is often quite another. A lack of knowledge is clearly a barrier in terms of the ability of the public to report offences against them but, inevitably, the significant under-reporting of hate crimes, starkly illustrated by victim surveys in this field, suggests problems beyond knowledge to include both the ability and desire of the public to invoke the enforcement process in the two cities.

The issue of ability was raised by the Stephen Lawrence Inquiry. Part of the underlying rationale for the change in definition in England and Wales was to encourage reporting of racist incidents to the police by making it easier for the public to do so. Macpherson (1999) highlighted the importance of third-party reporting, identifying the need for people to be able to report at locations other than police stations, and the ability to report 24 hours a day. In principle (if not always in practice), this opened up an avenue for victims of all hate crimes to report incidents without having to have direct contact with the police, and there was evidence that the public were using this facility.

In New York, however, formalized third-party mechanisms did not exist, and the policy process did not allow people reporting incidents to bypass direct contact with the police. In particular, the process enforced contact with patrol officers, a situation identified by Macpherson as a barrier to reporting in England and Wales, even when incidents were reported directly to the Hate Crimes Task Force, including via an advocacy group.

The ability of the public to invoke law enforcement services is closely related to the desire of the public to invoke services, which itself was determined by issues of experience, perception, and the extent of trust and confidence in policing. Undoubtedly a lack of trust and confidence in the police inhibits some victims' desire to invoke law enforcement services. This lack of trust and confidence is nothing new, and victims of hate crime are often reluctant to report their victimization to the police for a host of reasons, and these are well documented in the literature on both sides of the Atlantic (see, for example: Reiner, 1992; Human Rights Watch, 1997; Bradley, 1998; Bowling, 1999; Hall, 2005; Victim Support, 2006; Anti-Violence Project, 2007; Crane and Hall, 2009;

Hall et al., 2009), where areas of dissatisfaction have included perceptions that the police do not provide enough support, their response is inadequate, they do not keep victims informed of case progress, they are insensitive and indifferent, are verbally and/or physically abusive, they do not treat cases seriously, and they are not culturally aligned to victims. Interestingly, however, this research revealed a far greater level of victim satisfaction with the service provision of specialist hate crime officers than with rank and file officers, with whom the greater problems, including many of those identified above in the wider literature, were perceived to lie (but see Crane and Hall, 2009, for an interesting discussion in this area).

In short, the research suggests that the interrelated issues of victims' knowledge of, and ability and desire to, invoke law enforcement play a key role in shaping both the experiences and practicalities of policing hate crimes. Perhaps unsurprisingly in light of the issues discussed above, this research implies that although overall police performance and satisfaction levels are often perceived by the police to be good, the public frequently still have a poor perception of hate crime management and investigation in general. This suggests that, despite the increased efforts of forces in recent years, and the development of some significant good practice, there is further work to be done to improve service delivery and shift public perceptions.

A conceptual framework

If the aim of this research was posed in the form of a question – for example, ‘how is hate crime policed in London and New York City?’ – the answer would simply be ‘in the same way’. In both cities a notification of a hate crime to the police, usually from the public, is initially investigated by uniformed response before being passed on to a specialist unit for further investigation. However, as this research has demonstrated in pursuit of objectives two and three (to examine variations in the organizational responses to hate crime and to establish and evaluate the impact of these variations on relevant parties) this superficial simplicity masks a myriad of complex interrelated relationships between a range of phenomena that have considerable impacts on the parties involved in the policing of hate crime.

In seeking to make sense of the complexities uncovered in the research, it is argued that, broadly, the factors impacting upon the policing of hate crime (and therefore impacting upon service provision to victims) can be categorized into four distinct but interrelated areas. These are identified as law (including operational interpretations of law in the form of policy), law enforcement (in the form of agencies and the officials that work therein, and including the provision of the range of available state services beyond simply enforcing the law), the public (including individuals, communities and representative advocacy groups) and the context (social, political and historical) which the policing of hate crime takes, as illustrated in Figure 2.

In short, in a democracy the relationship between these four is broadly as follows:

- The law requires enforcement *and* enforcement agencies require the law (at least to some degree) to guide their activities.
- Enforcement agencies (in this case the police) for the most part require the public to invoke and pursue the enforcement process (which in this case includes other services relating to the policing of hate crime) *and* the public require confidence in enforcement agencies to provide the protection promised by law and the services offered by law enforcement agencies.
- The public require the law to provide the impetus to invoke the enforcement process *and* the law requires the broad agreement of the public for its creation, longevity and legitimacy.



Figure 2. Interdependent relationships in legal effectiveness (adapted from Pound, 1917)

- Context (social, political and historical) influences and shapes the creation of law, the mood of the public, and law enforcement responses to the social problem in question *and* the creation of law, the mood of the public, and law enforcement responses to the social problem in question influence and shape context (social, political and historical).

When these broad principles are applied to law enforcement in hate crime cases, the findings of this research can be categorized as illustrated in Figure 3.

At this juncture it is worth briefly summarizing some of the key messages to emerge from the application of the model to the policing of hate crime in London and New York, starting with the issue of context. A useful starting point for the analysis is to ask the question, ‘what is the context that gives rise to the legal recognition of a perceived social problem?’ In both London and New York the legal recognition of hate crime was predominantly achieved through the process of identity politics in which perceptions of, and concerns about, an increase in the extent and nature of the problem were brought to the political fore.

The construction of law in order to respond to such concerns reflects this process, particularly in England and Wales, where initially only racially motivated offences were specifically legislated against, reflecting the context of the debate concerning racist violence following the murder of Stephen Lawrence in 1993. The context that gives rise to legal recognition then necessarily passes the problem into the rather mechanistic world of law-making where lived reality is transformed into a form suitable for the statute books. Here answers to questions concerning what groups will be protected, what behaviours will be outlawed, what the punishment will be, and what is required from law enforcement agencies in order to meet the requirements for conviction must be constructed.

Once the problem has been legally constructed it necessarily requires enforcement, in this case by the police. Legal requirements are then transformed into organizational policy for practical

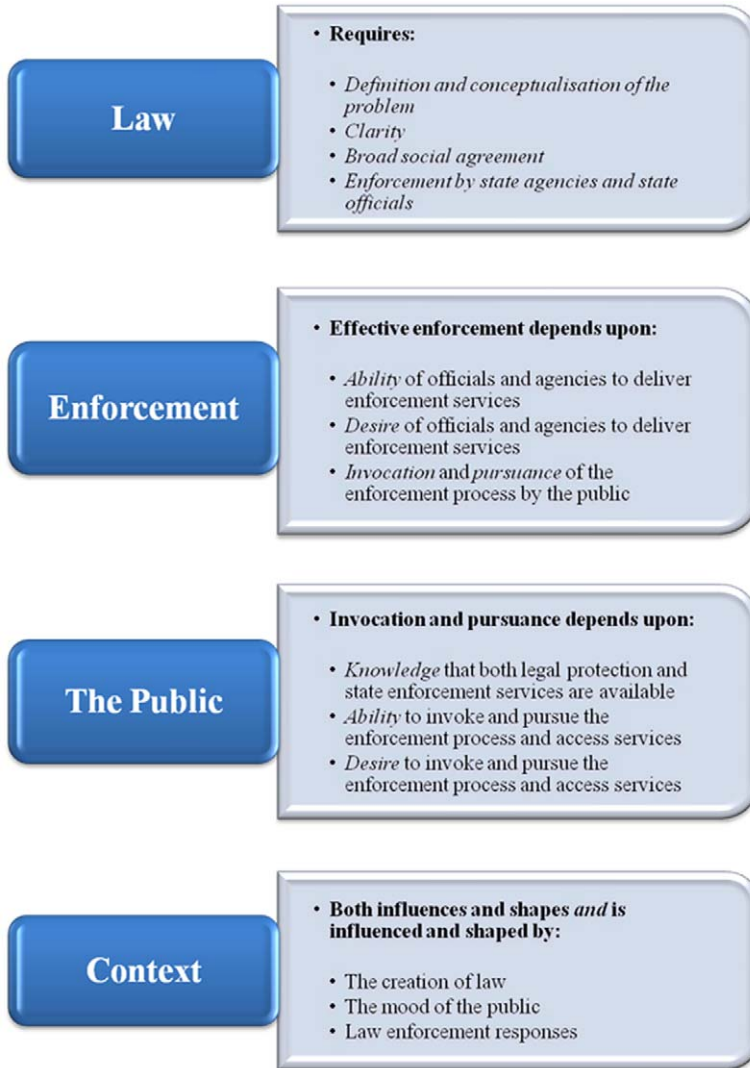


Figure 3. Key requirements for the effective enforcement of hate crime legislation

purposes, which represent the organization's instructions to its employees for dealing with a given problem. Here the issues for consideration are widened because law enforcement is only one activity undertaken by the police in hate crime cases. Such policy issues are similarly shaped by context. In New York, for example, the creation of the Hate Crimes Task Force in 1980 was a response to concerns relating to attacks on synagogues and recognition that an appropriate police response would not be forthcoming without a specialist and dedicated unit. The same process can also be said to be true for Community Safety Units in London given their 'flagship' role in leading the Metropolitan Police Service's drive to restore trust and confidence in policing by focusing exclusively on hate crimes in the immediate aftermath of the Stephen Lawrence Inquiry.

Dependence on an organization that is necessarily influenced by individual and occupational perceptions and beliefs, finite resources, competing priorities and so on, to enforce the law and to provide other related services in response to a given problem raises a host of issues. This research has identified many such issues relating to the role of the police in responding to hate crimes, but which can be reduced to two key points: do the police have the ability to respond effectively to hate crimes and do the police have the desire to respond effectively to hate crimes?

The answers to these two questions determine the extent to which legal and organizational goals in terms of responding to the problem, which itself is determined by the context that gave rise to its construction, are met. The ability and desire of the police to respond adequately to any problem is crucial because, as Cotterrell (1992) suggests, to continue to function effectively the police must protect the social and political bases of their authority, and to do this they must demonstrate an adequate degree of success in the tasks allotted to or assumed by them. In terms of hate crime this situation is particularly acute given the social, historical and political context in which the contemporary policing of hate crime takes place.

In policing terms, arguably the most important aspect of that context is the depth of trust and confidence that the public have in policing and in the police. The police are largely dependent upon the public to invoke the services on offer, which in turn is dependent upon both the ability and the desire of the public to do so. This research has suggested that demonstrating an adequate degree of success in the tasks allotted to or assumed by the police with regard to hate crime is crucial in determining the extent to which services are invoked. The ability and desire of the police to respond to hate crimes are therefore crucial in influencing the ability and desire of the public to engage with the police, and the relationship is reciprocal. It is this relationship that is central to 'success', however so defined, in the policing of hate crime.

Finally, the extent of trust and confidence of the public in state agencies to effectively respond to hate crimes feeds into the issue of context. For example, if public concern about a problem that is perceived to be inadequately responded to gives rise to a collective context that exerts political pressure to force or strengthen that response, then the process discussed here starts to unfold. Conversely, if state responses can consistently demonstrate an adequate degree of success by having both the ability and desire to respond appropriately, then it follows that trust and confidence in those agencies will increase, as will the ability and desire of the public to invoke state services, which in turn will serve to alleviate some of the problems associated with context.

The findings of the research do not provide a panacea to the problems associated with the policing of hate crime. Too many variables are present to suggest a 'solution' to such problems. Rather, the research identifies a range of areas where problems might occur, demonstrates how and why these problems might occur and how they might manifest themselves, and highlights the impact of these issues on related variables, not least victims and wider communities. The research also suggests that the myriad of issues impacting upon the policing of hate crime (including the amount and quality of service provision to victims), regardless of jurisdiction, cannot and should not be viewed in mutual isolation.

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