

Counting – and Countering – Hate Crime

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Over the past decade or so, the European Union has experienced unprecedented demographic shifts, both quantitatively and qualitatively. Contemporary migration patterns, as well as the increased visibility and activism of such communities as people with disabilities, and LGBT individuals, have arguably enhanced the dynamism and diversity of host countries. However, these same patterns have engendered a perception of threat that has all too often manifest itself in violence directed toward the Other. As nations attempt to negotiate the place of these new voices, they must also attend to the behaviours which would otherwise continue to silence them. Consequently, the measurement and regulation of hate crime have become important components of the public agenda around intolerance and xenophobia.

The persistence of hate crime poses both immediate and secondary effects. Research suggests that first and foremost among the impacts on the individual is the physical harm: bias motivated crimes are often characterized by extreme brutality (Levin & McDevitt, 1992). Additionally, the empirical findings in studies of the emotional, psychological, and behavioural impact of hate crime are beginning to establish a solid pattern of more severe impact on bias crime victims, as compared to non-bias victims (see, e.g., Herek et al., 2002; McDevitt, et al., 2001). In addition, however, many scholars point to the “fact” that hate crimes are “message crimes” that emit a distinct warning to all members of the victim’s community: step out of line, cross invisible boundaries, and you too could be lying on the ground, beaten and bloodied (Iganski, 2001). Consequently, the individual fear typically associated with crime generally is thought, in the case of hate crime, to be accompanied by the collective fear within the victim’s cultural group, possibly even within other traditionally vulnerable groups. Weinstein (cited by Iganski, 2001), refers to this as an *in terrorem* effect: intimidation of the group by the victimization of one or a few members of that group.

Hate crime also has disturbing consequences for the relationships between communities. Cultural groups that are already distant by virtue of language differences, or differences in values or beliefs are rendered even more distant by virtue of the fear and distrust engendered by bias motivated violence. Intergroup violence and harassment further inhibit positive intergroup interaction. Consequently, it throws into question not only the victim’s and the community’s identity, but also national commitment to tolerance and inclusion. Speaking specifically of Native Americans over fifty years ago, legal scholar Felix Cohen noted that mistreatment - legal or extralegal - of minorities “reflects the rise and fall

of our democratic faith.” More recently, a New York state bill (*Comprehensive Bias and Gang Assault Act*, N.Y.S. 6220, 214 Laws of Res. Sess. sec. I (1990). proclaimed that:

. . . bias-related crimes undermine the freedom that forms the foundation of what should be an open and tolerant society. These crimes vitiate the goodwill and understanding that is essential to the working of a pluralistic society. They are the antithesis of what this nation and state stand for. Accordingly, the legislature finds that . . . bias-related crimes should be prosecuted and punished with appropriate severity.

In other words, the persistence of hate crime is a challenge to democratic ideals. It reveals the fissures that characterize its host societies, laying bare the bigotry that is endemic within each. As such, it may very well be the case that bias motivated violence is not just a precursor to greater intergroup tension, but is an indicator of underlying social and cultural tensions.

If we are to effectively intervene in hate crime, we must first understand the frequency, nature, distribution, and dynamics of hate crime. Yet the evidence suggests that few nations have succeeded in developing effective strategies for gathering the necessary data – indeed, some have not even made a concerted effort to do so. There are myriad and diverse reasons for this failure, as I address below. Limitations in public reporting and police recording are especially problematic in this respect. In what follows, I suggest barriers to accurate and meaningful data gathering, and potential means by which to enhance these efforts. Having addressed the ways in which we might *count* hate crime, I conclude with a brief discussion of innovative ways by which we might also *counter* hate crime.

Barriers to Effective Data Gathering

Canada, and even more so, the United States have been officially grappling with hate crime for nearly twenty years now. Consequently, there are lessons to be learned from these two countries, often about what not to do as much as what to do. Ironically, the first piece of federal legislation in the U.S. was the Hate Crime Statistics Act in 1990, according to which states and their respective law enforcement agencies were “required” to report hate crime statistics on an annual basis. With the passage of the HCSA in 1990, the federal government appeared to have committed itself to the task of collecting “accurate” information on hate crime nation-wide. The Act mandated that the

Attorney General shall acquire data, for the calendar year 1990 and each of the successive four calendar years, about crimes that manifest evidence of prejudice based on race, religion, sexual orientation or ethnicity, including where appropriate the crimes of murder, non-negligent manslaughter, forcible rape, aggravated assault, simple assault, intimidation, arson, and destruction, damage or vandalism of property (HCSA, S(b)(1)).

The data collected by individual law enforcement agencies would be rolled into the FBI's Uniform Crime Report. As of the 2008 reporting year, however, less than 20% of relevant agencies were in compliance.

The limits of the federal government's commitment to hate crime data collection are immediately apparent in S(b)(1) itself. Efforts are constrained by the narrow definition of both the protected groups and the enumerated offences. Only five grounds for motivation and eight offences are to be counted in the UCR. This leaves a lot of ground uncovered. Other criminal offences, and equally injurious non-criminal offences are left uncounted. Similarly, victimization on the basis of gender, or political orientation, for example, are excluded. Moreover, this brings to mind the problem of inconsistency between reporting agencies. Not all states recognize the same categories of bias in their legislation. Some states do not include gender in their hate crime legislation; some don't include sexual orientation; yet others include such anomalous categories as "whistle blowers".

This problem is, of course, exacerbated in the EU context where member states have diverse pieces of legislation, covering a wide array of different offences, protected categories, and/or sentencing responses. Reports from OSCE (2007; 2009), and from the European Monitoring Centre on Racism and Xenophobia (2005), for example, consistently bemoan the lack of standardization across EU states. In fact, some states have no specific provisions on hate crime. A 2009 OSCE report on hate crime laws includes an overview of the different protected categories among member states, including the most commonly protected classes (e.g., race); frequently protected classes (e.g., gender); rarely protected classes (e.g., political affiliation). Similarly, states vary on the nature of the legislation, ranging from genocide, to sentencing enhancement, to hate speech provisions. These discrepancies have obvious implications for the abilities of law enforcement agencies to collect and record what is deemed relevant data. Add to this the disparities in police training in the identification of hate crime, and the frequent resistance to recognizing the phenomenon, and you have a recipe for imprecision (Bureau of Justice Assistance, 1997).

Because the hate crime data are collected in the same way as the other official police data, they are fraught with the same deficiencies. Bell (forthcoming) identifies an array of structural limitations on police recording of hate crime:

Different levels of organizational procedure exist around hate crimes. In order to be reported, hate crimes must be recognized, counted, and eventually reported. There are vast differences between police departments whether, the degree to which, and in what way officers are trained. Training specifically focused on hate crime factors often leads to increased hate crime reporting. Other institutional factors which increase hate crime reporting include the level of supervision in crime investigations and whether there is departmental policy regarding hate crimes.

As with statutory provisions, there is wide variation among police departments in the extent to which any of above factors prevail. In the US, for example, it appears that very few departments are effective in identifying or investigating hate motivated crime. On the contrary, very few acknowledge hate crime when it occurs. For instance, in 2005, only 16% of agencies reported any hate crime; most departments in the Deep South reported no hate activity for the year, which many would find incredible.

In addition to the limitations imposed by law enforcement agencies are those presented by trends in public under-reporting. In fact, some argue that hate crimes are even more dramatically under-reported than other UCR offences (Berrill, 1992; Weiss, 1993). Gay victims, for example, may fear that the admission of their victimization is concomitantly an admission of their sexual orientation. Reporting an anti-gay crime to the police is tantamount to "outing" themselves - an event for which they may not be prepared. Similarly, the undocumented laborer may fear the repercussions of his or her status being revealed. Moreover, victims may well fear secondary victimization at the hands of law enforcement officials. At the very least, they may perceive that police will not take their victimization seriously. And perhaps they would be correct on both counts. It is not unheard of for police to further berate stigmatized victims - gay men and lesbians, female and male victims of domestic violence, people of color. Louima, the Haitian immigrant sodomized by New York City police officers could attest to the extremes to which officers might be willing to go in an effort to (re)assert dominance.

Louima's case highlights another reason why hate crime may go unreported: distrust of law enforcement agencies, either on the basis of experiences within the host state, or for

immigrants, in their country of origin. Given the hostile relationships between state authorities and minority communities, it is not surprising that victims of ethnoviolence are skeptical about the willingness of police officers to respond to their victimization. Similarly, the black South African immigrant whose early experience with state authority might have included night-time "visits" and "disappearances" is unlikely to welcome any interaction with police in this country.

Enhancing Police Data Gathering Capacity

Given the above assessment, it is clear that efforts at enhancing current official data gathering must begin on two fronts: public and police reporting. If police are to be effective in recording hate crime more accurately, citizens must be willing and able to trust them. In short, this means building enhanced relationships between the police and the diverse communities they serve. Regardless of the community in question, police reformers since the late 1970s have advocated community policing as a means of accomplishing this. On the face of it, community policing appears to lend itself to anti-racist policing. It is in many respects preferable to the traditional bureaucratic model of policing which is grounded in a hierarchical and adversarial model, very much in conflict with relationships of trust. Indeed, the philosophy of community policing promises a more democratic and inclusive approach to law enforcement. In contrast to bureaucratic models, it emphasizes community involvement, proactive strategies, and decentralization of control. In theory, such a model engages police and the communities they serve in the collaborative exercise of constructive problem solving. According to an Arizona community policing training manual designed specifically for Indian Country, community policing is grounded in three interconnected principles: community partnerships, problem solving, and supportive organizational change (Inter-tribal Council of Arizona, Inc., 1998). In practice, this can take diverse forms, as the strategies that have developed around community policing are many and varied. Significantly, the identification of problems and their solutions are meant to evolve organically out of the needs, norms and aspirations of the local community. As a small sample, consider the following list of related initiatives: school based crime prevention programs (e.g., DARE); attending Neighborhood Watch and other neighborhood based meetings; collaborating with and learning from community agencies; providing alternative dispute resolution resources; creation of local advocacy boards; civilian law enforcement academies; distribution of police newsletters. Cumulatively, the myriad strategies are intended to break down barriers between police and the public, and to involve the latter in both identifying problems and solutions.

Community policing has garnered mixed reviews. Proponents contend, of course, that it has been effective at reducing crime, and fear of crime, and improving relations between police and the public. But detractors question the cost of such successes. Cynically, some contend that reform in the direction of community policing has generally been driven by greed for the lucrative funding available for related programming rather than any genuine concern about "community involvement" (Websdale, 2001; Bolton and Feagin, 2004). Consequently, it is no surprise that the turn to community policing has made limited impact in many cases. Moreover, the philosophy of community policing has often been characterized as a façade behind which law enforcement is able to mask heightened surveillance of "problem" communities.

Exacerbating this trend is the fact that, ironically, community policing is often aligned with other seemingly contradictory contemporary policing trends. Without obvious awareness of their incongruity, police departments have simultaneously embarked on the move toward community policing and "zero tolerance" or "broken windows" approaches. According to the latter model, harsh and immediate police attention to signs of community disorder is the most effective crime prevention strategy. In the sort of "us" vs. "them" punitive climate engendered by zero tolerance policing, community policing initiatives are doomed to failure, if only because they further alienate the minority populations that are often the target of both. Here problem identification and problem solving often disproportionately point to minority communities as inherently criminal and in need of heightened police activity. In cities like New York City, where zero tolerance policing really took hold in the 1990s, African Americans and Latinos were disproportionately the subjects of police activities like stops and arrests. Moreover, complaints against police by people of color have also increased dramatically in such cities (Beckett and Sasson, 2000; Bass, 2001). As Beckett and Sasson (2000: 209) conclude, "despite all the talk about community policing, policing practices have become more aggressive and often keep the community in a very passive position *vis à vis* the police." Consequently, if such "bridge building" initiatives are to be effective, they must be sincere. Leadership and front line staff must both make a solid commitment to the values of inclusivity and cohesiveness. In many police agencies, this will require fundamental changes in who they hire, and how those recruits are then trained.

Discussions revolving around efforts to increase the cultural awareness and sensitivity of police officers often skip over the most crucial stage of agency acculturation. Many assume that the place to begin is with training. But in fact the key to a more aware

and thus effective law enforcement body is to hire wisely at the outset. Increasingly in Canada and the US, the practice if not the policy is to hire well educated recruits, particularly those with liberal arts and social science degrees. Ironically, traditional criminal justice or justice administration students are not necessarily the best choice in this context. The mainstream and often conservative education they receive typically reinforces the problematic us vs. them mentality that marginalizes and stigmatizes the other. (SEE relevant lit on cj ed). Recent surveys of CJ students, for example, have found them to be more homophobic and racist than peers from other programs.

In contrast, more broadly defined programs grounded in the liberal arts and/or social sciences tend to graduate students who have had more sympathetic exposure to themes of diversity and multiculturalism, as well as the crucial skills of critical thinking, and interpersonal and intercultural communication. This tends to better prepare them for subsequent interactions with diverse communities. As an example, consider my own Faculty, which offers a very comprehensive interdisciplinary Criminology and Justice major. In addition to standard theory, methods, and criminal justice courses, the program requires that students take an array of classes that highlight cultural difference: Issues in Diversity; Social Justice and Conflict; Violence Against Women; and even Hate Crime. A substantial proportion of our students do in fact aspire to law enforcement. Yet by the time they have left our classrooms, they are well attuned to the values of tolerance, respect, and equity.

Another potential avenue in the context of hiring would involve aggressive recruitment from communities most vulnerable to hate crime, and thus empathetic to the problem. Optimistically, police reformers in recent years assumed that the inclusion of officers from communities of color would ensure the success of not just community policing, but policing generally. It was believed by many that this would bridge the divide between officers and the communities they served, and that officers' knowledge of "their" communities would enhance their effectiveness. Sadly, this has not generally been borne out by experience. Rather, minority officers are often plagued by "double marginality," whereby they are not deemed fully a part of either their racialized community or the world of policing. On the one hand, members of minority groups who choose a career in law enforcement fear being perceived as having betrayed their community. On the other side of the equation of double marginality is, of course, the anticipation of the reaction of white officers to non-white officers. The very realistic fear of racism—both individual and systemic—within the profession is a major prohibiting factor to recruitment (Bolton, 2003; Bolton and Feagin, 2004). The difficulty, then, is that the existing culture of racism,

homophobia, and sexism that permeates many police organizations must be whittled down. Again, effective hiring of majority and minority officers with a keen grasp of progressive social dynamics will, in the long term, go a long way toward this.

Once hired, officers also need to be immersed in the values that mitigate against apathy or outright hostility towards difference. We have largely failed in this area as well. In Canada and the US, new recruits receive 12 weeks up to 6 months of formal training prior to going into the field. Yet they typically receive less than 20 hours of diversity training, with little to none of this time devoted to hate crime per se. Similarly, in service training in issues related to intolerance and hate crime is sporadic at best. Moreover, what is available does not appear to be of the highest quality. This assessment, however, is speculative as there have been virtually no systematic evaluations of police training modules. The available evidence suggests only that officers from police departments that include hate crime training are slightly more likely to record offences as such (Bell, 2009). Anecdotally, I will say that I have sat in on what have been touted as “strong” sessions and was not impressed. Those that I have observed have been dramatically limited both in terms of content and their ability to engage what is often a skeptical audience. Significantly, most training focuses primarily on procedural issues, such as defining and investigating hate crime, with much less attention to the question of why it is an issue worthy of law enforcement attention. While better and more broadly educated officers may have developed some awareness of the underlying issues, this may not apply to all. Thus, all should be reminded of the value of enforcing hate crime legislation for victims, and for civil society generally. Hate crime training must be embedded in ongoing training on the broader contours of diversity.

Since at least the 1960s, some form of cultural “awareness” or “sensitivity” training for law enforcement has been seen as a panacea to the hostile relationships between police and racialized communities. Interestingly, cultural awareness training programs have been supported by both liberal and conservative reformers, albeit for reasons that are diametrically opposed. For the former, cultural awareness training is seen as a potential inoculant against problems of discrimination, harassment and violence perpetrated by police against racialized and other minority groups. Effective diversity training, they argue, would sensitize police to the impacts of their actions, thereby affecting subsequent changes in their behavior. In contrast, conservative supporters contend that the behavioral changes wrought by such programming have positive implications with respect to issues of police liability and reduced law suits. Additionally, they see more harmonious police-community

relations as an effective means to reassert the legitimacy and thus the authority of the police in minority communities (Barlow and Barlow, 1993).

It is a daunting task to attempt to synthesize the array of cultural diversity training initiatives. There are nearly as many approaches as there are police departments, each with its own set of assumptions and related content and delivery style. However, perhaps the most concise means of categorizing cultural training is to follow Rowe and Garland's (2003) typology of cognitive, behavioral, and affective/attitudinal approaches. The first has arguably been the most common strategy historically, perhaps because it appears at first blush to be the "simplest." Briefly, cognitive approaches involve the relatively static delivery of "factual" information about the communities in question. They present participants with a catalog of "typical" behaviors, values and mores associated with diverse groups, and some related details on how to "communicate" effectively in light of those factors.

Such a delivery method obviously has serious limitations. As noted, it is static, implying that particular groups are a) unchanging, and b) monolithic. In so doing, cognitively based curricula often have the counterproductive effect of reinforcing rather than challenging damaging stereotypes (Blakemore, Barlow and Padgett, 1995). So, for example, to highlight the problem of substance abuse within Native American communities reinforces the "drunken Indian" stereotype, without unpacking the structural conditions that have given rise to this problem.

As an alternative, affective programming encourages officers to develop anti-racist (or anti-homophobic or anti-xenophobic, etc.) values and attitudes. In short, these approaches seek to create "reflective practitioners" who are "able to recognize the impact that they personally, and the police service in general, have on the broader community" (Rowe and Garland, 2003: 408). Consequently, officers are challenged to recognize and confront their own racism and its effect on their treatment of and relationship with community members. Typically, this is accomplished by one of two methods, sometimes in concert: first-hand accounts presented by community members; and/or academic accounts of those encounters and their effects.

Two key limitations are generally associated with this approach. First, of the three strategies, it is the most likely to generate resistance and hostility on the part of police officers. They feel that they are labeled as racist, that all blame for the uneasy relationship is placed squarely at their feet, rather than shared with the community. A trainer cited by Rowe and Garland (2003: 406) observed that

because we're talking about people's values, we're talking about what makes them a person, and we're asking people to look at themselves, reflect on themselves. . . . It's quite an uncomfortable process for these people. When something's uncomfortable for you, then it's a natural reaction sometimes to be hostile.

Officers often see affective programs as a direct threat to their sense of self. They feel that they are being attacked at the very immediate level of who they are and how they think. Consequently, they resist the programming and its messages (Gould 1997).

The second limitation of affective curricula is that they don't typically manifest in long term behavioral change. An evaluation of an affective paradigm conducted by Rowe and Garland (2003) found that participants had difficulty in translating their training experience to the workplace. In particular, they were unable to identify concrete ways in which their workplace behavior differed as a result of what they learned.

Finally are the cultural awareness programs that are expressly intended to affect behavioral change, regardless of what changes may or may not occur with respect to prejudicial attitudes. Such initiatives educate police officers on "appropriate" and "culturally sensitive" ways to deal with minority communities. In short, traditional methods of police training about techniques and procedures are simply translated into how to interact with minority communities. Foremost among the techniques are cross-cultural communication and conflict resolution (Blakemore, Barlow, and Padgett, 1995). Officers' comments in response to one such training initiative reveal the extent to which this sort of approach is exploited by officers who are "looking for guidance on how to manipulate specific groups of people more effectively." One officer specifically asked how he could stop a vehicle driven or occupied by black people, which for him was "suspicious" in his territory. So, for this officer and many others, cultural awareness training was not meant to enhance police-community relations, but to mask the racism that informs their daily practices.

(Re)Counting Hate Crime: Alternative data gathering mechanisms

It is overly optimistic to suppose that any of the above shifts in practices, attitudes, and behavior will occur in short order. These are long term responses. In the interim, appropriate documentation will help to direct resources where they are needed, whether in the form of awareness enhancement, victim services, or other initiatives. Official reports will remain problematic for all of the same reasons. Thus, member states are encouraged to standardize hate crime definitions; standardize official data gathering mechanisms; and/or

utilize multiple methodologies to further their understanding of the nature and dynamics of intolerance and bias motivated violence within and across borders.

As noted early in the paper, one of the difficulties in comparing data across states is that there are inconsistencies in definitions of what constitutes hate crime, and the corresponding protected classes. From the outset, then, direct comparison of member states' data is not possible. The units of analysis are simply not the same state to state. There is some cause for optimism, however, in light of a 2008 EU initiative to develop a common framework on hate crime. It is, of course, early days and difficult to assess to what extent member states will follow through. There have been some adjustments, but there is still significant work to be done in bringing states into concert.

Disparate legislation, of course, is accompanied by disparate outcomes with respect to data gathering – both quantitatively and qualitatively. Successive OSCE reports have documented the uneven recording and reporting practices among member states. The organization has been able to catalogue the array of data gathering practices across the EU in terms of responsible authorities; whose attribution of bias motivation would be taken into account; victim groups; and types of crime. These are so disparate as to prohibit quantification, let alone meaningful comparative analyses. Legislative adjustments which standardize state definitions of crime would help to bring this into alignment, but it would also require standardization of reporting and recording practices. Thus, the same problems of public and police reporting of hate crime will continue to hinder data accuracy.

An alternative – or perhaps supplementary approach – is to introduce a different type of standardized data gathering strategy. The US and Canada, for example, each conduct annual victimization surveys, whereby households are polled on their experiences of crime generally – hate crime is but one of many categories of crime. This has allowed for systematic year to year comparisons. A similar strategy might be undertaken, specific to hate crime. Academics have developed several such surveys, which have been used for relatively small populations. There is no reason these strategies cannot be adapted to multi-state research. Parallel agencies in all member states could take responsibility for administering the surveys on an annual basis, for example. Or, a more broad-based entity – like OSCE – could spearhead the initiative. The key is to use the same protocol in all member states. This, it would appear, is the most promising – albeit expensive – approach.

A significant qualitative shortcoming of most official data gathering strategies is that they tend to provide little more than numbers. How many incidents? How many assaults?

How many offenders? How many Asian victims? They tell us nothing of the process involved. What motivated the offender? What is the relationship between the victims' and offenders' communities? What emotions prevailed? What words were exchanged? For these crucial subjective elements, we must look elsewhere. In short, quantitative measures should be complemented by qualitative approaches that provide more insight into the dynamics of hate crime. Several models exist.

There are already a number of non-governmental bodies devoted to tracking and responding to hate crime. Some of these tend to gather information specific to one target group - on anti-Semitic or anti-gay violence for example, and are not generalizable. Moreover, we must recognize that each of these bodies brings with it unique strengths and weaknesses. Many simply catalog bias incidents drawn from an area of sources: telephone and intake sessions, newspaper reports, community based organizations, churches, human rights commissions, bar associations, and government agencies. However, these are neither verified, consistent, nor exhaustive. Additionally, they include what might be considered bias "incidents" as well as bias crimes.

Nonetheless, the reports developed by these agencies remain valuable resources. The inclusion of reports of bias incidents, for example, is useful, as these are often precursors to escalating behaviours. Moreover, not only do such agencies "count" hate crime, but they also situate the data by providing narratives or summaries of illustrative cases. It is from these synopses that we gain valuable insight into hate crime as a process, specifically as a process which separates "us" from "them". Here we get some sense of the motive and source of the hostility. It is these details which help us to better understand the dynamics of this phenomenon.

Countering Hate Crime

With data in hand, we will be in a much stronger position to confront hate crime head on. Traditionally, liberal Western states introduce statutory measures to manage the perceived crisis. And there may be some symbolic value to opting for legislation as a means of responding to hate crime. Just as hate crime is an expressive act, so too is hate crime legislation an expressive statute. It sends a message to its intended audience(s) about what is to be tolerated. Thus, the majority of states have responded punitively, opting for harsher sentences where the crime in question is deemed to be motivated by bias. However, we've learned in the last decade or so that harsher sentences don't necessarily

make safer communities. Purely punitive responses have the potential to be counter-productive. Franklin (2002: 166) observes that

It remains an open question as to whether penalty enhancements will lead to increased tolerance of minorities among the general public. Some critics argue that the laws, although well intentioned, may actually increase the social divisions they are designed to ameliorate . . . They cite the popular belief that hate crime laws are an example of certain groups receiving special rights not accorded to other citizens.

Moreover, hate crime offenders who go to prison often find themselves among peers who will reinforce their racist, or homophobic, or religious biases. Additionally, given that most hate crime involves relatively minor property offences, increasing the sentence may embitter perpetrators and make them hostile. Most offenders are youth, and especially young men who are responding to what they see as a threat – to their community, to their neighbourhood, or to their self-esteem. Often, these threats are more imagined than real. It has proven to be more effective, then, to challenge those myths, and to thus “humanize” the victims and their communities. Incidents of hate crime can be taken as a starting point for education and healing rather than simply punishment. Consequently, community based responses represent valuable alternatives.

Education Rabbi Steven Moss, creator of New York City’s Stopbias program stated that “I find most defendants are not bigoted in their hearts but are acting out, using hate words but often not knowing why they are hateful. You want to create an environment in which the [student] can grow from this.” With this in mind, one option is to recommend an educational opportunity for hate crime offenders. This will make an impact on both the community and the offender. At the simplest level, the court could be asked to require that offenders take college or university courses on diversity, or on the community that has been victimized. Another, that is widely used in the United States, is for offenders to engage in community service within the victim’s community. So, for example, in the case of anti-Semitic violence, they could work with the Rabbi at a local synagogue. These alternatives are intended to deter further bias- motivated violence by teaching offenders the effects of their actions, and by putting a human face on the victims.

Offender Counselling Related to this are more formalized anti-bias programs that might be available in local communities, either through the justice system or through non-profit agencies. Nearly two-thirds of all known perpetrators of hate crimes are teenagers or young adults. When appropriate, a victim-offender restitution program or offender

counseling program can be an effective sanction for juveniles. Like the educational initiatives noted above, these are grounded in the understanding that young offenders, especially, often act out of ignorance and uncritical adoption of community norms of racism, homophobia, etc.

Counselling initiatives provide an opportunity to educate hate crime offenders about those who are the object of their violence. The goal is to alter and expand the offenders' perceptions of other cultures. These programs can consist of such activities as visits to places of worship, or community centres; listen to guest speakers from other cultures; and listening to stories from victims of bias crimes. It might also include lessons on human and civil rights law, racism, anti-Semitism, and other forms of prejudice, and a short history outlining the legacy of discrimination against minorities in America. This could be done in isolation, or in combination with community service in the community in which their crime(s) was committed.

Victim-Offender Mediation Recently, victim-offender mediation has been used in an increasing number of contexts. It has proven to have some value as a response to hate crime as well. This option allows victims and offenders enter into a dialogue intended to enhance their understanding of one another: the motives of the offender, and the effects on the victim. Part of the dialogue – which must be freely entered by both parties – is also the resolution of their conflict, generally by the offender admitting guilt and offering a sincere apology. Additionally, however, the two parties are meant to come to a mutually acceptable agreement about “what’s next,” typically, some kind of restitution. The goal in victim-offender mediation, then, is to empower the victim, while evoking compassion and understanding on the part of the offender, so as to minimize recidivism.

Restorative Justice In some cases, restorative justice may also be a viable, particularly for low-level bias-motivated offenses and for juvenile offenders. The restorative justice model goes beyond victim-offender mediation, to promote involvement of the victim, the offender, *and* the community in the justice process. In particular, restorative justice interventions help to restore victims' and communities' losses by holding offenders accountable for their actions by making them repair the physical and emotional harm they have caused. Such interventions also focus on changing the behavioural patterns of offenders so that they become productive and responsible citizens. The restorative justice model places emphasis on everyone affected by the crime—the community and the victim as well as the offender—to ensure that each gains tangible benefits from their interaction with the criminal justice system.

Academics Umbreit, Lewis and Burns (2003) highlight two particularly important elements associated with restorative justice initiatives – elements that have particular relevance to the community impacts of hate crime:

The entire community is engaged in holding the offender accountable and promoting a healing response to the needs of victims, offenders, and the community as a whole (p. 3);

and

While it is important to address the immediate needs of crime victims and offenders, involving community members in the process of doing justice helps to build stronger, more connected, caring communities (p. 4).

This alternative, then, specifically addresses the community impact of hate crime, allowing any affected party a place at the table. Moreover, who comes to the table is variable, and depends on the incident in question. Ordinarily, the dialogue begins with victims and offenders, and significant support persons that they may bring with them. Additionally, however, it is as likely to include representatives of the larger community or neighbourhood, who can speak precisely to the nature and intensity of how the violence affected them as well.

It is not enough to intervene at the level of the individual offender. Perpetrators are largely reflections of the communities within which they live, where sentiments are shaped by popular opinion as well as political rhetoric. We can expect little popular change in attitude without a corresponding – or even precedent – shift in government policies and rhetoric. In light of the rise of viable right wing political parties across the EU, this battle will not be an easy one. Hate-motivated vilification and violence can only flourish in an enabling environment. In most western nations, such an environment has historically been conditioned by the activity – and inactivity – of the state. State practices, policy and rhetoric often provide the formal framework within which hate crime – as an informal mechanism of control – emerges. Practices within the state, at an individual and institutional level, which stigmatise, demonise or marginalise traditionally oppressed groups legitimate the mistreatment of these same groups on the streets.

The role of the state in legitimating hate crime is inextricably linked to its role in the politics of identity-making and the construction of difference. Omi and Winant (1994) make the argument that the state is increasingly the pre-eminent site of racial conflict. The state

is implicated in constructing popular notions of identity in racialised terms. Ascendancy – or domination – “which is embedded in religious doctrine and practice, mass media content, wage structures, the design of housing, welfare/taxation policies and so forth” (Connell, 1987:184) applies as much to the construction of hierarchies of race and ethnicity as it does to class. West and Fenstermaker (1995:9) remind us that race, along with class and gender, acts as a “mechanism for producing social inequality.” Of course, segregationist laws are the strongest historical example of this racial ordering. But the weakening of Affirmative Action legislation – on the grounds that ‘quotas’ are unjust – is a more contemporary expression of the ‘proper’ place of minorities. The state not only holds us accountable to race, but plays a critical role in shaping what it means to do race. Thus, the state serves to both define and maintain what it is to ‘do difference.’

To facilitate this enterprise, the state can call upon existing public sentiment around race and gender. Political expressions of hate and bigotry are to be located at any number of different sites. Press releases and related sound bites, judicial decisions, parliamentary debates, commission hearings and certainly single issue and electoral political campaigns are laden with images and language – both implicit and explicit – representative of the dominant ideologies of race. The demonisation of minority groups is reinforced by the racialised discourse of other politicians, judges, political lobbyists, and more. The political rhetoric of hate does not fall on deaf ears. Consider Gramsci’s assertion that hegemony must begin with or incorporate prevailing sentiments. Degradation of the other is on fertile ground in a culture with a history of – indeed origins in – a worldview which saw non-whites as heathen savages, for example. Western nations share a legacy of centuries of persecution of minorities, whether they be Aboriginal peoples, immigrants, homosexuals, and indeed women. Such a history normalises mistreatment of those who do not appropriately conform to the preconceived hierarchies. That leaves us with a culture reflected in bitter letters to the editor, opinion polls that seem to tap deep divisions and resentments, and ultimately, hate motivated violence.

If political rhetoric fuels the flames of hatred, then it is also clear that a positive politics of difference expressed at the level of the state is vital if we are to temper, if not extinguish, those flames. First and foremost, politicians must assume a leadership role in condemning rather than embracing hate crime, organized hate groups, and other blatant expressions of intolerance. Winant (1994) argues for an ethical commitment to social justice grounded in justice rather than injustice, inclusion rather than exclusion, respect for rather than resentment of difference. Just as the hate movement has piggy-backed on the

reactionary politics of the right, so too might a progressive movement exploit the windows opening up within more progressive parties.

Giving oppressed communities an opportunity to have a voice in such conversations is a first step in realizing social justice. As defined by Kerchis and Young (1995), and by Coote (1998) social justice revolves around participation and democratic representation in the home, the workplace and in political arenas. It involves "the realization of institutions that allow all people to develop and exercise their capacities, express their experiences, and participate in determining their actions and the conditions of their actions" (Kerchis and Young, 1995: 16). In other words, social justice consists of the ability to "do difference" without fear of violent reprisal. It frees women to make household decisions without fear of being beaten; it frees people of color to pass through or live in any neighborhood without fear of attack; it frees gay men and lesbians to demand equal treatment and recognition without fear of violence.

In a just society, difference would not be the foundation of criminalization, marginalization or victimization. On the contrary, difference would be the foundation of inclusion and equity in all areas of social life. This reconstruction will require that the diverse means of bridging differences be embedded in social, economic and cultural practices which empower rather than disempower difference. Coincident with social action for reform of legislation, education, and victim services, we also have a responsibility to work toward social change which mitigates the negative effects of difference. Access to adequate housing and medical care, education, full-time employment, income support, child care, and other crucial social services should be acknowledged as the inalienable rights of all rather than the privilege of a few. At bottom, "the goal should be to make sure that every child, whoever his or her parents and whatever their race or class, has a reasonable chance to live a satisfying, productive and law-abiding life" (Tonry, 1995: 208). Only then can we say that ours' are truly just societies in which difference is not denigrated.