

**RACE, DIVERSITY, AND THE POLITICS OF HATE CRIME:
AN ANALYSIS OF POLICE RESPONSE TO RACIALLY MOTIVATED HATE CRIMES
IN THE GREATER TORONTO AREA**

Timothy Bryan

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ABSTRACT

Drawing on critical race and socio-legal frameworks, this dissertation examines police responses to racially motivated hate crimes in the Greater Toronto Area. In the mid-1990s, police services in Canada developed procedures to respond to suspected hate/bias motivated crimes. Hate crime procedures and training programs developed around two central foci: 1) traditional policing concerns involving proper investigative techniques, evidence collection, and documentation; and 2) emerging concerns regarding victim care, community consultation, and respect for racial and cultural diversity.

An understanding of police practices requires an analysis anchored in historical and contemporary efforts to manage racialized people and efforts to produce forms of diversity conducive to a liberal multicultural and multi-ethnic state. Two sets of empirical data ground this study: 1) texts, including documents obtained through Access to Information requests and publicly accessible documents pertaining to hate crime policy and training; and 2) 34 semi-structured interviews with uniform and civilian police personnel. This study is qualitative in nature and, as such, aims to produce a descriptive and interpretive account of institutional processes and law enforcement practices. Central to my project is an examination of key government documents, including formal police protocols, working group documents, internal police job descriptions, statistical reports, officer handbooks, and training materials that outline the official police protocols, guidelines, and rationales relating to hate crime.

By examining officer accounts of their on-the-ground practices, the training regimes involved in hate crime response, and investigative strategies employed by

officers, I trace the way institutional mandates, personal experiences, and notions of Canadian multiculturalism coordinate and legitimize particular forms of intervention. I argue that hate as a primary object of police attention is often obscured by concerns police officers see as more important, such as protecting the credibility of law enforcement organizations, preventing non-criminal disputes from becoming criminal matters, police victimization at the hands of the public, and perceptions of the fundamental unfairness of hate crime laws. In this way, I show how the policing of hate crime is organized by a system of racial governance that obscures race and racism even as it claims to confront them. This analysis reveals the personal and institutional stakes involved in policing hate crime, the institutional frameworks used to define police roles in relation to hate crime response, and the way day-to-day police action aligns with broader institutional prerogatives.

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TABLE OF CONTENTS

Abstract.....	ii
Acknowledgements.....	iv
Table of Contents.....	vi
List of Tables.....	ix
List of Figures.....	x
Abbreviations.....	xi
Preface.....	xii
Introduction.....	1
Defining and Conceptualizing Hate Crime.....	4
Significance of Research	11
Chapter Outlines.....	13
Chapter 1: Literature Review and Theoretical Frameworks.....	18
Part I: Hate Crime and Policing Scholarship.....	19
Part II: Theoretical and Conceptual Frameworks.....	30
Socio-legal Studies, Critical Criminology and Critical Race Theory.....	30
Racial Governance.....	36
Racial Liberalism.....	39
Critical Race Theory and Hate Crime and Policing Studies.....	44
Chapter 2: Methodological Frameworks.....	46
Part I: Institutional Ethnography and Encounter as Methodology.....	48
Institutional Ethnography.....	48
Encounter as Methodology.....	54
Part II: Methods of Data Collection and Analysis	56
Textual and Documentary Analysis.....	56
Semi-Structured Interviews.....	59
Interviews with Law Enforcement Personnel.....	62
Situating Interviews with Police.....	63
Interviews with Police Instructors.....	64
Analyzing Interview Data.....	65
Part III: A Brief Note on Access and Ethics	65
Access.....	67
Research Ethics.....	69
Chapter 3: Situating Hate Crime and Police Response in Canada.....	73
Part I: Historical Emergence of Hate Crime in Canada.....	73
International Human Rights and Canadian Multiculturalism.....	74
Sentencing Reforms.....	80
The Development of Community Oriented Policing.....	86
Part II: Hate Crime Response in Context.....	96
Jurisdiction and Demographics.....	97

Hate Crime in Toronto, York Region and Peel Region.....	98
Institutional Structure of Hate Crime Units.....	107
Toronto Police Service.....	107
Peel Regional Police Service.....	108
York Regional Police Service.....	109
Hate Crime Reporting Process.....	109
Hate Crime Training.....	125
The Ontario Police College.....	125
In-service Training.....	127
Conferences.....	128
Conclusion.....	129
Chapter 4: Hate Crime and the Politics of Crime Response.....	130
Investigating Hate Crime.....	131
Responding to Hate Crime.....	141
Police as Law Enforcers.....	141
Police as Mediators/Peace Keepers.....	145
Police as Educators.....	151
Conclusion.....	160
Chapter 5: Hate Crime and the Politics of Institutional Reputation.....	162
Responding to Victims	163
The ‘Political’ Nature of Hate Crime.....	169
Media Attention and Sensational Cases.....	169
Responding to the Politics of Hate Crime.....	176
‘Covering Your Ass’.....	177
Managing Victims Feelings.....	181
The Politics of the Investigative Process.....	186
The Politics of Institutional Openness.....	187
Conclusion.....	193
Chapter 6: Hate Crime and the Politics of Racial and Cultural Diversity.....	195
Diversity: an Institutional Framework.....	196
Diversity as Police Work and Diversity as Hate Crime Prevention.....	204
Diversity Contested.....	210
Police as Victims of the Community.....	210
Diversity Contested from Within.....	220
Conclusion.....	229
Conclusion: Re-examining the Hate Crime Paradigm.....	231
Re-examining Hate Crime Response in the Greater Toronto Area.....	232
Hate Crime and Racial Governance.....	237
Limitations, Implications and Further Research.....	239
Bibliography.....	247

Appendix A: Interview Questions: Hate Crime Investigators273
Appendix B: Interview Questions: Hate Crime Instructor.....274
Appendix C: Informed Consent Form.....275

LIST OF TABLES

TABLE 2.1: Records Obtained through Access to Information Request.....	58
TABLE 2.2: Material Obtained During Face to Face Interviews.....	59
TABLE 2.3: Distribution of Participants by Law Enforcement Agency.....	60
TABLE 3.1: Ontario’s Community Mobilization and Community Engagement Approach.....	94
TABLE 3.2: Total Hate/Bias Crimes by Motivation 2011 – 2017 TPS.....	103
TABLE 3.3: Total Hate/Bias Crimes by Motivation 2011 – 2017 YRPS.....	103
TABLE 3.4: Total Hate/Bias Crimes by Motivation 2011 – 2017 PRPS.....	104
TABLE 3.5: Roles and Responsibilities Hate/Bias Crime Response TPS.....	114
TABLE 3.6: Roles and Responsibilities Hate/Bias Crime Response YRPS.....	118
TABLE 3.7: Roles and Responsibilities Hate/Bias Crime Response PRPS.....	121

LIST OF FIGURES

FIGURE 3.1: Ontario Framework for Planning Community Safety.....	92
FIGURE 3.2: Total Hate/Bias Crimes TPS, YRPS, and PRPS 2011-2016.....	99
FIGURE 3.3 Total Hate/Bias Crimes vs. Racially and Religiously Motivated Hate/Bias Crimes TPS.....	101
FIGURE 3.4: Total Hate/Bias Crimes vs. Racially and Religiously Motivated Hate/Bias Crimes YRPS.....	102
FIGURE 3.5: Total Hate/Bias Crimes vs. Racially and Religiously Motivated Hate/Bias Crimes PRPS.....	102
FIGURE 3.6: 2016 Hate/Bias Crimes by Offence Type TPS.....	105
FIGURE 3.7: 2016 Hate/Bias Crimes by Offence Type PRPS.....	106

ABBREVIATIONS

ABTF	Anti-Bias Task Force
CCJS	Canadian Centre for Justice Statistics
CPKN	Canadian Police Knowledge Network
CIB	Criminal Investigation Bureau
DEIB	Diversity Equity and Inclusion Bureau
DRU	Diversity Relations Unit
FIR	Field Information Reports
FIS	Forensic Identification Services
GTA	Greater Toronto Area
HCEIT	Hate Crime Extremism Investigative Team
MAG	Ministry of the Attorney General
MCSCS	Ministry of Community Safety and Correctional Services
OACP	Ontario Association of Chiefs of Police
OPC	Ontario Police College
OPSA	Ontario Police Services Act
OPP	Ontario Provincial Police
PRPS	Peel Regional Police Service
TAVIS	Toronto Anti-Violence Intervention Strategy
TPS	Toronto Police Service
UCR	Uniform Crime Report
UN	United Nations
YRPS	York Regional Police Service

PREFACE

When I began my doctoral studies, I never imagined I would study police. I had originally intended to access court files of cases in which hate/ bias motivation was identified as an aggravating factor. When I went down to the courts at old city hall in Toronto, I discovered that court files were more difficult to access than I thought. Because retrieval of court records required specific dates and the name of the accused, and because court records were not organized according to offense type, locating and accessing relevant case files posed a major challenge. This lead me back to the police, who laid charges and collected the initial evidence that would make its way into case files.

I look back on my research experiences with a mix of exhilaration and disbelief. As a young Black man examining law enforcement institutions – a notoriously difficult institution to penetrate – at a pivotal moment in the evolution of policing and in the history of modern Black activism, the significance of this opportunity is not lost on me.

My research started with cold calls, or ‘cold emails,’ to contacts I could find on police service websites. Informal discussions turned into invitations to learn more about their work. I didn’t encounter the barriers I expected; the officers I spoke with seemed quite open and willing to talk about their work. I initially spoke with officers over the phone, discussing their roles, responsibilities and the hate crime policies in place in their police services. I asked each officer why hate crime was such an important focus of police and how the policing of hate crime fit into their mandate as police services. Eventually, I started to hold formal interviews with officers in police stations.

I quickly settled into the routine of driving out to police stations, double checking my interview schedule and compiling the required consent forms and question sheets for my interview subjects. "Hello, can I please speak to officer so and so," I would ask as I took a deep breath and approached the station's front desk. The officers who greeted me would pick up the phone and contact the officer in question. "You have someone to see you," he would say. "He says his name is Tim." They always told me that the officer would be down in a couple of minutes and, if I wanted, I could take a seat. I always did. I would sit and rehearse my greeting and my opening question and then the officer would arrive. "Are you Tim?" "Yes that's me." "Great, I have an office upstairs we can use." I use the pronoun "he" because the vast majority of the officers I interviewed were male, mostly white and in their early to late 40s. With my recording device, notebook and forms in hand, I moved behind the counter. We would get to the room and sit down and complete the necessary consent forms and then, as practiced, I delivered the first question: "Can you describe what happens when a suspected hate crime is reported?"

Most meetings ran smoothly despite a few awkward moments when officers inquired about my personal views on the issue. Other interviews didn't go quite as expected. I showed up for one particular interview at a district police station, asked for the officer and then, as I always did, took my seat. "Hello, are you Tim?" he asked, as he welcomed me into the station. After introducing me to the Staff Sergeant on duty the officer asked me if I had had a chance to see the cells. I was confused. I thought to myself: Why would I want to see the cells? What do the cells have to do with the interview? I tried not to wear my confusion on my face. I had never been in a jail cell and I had no desire to ever be in one for any purpose. He grabbed a large ring of keys

that jingled as he looked for the correct one. The cells were about five feet wide and four feet deep and contained what looked like a metal toilet and a small bench. The officer explained to me that all of the cells and interview rooms are under constant video surveillance. That's comforting, I thought to myself, as I continued to wonder why I was invited for a tour of the cells.

Following the tour, we sat for the interview, which ran smoothly. At the end of the interview, the officer commented on the turmoil engulfing American police forces. In 2014, videos of unarmed Black men being killed at the hand of police went viral. These events sparked what is now an international protest movement that has swept across major American and Canadian cities. From Chicago to Baltimore, Ferguson to New York, Atlanta to LA and in cities outside the US – Toronto, London, Paris, Sao Paulo - Black activists and their allies mobilized under the banner “BlackLivesMatter” and rallied for greater police accountability and changes in police use of force, and worked to make evident the racialized nature of many Western societies. Most of all, this social movement calls for justice for those killed: Mike Brown, Eric Garner, Tamir Rice, Walter Scott, Freddy Gray, Sandra Bland and many others. These activists also made emphatic pronouncements that Black lives – Black dreams, Black hopes, Black rights, Black safety – mattered. “If we target a community that's because that's where the crime is happening,” the officer told me, “We don't choose who is living in that community. We do not choose who calls us for help.” He told me that proof that Black lives mattered to police was when police targeted criminals in predominantly Black neighbourhoods and the crime rate fell. Now that police have backed away from these areas, violence and shootings have started again.

I didn't know how to respond to his statements. I reminded myself that in that moment, I was a researcher, not an activist. However, I couldn't simply ignore what he said, could I? In that moment, I reflected to myself: you are a Black man in a police station speaking to a white officer who just showed you the cells – remember you want to make it home tonight. He then asked for my opinion on racial profiling, police use of force, and police interactions with Black communities. Again, I reminded myself that I was a researcher, and that I needed to be objective, and that I was a Black man in a police station, and that I wanted to make it home that night. I told him that I thought that calls for greater accountability in policing were always necessary and that there was no need to talk about community protection and police safety as mutually exclusive things. I told him that what Black communities have wanted for so long was to be believed, valued, and treated with respect.

I always knew that I was personally implicated in my research – that the 'personal was political' – but I never fully appreciated the extent of my personal relationship with my research. Although I was 'part of the research,' I didn't realize that I was being read as part of the research by my interview subjects, some of whom I knew through my research work for the Ontario Association of Chiefs of Police (OACP). This research opened many doors for me: I attended invitation-only police conferences, hate crime team meetings and police trainings, and gained access to officers from across the province. However, I occasionally felt that some of the officers were aware that I was personally implicated in the very processes and practices that I was researching. I noticed that they would pause before providing examples involving Black victims and

that they would qualify or clarify some of their responses so as not to offend me. It is a strange feeling knowing that you are inside and outside of the research.

The research process also taught me something about the institution and the power of the police. I imagined that the institution was some kind of a monolith, a larger-than-life structure populated by clones who saw the world the same way. I learned that policing meant different things to different people and that officers, and even police units, didn't see eye to eye. They jockeyed for position and shifted responsibility to others, especially the courts, the mental health system, social services, the public, the media, and the government. Individual police officers offered conflicting accounts of the very same incident. They also offered very different visions for the future of policing. I also observed that officers were playing the game too. They are a part of an organization that required uniformity, discipline, and carefully managed public statements, and were thus constrained by the very power that gave their uniforms, badges, and police cruisers authority. That power was not total, however. Officers tried to find ways – silences, smirks, subtle inflections in their voice – to say what they really felt.

Through my interviews, I learned that officers are rarely afforded an opportunity to voice their concerns or to provide feedback that may change the direction of the organization. In the course of my interviews, I could tell that there was information they wanted on the record. They often repeated or came back to these points as we talked. They expressed frustrations and challenges due to lack of resources, complaints about community groups, the perception of unfair treatment of the police by the public, overbearing superiors and unflattering media coverage.

I found that many officers were curious about my research and about other interviews I conducted. They often asked me what other officers said. I also noticed that different officers prepared differently for the interviews. The vast majority came in quite casually, some not having looked at interview questions that I sent well in advance. Others came prepared with scripted answers to each question. Officers who offered scripted responses were challenging to interview. Once my project received the required authorization, I met with regional hate crime coordinators who oversee hate crime investigations throughout the service. When I asked regional hate crime coordinators who best to speak with, I let the coordinators guide me because I wanted to get a sense of where they wanted me to go and who they thought I should speak to.

I anticipated that officers might provide sanitized answers. Despite the fact that policing had been under much scrutiny, I did not get the impression that the individual officers I spoke with were being disingenuous. Some were cautious and others wanted to circumvent questions; however, all of their hesitations, pauses, laughs, inflections and stories about their own upbringing, their families, and kids were genuine.

At the end of each interview, I asked if there was anything else they wanted to add. Most said “no.” But once my recording device was turned off, officers began to speak. The information shared with me off-the-record was often more insightful than what was shared during the interview. These conversations are not included in my dissertation but they have informed the way I think about police work. As much as writing this dissertation has provided me with an opportunity to reflect on my research experiences and on the research process, I have also been moved to think about my place in, and my relationship to, my research and to law enforcement. As I was

conducting this research, I was repeatedly asked whether my investment in this work was because I had been a victim of a hate crime or if I was hoping that my work would change policy. I found, and to a certain extent still find, these questions challenging. My voice was never something I wanted to be central in my research. In a way, being distant from the research insulated me from having to think about how I was implicated in it and how I struggle to reconcile the multiple spaces I occupy.

In this dissertation, I examine police responses to hate crime and the logics and rationales that support them. My research also reveals the small, subtle, and taken-for-granted ways that those who work within these institutions operate and embrace (and sometimes contest) the institution itself.

As much as this dissertation is an examination of policing practice, it is also a reflection on many of the tensions that have come to define policing at the beginning of the twenty-first century, and the personal and political tensions that have accompanied my academic journey. A paradox seems to define contemporary policing in Canada, with claims of police reform and community partnership existing alongside criticisms of police action. This paradox is particularly visible in the policing of hate crime, whereby at the very same time that police work to protect vulnerable communities and uphold wider commitments of diversity and inclusion, police services have been engaging in practices that, many argue, discriminate against some of the very same communities that hate crime laws protect.

Through this work, I reflect on what academic research and efforts at police reform mean for challenging race and racism at a time in which many consider that work complete. What enables divergent directions that define policing – efforts to make

policing more inclusive and equitable and continued concerns about racialized police practices? If efforts to reform law enforcement organizations are indeed sincere, what does the continued struggle with, and against, race tell us about the continued significance of race within law enforcement and criminal justice? While this work does not fully address any of these questions, it is my hope that my research sparks both intellectual curiosity and renews efforts to advance social justice.

INTRODUCTION

In November 2007, an African Canadian man working in Georgina, Ontario alerted York Regional Police to a home that was displaying a life-sized plastic skeleton, painted black, hanging from a noose (Doolittle, 2008). Above the skeleton was a Confederate flag with the image of Hank Williams, an American singer-songwriter, in the centre with the words, "If the south would've won, we would have had it made," printed along the top and bottom.¹ Officers attended and asked for the objects to be removed but the 26-year-old resident, Luke Granados, refused and stated that the materials were part of a Halloween display. Granados was charged under Section 319.1 of the Canadian Criminal Code for willfully promoting hatred and ultimately received a 45-day jail sentence (Doolittle, 2008). York's Chief of Police at the time, Armond La Barge, stated that the York Regional Police Service would not tolerate hate crime, and went on to reaffirm the Service's commitment to community safety and racial and cultural diversity. "Every member of our community needs to be engaged in the fight against hatred," he stated. "Those people who target a particular community threaten all communities, and when you victimize one community, you victimize all communities" (Doolittle, 2008).

In 2001, the *Ontario Police Services Act* (OPSA) was amended to require municipal police services to develop and maintain procedures for responding to hate

¹ In 1988 American country music artist Hank Williams released a song titled "If the South Woulda Won," which seems to be related to the image and words printed on the flag. In the song, Williams describes some of the decisions he would have made as president of a victorious Confederacy. He states that he would toughen the criminal justice system and bring back displays of southern pride. The chorus states: "If the South would've won we'd a had it made, I'd prolly run for President of the Southern States. The day young Skynyrd died we'd show our Southern Pride. If the South would a won we'd a had it made."

crimes. A number of police services had already developed their own guidelines patterned on guidelines developed by American police forces in the early 1990s, but amendments to the *Adequacy Standards Regulation (2016)* of the OPSA made hate crime a focus of police as outlined by law.² Hate crime policies and specialized training programs in Ontario were developed around two central foci: 1) traditional policing concerns involving proper investigative techniques, evidence collection, documentation, and officer roles and responsibilities; and 2) emerging concerns regarding victim care, community relations, and commitments to racial and cultural diversity. An officer guide to hate crime investigation and prevention states: “An appropriate response to hate/bias motivated crime goes beyond law enforcement and conveys a strong message of respect for, and commitment to, a diverse society” (Ontario Police College, n.d., p. 3).

This study examines police responses to racially motivated hate crimes in the Greater Toronto Area. I examine how commitments to racial and cultural diversity and the promotion of positive police-community relations inform the way hate crime is defined, conceptualized, and institutionalized within the Toronto Police Service (TPS), York Regional Police Service (YRPS), and the Peel Regional Police Service (PRPS). Through this examination, I trace the way that commitments to racial and cultural

² In December 1992, the Toronto Police Service (then named Metropolitan Toronto Police), had a draft hate crime policy in place under Routine Order No. 2087. Citing the concern for all those living and working within communities that may be targeted by hate, the policy commits the service to “enacting a functioning methodology for dealing with criminal acts motivated by hate by January 1st 1993.” The order outlines the Services’ definition of hate crime, officer roles and responsibilities, and investigative procedures. By November 1993, the Ontario Provincial Police (OPP) had a draft hate crime policy in place. Similar to other policies, the OPP directive outlined the duties of officers when responding to hate crimes and indicators to consider when determining whether a crime was motivated by hate. On July 22, 1993, the Ministry of the Solicitor General and Correctional Services issued guidelines to Ontario Police Services suggesting the creation of procedures for investigating hate/bias crime and hate propaganda. In May of that year, the Ministry of the Attorney General sent out guidelines to Crown Attorneys concerning the prosecution of hate crimes.

diversity and efforts to promote positive police-community relations coordinate, sustain, and legitimize police intervention strategies. While racial and cultural diversity initiatives are central in hate crime policy, combating racially motivated hate crime is often obscured by matters considered more significant by police. This dissertation challenges the view that hate crimes are self-evident, obvious, and clear to police, and contends that hate crime is in fact an inherently unstable and complex category, one that is *made stable* by police practice.

In the chapters that follow, I detail how hate crime *disappears* as the primary object of police concern, even as police respond to these incidents. Concerns about racially motivated hate crime are subverted by concerns about protecting the neutrality of the investigative process, keeping-the-peace, and protecting the reputation of the institution. I argue that police interventions are reflective of, connected to, and generated by a larger racial governance strategy – a strategy that, in the context of hate crime, functions to mask the structural nature of racial and cultural violence even as it confronts specific incidents of hate crime. This dissertation is motivated by the following questions: *How is the concept of hate crime, as a distinct crime category, made intelligible by police and translated into on-the-ground practices? How do police utilize institutional rules and procedures as they engage in the daily work of enforcing hate crime provisions? What can the policing of hate crime tell us about the institutionalization of multiculturalism within police services?*

DEFINING AND CONCEPTUALIZING HATE CRIME

Hate crime is a relatively new concept that has received much academic, policy, and social attention in the last three decades. While academics and policy writers in various national contexts have attempted to define the concept, there exists no universal or global definition of hate crime (Boeckmann & Petrosino, 2002). Definitions of hate crime vary globally due to historical, cultural, and political differences. According to Phyllis Gerstenfeld (2004), hate crime can be defined as a “criminal act that is motivated, at least in part, by the group affiliation of the victim” (p. 9).³ Similarly, Brian Levin (p. 2002) describes hate crimes as “discriminatory criminal acts committed because of someone’s actual or perceived membership in a particular socially identifiable status group” (p. 229). A status group is typically defined by shared characteristics such as race or gender, or a common cultural or religious identity, known or perceived to be shared across entire communities. Characteristics associated with identifiable groups are thought to be unalienable or intrinsic and, therefore, beyond the control of group members.

Historical prejudice has also informed definitions of hate crime. In the United States, slavery, segregation, extrajudicial killings, and state-sanctioned discrimination directed against African Americans have made race a feature of all state and federal hate crime laws (B. Levin, 2002). Similarly, in many European national contexts, anti-Semitism and commitments to prevent another Holocaust have contributed to the shape of national hate crime laws (Iganski, 1999). Because hate crime targets some groups

³ Craig provides a similar basic definition of hate crime: “an illegal act involving intentional selection of a victim based on a perpetrator’s bias or prejudice against the actual or perceived status of the victim” (2002, p. 86).

over others, [first name] Wolf and [first name] Copeland (1994) consider political status in their definition. They suggest that hate crime is better conceptualized as:

Violence directed towards groups of people who generally are not valued by the majority of society, who suffer discrimination in other areas, and who do not have full access to remedy social, political and economic injustice. (p. 201)

Barbara Perry (2001) also provides a definition of hate crime anchored in the political nature of bias-motivated violence. She suggests that hate crimes are acts of “violence and intimidation” often “directed toward already stigmatized and marginalized groups” (p. 10). Thus, acts of hate are a “mechanism of power and oppression intended to reaffirm the precarious hierarchies that characterise a given social order.” Perry asserts that hate crime attempts to “re-create simultaneously the threatened (real or imagined) hegemony of the perpetrator’s group and the ‘appropriate’ subordinate identity of the victim group” (p.10).

Definitions that link acts of hate to larger social hierarchies and wider systems of power underscore the political nature of hate crime. They stress that hate crimes are a product of social arrangements that are “bolstered by belief systems which (attempt to) legitimize such violence” (Sheffield, 1995, p. 438). Martha Sheffield (1995) states that the origins of hate crime are political. They reveal, “that the personal is political; that such violence is not a series of isolated incidents but rather the consequence of a political culture which allocates rights, privileges and prestige according to biological or social characteristics” (p. 438). This definition assumes a relationship between historical victimization, systems of power and privilege, and the use of hate crime legislation as a political tool to protect vulnerable communities from crime.

Hate crime laws are generally crafted in one of three ways: *penalty enhancement model*, which imposes additional punishments over and above statutory maximums; *sentence aggravation model* that treats hate or bias as an aggravating factor when determining sentences for individual offenders; and *substantive offence model* that creates specific new offences that criminalize hateful or biased criminal conduct (Mason, 2009). In Canada, both sentencing aggravation (for example, Section 718.2(a)(i)) and substantive offence (for example, Section 318-319 which criminalize advocating genocide, willfully promoting hate, and inciting hate) models are used. Criminal law in Canada is federally administered and, therefore, legislation pertaining to hate crime is uniform throughout the country.

While Criminal Code provisions are national, local law enforcement agencies often develop their own policies and service definitions of hate crime. These definitions may differ slightly from one police service to the other.⁴ Service definitions often distinguish between “hate/bias crimes” and “hate propaganda offences.” Hate/bias crimes refer to criminal acts that are motivated by bias, prejudice, or hate, while hate propaganda describes speech acts that promote or incite hatred. A second important distinction is the difference between hate/bias crime and hate/bias incident. Hate/bias *incidents* are non-criminal acts determined by police to be motivated by bias, hate, or

⁴ For example, the York Regional Police Service’s command directives define hate/bias as, “any criminal incident that occurs where the actions of the perpetrator are motivated by bias, prejudice, or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor” (YRP LE-007). Peel Regional Police Service command directive uses slightly different language. It defines hate/bias crime as, “a criminal offence committed against a person or property, which is motivated by the suspect’s and/or offender’s hate/bias toward the victim’s race, ancestry, place of origin, colour, religion, ethnic origin, sexual orientation, age, sex, citizenship, marital or family status physical or mental disability, criminal record or social conditions contrary to the Ontario Human Rights Code” (PRPS I-B – 130(F)).

prejudice. An officers' guide to hate crime investigation and prevention endorsed by the Ontario Association of Chiefs of Police (OACP), the Ministry of Community Safety and Correctional Services (MCSCS), and the Ontario Police College (OPC) defines hate/bias *crime* as:

A criminal occurrence committed against a person or property, which is motivated by hate, bias or prejudice based on the victim's real or perceived ancestry, race, national or ethnic origin, language, colour, religion/creed, sex, age, mental or physical disability, gender identity, sexual orientation or any other similar factor. (Ontario Police College, n.d., p. 3)

Hate/bias incidents are defined as:

Behaviours that, though motivated by hate, bias or prejudice against a victim's real or perceived ancestry, race, national or ethnic origin, language, colour, religion/creed, sex, age, mental or physical disability, gender identity or sexual orientation, are not criminal acts. (Ontario Police College, n.d., p. 5)

Throughout this dissertation, I use the term hate crime to refer to criminal offences motivated by bias, prejudice or hate according to Section 718.2(a)(i) of the Criminal Code. I refer to offences contained within Section 318-319 of the Criminal Code, which criminalize advocating genocide, public incitement to hatred, and willful promotion of hatred as hate propaganda offences. In some law enforcement circles, only hate propaganda offences are considered "hate crimes" since they are the only provisions that exclusively name hate as an offence. Offences subject to enhanced sentencing under section 718.2 (a)(i) are termed hate/bias crimes in many law enforcement agencies. When I use the term "occurrences" in this dissertation, I refer to matters involving criminal behaviour or criminal charges. For this reason, such incidents are referred to by police as hate/bias crime occurrences. In some jurisdictions, police

can also record non-criminal hate related matters as hate incidents. I use the term hate incident in this dissertation to describe non-criminal hate-related matters in accordance with policy definitions.

Scholars argue that increased sentences for crimes motivated by hate allow states to make a “public statement” that bias-motivated crime is legally and socially unacceptable, thus reaffirming national commitments to equality and human dignity (Mason, 2014; Perry, 2001; Chakraborty, 2010; Garland, 2012). Hate crime laws punish individual criminal behaviour but are simultaneously symbolic or expressive of larger aims to protect individual rights and promote national inclusion. Canadian criminologists Julian Roberts and Ross Hastings (2001) maintain that hate crime provisions are an expression of social disapproval, and as such, are vitally important in a multicultural society. Since criminal law plays a very important role in “demarcating the boundaries between acceptable and unacceptable conduct,” as Martha Shaffer (1995) notes, “the criminal law plays a normative or symbolic role in instructing citizens about the types of conduct that give rise to social disapprobation” (p. 212).

Hate crimes are largely recognized as forms of “group intimidation” meant to elicit fear within members of the community at large (Shaffer, 1995; Roberts and Hastings, 2001; Janhevich, 2001). Advocates of anti-hate measures contend that hate crime laws recognize increased physical, psychological, and social harms to individual victims, victimized communities, and society at large (Boeckman & Turpin-Petrosino, 2002; Chakraborti, 2010; Chakraborti & Garland, 2010; Iganski, 2001). Citing Julian Roberts and Ross Hasting (2001) discuss the importance of secondary victimization due to acts of hate crimes: “hate crimes convey a message of fear to all members of the community

to which the specific victim belongs, and the seriousness of a hate crime cannot be fully understood without taking this additional element into consideration” (p. 14). Criminal justice responses to hate crime recognize that not all communities are equally affected by hate, bias, and prejudice and that hate crime laws function to create a more equal and equitable society.

Maintaining social cohesion and protecting the rights of minorities have proven to be key arguments used to rebut critics who question the constitutionality of hate crime laws, their effectiveness in deterring hate crimes, and the degree to which they actually shape social values (Jacobs & Potter, 1998). James Jacobs and Kimberly Potter (1998) are notable early critics of hate crime laws who argue that criminalizing offensive speech in the United States is problematic because it compromises civil liberties and has a “chilling effect” on freedom of expression. Critics also claim that hate crime laws are political constructs designed to elevate certain communities over others, thus stoking tensions between groups rather than improving them (Jacobs & Potter, 1998; Strossen, 2018). In their view, hate crime laws provide ‘special’ protections for some and not others, thereby creating hierarchies between social groups. Because they fail to offer protections to members of all social groups equally, hate crime laws do little more than criminalize offenders for holding socially unacceptable beliefs (Jacobs & Potter, 1998). Jacobs and Potter also challenge claims that hate crimes have effects on victims that are more damaging than other forms of victimization. They claim that there is no difference between victims of hate crimes and victims of crime in general. Further to that, they maintain that all crime is motivated by some degree of hatred, and so all crime can be considered hate crime (Jacobs & Potter, 1998).

Some scholars studying hate crime have offered alternate definitions of hate crime, arguing that many definitions are overly exclusive and unable to capture the range of prejudicial behaviours to which vulnerable communities are often subject (Chakroborti & Garland, 2009; Garland & Chakroborti, 2010; Hall, 2013). [first name] Wickes and colleagues (2016), for example, contend that hate crime laws are “ideologically loaded” yet “lacking efficacy” and have explored how shifts to a broader conception of hate crime and new terminology might affect law enforcement practice (p. 239).

Canadian legal scholar Martha Shaffer (1995) argues that Section 718.2(a)(i) does not go far enough in denouncing hate crimes. She argues in favour of hate crime provisions that create distinct offences for acts of hate in lieu of the current sentencing enhancement model. The current Canadian model treats bias and prejudicial or hateful motivation as aggravating factors to be considered at sentencing. Judges are then required to provide sentences that stay within the current sentencing maximums. Shaffer argues that penalties for hate crimes should exceed current maximums and creating separate offences specific to hateful motivation would make a stronger statement. She suggests that “recognizing this [hate motivated] violence as a distinct offence is a more powerful way of condemning such behaviour than simply providing for the possibility of an increased sentence for the underlying crime” (p. 209).

Scholars have attempted to address some of these shortcomings by bridging the gap between policy and academic research to more effectively combat hate.⁵ Efforts to

⁵ In 2013, for example, the International Network for Hate Studies (INHS) was established to bring together academics and practitioners, and provide a platform for multi-disciplinary, cross-jurisdictional sharing of knowledge across fields. The INHS has four main aims: “sharing information, public policy

account for hate crime by examining offender motivation have resulted in the development of offender typologies. Drawing on 169 Boston police case files, Jack Levin and Jack McDevin (1993) developed a well-known model that defines offenders in one of three ways: thrill seeker – offenders who commit hate crimes for the fun of it; mission oriented – offenders who commit hate crimes because of a deeply held ideological belief; and defensive – offenders who commit hate crimes because of a perceived threat from outsiders. In addition to these three typologies, Levin and McDevin developed a fourth category – retaliatory offenders. These individuals commit hate crimes in response to real or perceived targeting by others.

Statutory definitions of hate crime, established law enforcement practice, and efforts to reform practice with academic research are all relevant to the context of policing and hate crime in Ontario. Definitions of hate crime not only provide a basis for criminal justice action, but also inform strategies built into police response.

SIGNIFICANCE OF THE RESEARCH

While hate crime has received attention from policy makers and law enforcement practitioners in Canada, police practices concerning hate crime have received virtually no scholarly attention. The limited Canadian social science research on hate crime focuses on the experiences of victims and victimized communities (Moore & MacLean-Rennie, 2006), legal and political debates on hate crime (Lunny, 2015; Shaffer, 1995;

engagement, collaboration in research, and the advancement of an understanding of hate crime globally.” The INHS has held bi-annual conferences since 2013. Their latest conferences were held in 2016 at the University of Limerick in Ireland and in 2018 at the University of Ontario Institute of Technology in Oshawa, Ontario. See the network’s webpage: <http://www.internationalhatestudies.com/>

Al-Hakim & Dimock, 2012), and the history of white supremacist groups in Canada (Barrett, 1987; Betcherman 1975; Sher, 1993; Perry, 1998). While U.S. and U.K. studies of police practice (see, for example, Bell, 2012; Hall, 2012) provide rich descriptive accounts of the processes and practices that govern police procedures (thus revealing the institutional context of hate crime policing), these same studies stress the importance of examining *particularized* contexts when analyzing police procedures. For example, specific historical, political, and social factors have led to variations in the way hate crime laws are crafted across jurisdictions. Likewise, law enforcement practices are situated within institutional structures that are organized differently between jurisdictions. My research fills a significant gap in hate crime literature by explicitly tracking law enforcement practices within an urban Canadian context. Additionally, unique to Canada and to the nation's larger social and cultural context is multiculturalism. In the context of policing in large urban centres, multiculturalism as an institutional paradigm is particularly relevant.

This research makes another significant contribution as it applies critical race perspectives to the analysis of police practice in relation to hate crime. Canadian law – judicial rulings, Supreme Court decisions, criminal and civil trials, inquests and inquiries, municipal orders – are critical sites for the production of racial knowledge and the maintenance of racial hierarchies within a context of Canadian nation building (Backhouse, 1999; Walker 2010; Strange & Loo 1999; Razack, 2002; Mawani, 2009), just as law enforcement has been central to the establishment of the Canadian nation-state. Canadian critical race scholarship links the historical development of police forces and the contemporary deployment of racialized police practices, as well as

constructions of crime and criminality, to interlocked processes of *racialization* and *criminalization* (Jawani 2001; Chan & Chunn, 2014; Chan & Mirchandani, 2001), while the mainstream policing scholarship, including the work on the policing of hate crime, has not situated policing within this larger historical and racial context. Policing in Canada, similar to policing in other white settler societies, was central to a colonial nation building project emerging in large part to maintain racial hierarchies that facilitated the expansion of settler colonialism (Brogden, 2005; Mawani 2009; Lawrence, 2004; Comack, 2012). Racial and colonial governance, therefore, are not merely unfortunate moments in the history of policing but are constitutive of the work of police and to the development of knowledge about race in Canada. My research builds on these theoretical insights to explore how, and in what ways, the policing of hate crime functions as a racial governance strategy, under the guise of a progressive law enforcement policy, within a liberal multicultural national order.

CHAPTER OUTLINE

In chapter 1, I situate my research within the existing literature on hate crime and policing and outline the theoretical frameworks of this study. Part one details classic studies examining the policing of hate crimes as well the relevant scholarship examining police work, particularly the role of discretion in police decision making. Part two outlines theoretical and conceptual approaches. This study adopts a socio-legal, critical criminological and critical race approach, and draws on the theoretical contributions of Michel Foucault (1995, 1990, 1988, 1984) to theorize police responses to hate crimes.

In particular, I present two concepts relevant to the analysis of this dissertation: racial governance and racial liberalism.

In Chapter 2, I outline the methodological framework of the dissertation. I draw on Dorothy Smith's (2005) work on Institutional Ethnography and Sarah Ahmed's (2000) concept of "encounter." Here, I propose a methodology that conceptualizes institutional practices as continually unfolding. I suggest that police practices and institutional attitudes concerning hate crime are in a state of development as police (in both an institutional and a personal sense) forge new encounters with communities, victims, and offences. These trends shift between concerns about police-community interactions and shifting policy mandates. I stress that each encounter between police, communities, and victims is a political encounter in which social relations and the relationship between the police, the state, and the public are at stake. This chapter closes by outlining the methods of data collection and analysis central to this dissertation and addresses ethical issues with concern to the research process.

In chapter 3, I provide a history of hate crime legislation and outline the reporting procedures and training regimes governing hate crime in each of the three police services represented in this study. I summarize the roles and responsibilities of their officers, provide an overview of the demographics of each jurisdiction, and detail how hate crime complaints are received, logged, and dispatched. I also outline existing hate crime training programs conducted at the Ontario Police College, in-service at local police services, and in police-sponsored conferences. Drawing on command directives, and training materials, I identify how hate crime is defined for officers, the indicators officers are trained to identify, and officer roles and responsibilities with respect to hate

crime. This chapter provides an overview of police procedures and the other networks police utilize in order to guide their understanding of hate crime.

In chapter 4, I examine police narratives of hate crime response and analyze the roles police commonly adopt when they respond to hate crimes. Contrary to police accounts which suggest that police have little power in determining outcomes of hate crime investigations, I argue that police decision making and police responses produce and stabilize institutional conceptions. Police typically assume three roles: 1) the law enforcer who lays charges in response to criminal acts; 2) the mediator or peace-maker who attempts to reform, reason with, and bring parties together; and 3) the educator who attempts to reform perpetrators of hate crime by educating and enlightening them. In this chapter, I argue that police decisions about how to intervene produce institutional ways of conceptualizing and responding to hate crime. I show that police response is chiefly concerned with crime, rather than elements of hate, and that police response functions either to prosecute criminal acts or to prevent disputes from becoming criminal matters. In the vast majority of cases of hate crime, police response is primarily concerned with managing racism by helping victims live with, avoid, or mitigate its effects, rather than eliminating it. I also show that police responses to hate crimes are not 'hate crime specific.' I suggest, instead, that officers adapt intervention strategies widely used by police to meet their own needs. In doing so, hate crime response comes to resemble standard practice more so than a specialized police response. I conclude by showing how these strategies align with the normative ideas about race and racism.

In chapter 5, I examine the political stakes at play in the policing of hate crime. I argue that hate crime response involves managing public perception and protecting

institutional reputation. Here, I show how acts of hate become "political hot potatoes" for investigators. Hate crime response is a political matter because police action is regarded as both a measure of police effectiveness as crime fighters *and* an indicator of police commitments to racial and cultural diversity. Police manage these stakes by treating hate crimes as high priorities, by reassuring victims that they take the crime seriously, and by changing established procedures. Police utilize what I call *affective policing strategies* to ensure that victims feel safe and secure – even if police action has not actually impacted their safety – and to demonstrate that the police are committed to combating hate. I show that affective policing is primarily concerned with avoiding complaints and accusations of police indifference and institutional racism. In the second half of the chapter, I show how the proximity of the community to the investigative process is a source of concern for officers even though law enforcement organizations make community participation central in law enforcement. I show how the optics of hate crime response and anxieties about the integrity of the investigative processes function to obscure concerns about hate in the narratives of officers.

In chapter 6, I explore how diversity is employed as a method of hate crime response and hate crime prevention. I show how hate crime becomes a foil against which to frame national and organizational commitments to racial and cultural diversity. Police adopt diversity as a strategy for combating hate crime largely because hate is viewed by officers as a product of negative personal interactions that can be repaired through greater sensitivity and understanding, which diversity promotes. Since hate crime is largely seen as an issue with 'ignorant bigots,' 'uninformed youth,' or those of a 'poor upbringing,' the solution to hate lies in promoting normative Canadian values. The

second half of this chapter shows how diversity is resisted by policing institutions and understood by some officers as a potential source of hate crime. In this sense, diversity is problematic when diversity 'goes too far.' As I demonstrate in this chapter, diversity is seen as problematic by some officers when racially and culturally diverse people 'refuse' to integrate into Canadian society, when attending to diverse communities complicates police work, and when appeasing diverse communities results in what officers feel is preferential treatment. I close the chapter by showing how these responses effectively depoliticize hate crime and transform issues of systemic racism into exclusively individualized problems.

I conclude by revisiting the arguments made in the preceding chapters of this dissertation and show what these chapters collectively reveal about hate crime, race, and policing. I once again illustrate that while the wider discourse on hate crime stresses the importance of challenging structures of hate, protecting minority communities, and maintaining public safety, what surfaces in officer accounts of their work are not concerns about hate or racism but concerns about the personal and organizational pressures they experience in the process. In failing to make hate and racism primary concerns in hate crime response, I return to the claim made throughout this dissertation that hate crime is reflective of a liberal multicultural racial governance strategy that invisibilizes race and racism.

CHAPTER 1: LITERATURE REVIEW AND THEORETICAL FRAMEWORKS

This study of police responses to racially motivated hate crimes is informed by the work of policing and hate crime scholars, and the theoretical and conceptual contributions of critical race studies, post-colonial studies, and socio-legal studies. This chapter is divided into two parts. In part one, I outline the existing literature on policing and hate crime. The existing body of work concerning hate crime and police response examines police case files, police training programs, and law enforcement policy, or is derived from ethnographic data gathered by researchers imbedded in police units. While the bulk of these studies provide insights into internal and external factors impacting formal policing, which shape their intervention strategies, none examine police and policing through a socio-legal or critical race framework.

In part two, I develop an analytic that situates and examines police practices designed to respond to hate crime as technologies of racial control. In conceptualizing policing as both a legal institution guided by formal procedures and as a social practice shaped by larger power relations, I view policing as a key instrument of racial governance and of maintaining a racial liberal order. I draw on the work of David Goldberg (1993; 2002), Michael Omi and Howard Winant (1994), and Charles Mills (1997) to inform my usage of the terms “racial liberalism” and “racial governance.” I use these terms to outline a particular modality of racial ordering given rise by, and sustained through, professed “race-neutral” liberal values. In a racial liberal order, social and political exclusions, benefits, privileges, and protections are produced not despite liberal guarantees of equality, but through their very notions. I conclude by outlining the

contributions of the concept of racial governance to the analytical approach of this dissertation.

PART I: REASERCH ON HATE CRIME AND POLICING

The international body of scholarship concerning policing and hate crime primarily examines the situational and institutional factors influencing police decision-making and the criteria used by police to identify hate crimes (Bayley, 2002; Culotta, 2000; Taylor, 1991; Pezzella, 2017). Some of this work examines the way police interpret legislative and policy frameworks that define police roles and responsibilities, and stipulate when, how, and in what ways police may intervene in hate crime incidents (Bell, 2002; Hall 2002). How well officers understand these frameworks and the extent to which definitions of hate crime match the circumstances police encounter are noteworthy since these policies affect how officers operationalize hate crime protocols (Hall, 2012). The design of hate crime policies and procedures can influence whether police “see” or “don’t see” hate crimes (Stump, 2011). Police are more likely to identify, classify, and record incidents as hate crimes when, for example, situational factors match established legal and statistical definitions (Stump, 2011). Offences that do not fit into established narratives about hate crime may be overlooked or misidentified.

James Noland and Yoshino Akiytama (1995) examined factors affecting law enforcement participation in the U.S. *Hate Crime Statistics Act*. Administered by the Federal Bureau of Investigation (FBI), the *Hate Crime Statistics Act* required law enforcement agencies to submit hate crime figures through the Uniform Crime Report

(UCR) program.⁶ Based on focus group interviews with 47 participants and survey data collected from 147 respondents, including police administrators, mid-level managers, supervisors, detectives, patrol officers, and civilian police specialists, Noland and Akiytama (1995) developed a set of individual- and agency-level factors affecting the likelihood of agencies participating in the program. Agency-level factors included shared attitudes or beliefs about crime reporting, the perceived utility of hate crime reporting, concerns about organizational self-preservation, desires to maintain strong community relations, the efficacy of police efforts, and the amount of resources allocated to those efforts. Individual-level factors include organizational policies and practices conducive to reporting hate crimes, individual attitudes and beliefs about hate crime reporting, professional self-preservation, difficulties experienced by officers while investigating hate crimes, and officer beliefs about their organizations' commitments to hate crime reporting. Where organizational commitment to hate crime reporting was high, and where officers viewed hate crime as an important crime category, hate crime reporting tended to be higher and more consistent (Noland & Akiytama, 1995).

This research demonstrates that both *internal* and *external* factors to law enforcement agencies, and individual officers, can inform the way police behave. Therefore, examination of police action in relation to hate crime response must consider the ways in which institutionally specific factors affect individual officer performance and how said factors inform institutional behaviour. These factors materialize differently from

⁶ In 1994, the latest year examined in Noland and Akiytama's study, 7,298 law enforcement agencies submitted hate crime statistical information to the FBI via the Uniform Crime Report Survey. This figure represented less than half (16,000) of law enforcement agencies in the United States at the time. Only about 1,150 or 16% of participating law enforcement agencies indicated that hate crimes had occurred in their jurisdiction in 1994; the remainder (84%) reported zero hate crimes.

organization to organization, meaning that attention to the specific conditions in law enforcement organizations must be attended to in any research strategy.

Police training is an important part of police response and to the identification of hate crimes. Loretta Trickett and Paul Hamilton's (2016) study involving interviews with 34 response officers, beat managers, and Police Community Support Officers (PSCOs) with the Nottinghamshire Police shows that training affects officer knowledge of the nature of hate crime. Trickett and Hamilton assessed how well police training prepared officers for the range of incidents they encounter. They found that although officers were familiar with the legal codes relevant to hate crime in their jurisdiction, police officers did not find hate crime training particularly useful when responding to less obvious hate crimes. Hate crime training in the Nottinghamshire Police was conducted primarily through an e-learning training package, which officers found difficult to absorb and retain; this was due in part to the e-learning format and because of the conditions under which they completed the training. Many officers completed training during off-peak hours and in environments that were often noisy and distracting. The training, many officers reported, was little more than a "tick-box" exercise used by the police force to show that officers had completed the required training, and thus was less useful to officers as intended (Trickett & Hamilton, 2016, p. 75).

The management and investigation of hate crime cases is another important aspect of police response. Jeannine Bell's (2002) nine-month long participant observation of a specialized hate crime unit, described as an Anti-Bias Task Force (ABTF), shows how ground-level police decision making is informed by internal institutional dynamics, officers' professional goals, as well as the circumstances of

incidents.⁷ She notes that the *screening* of cases by officers and the *filtering* of information is often based on “pragmatic concerns,” especially officer perceptions of the likelihood of conviction or of finding a suspect. Cases are often sorted through “stock stories” – narratives that support police in piecing together what most likely happened and assist police in determining a best course of action (pp. 52-62). Officers navigated the complexities of hate crime investigation by utilizing *procedures* – the formal institutional rules contained within police protocols; and by developing *routines* – everyday practices that allow officers to manage case flows. Difficulties in investigation were magnified by the city’s struggle with racial integration and white residents’ resistance to hate crime investigations. Some residents blocked investigations, refused to speak with investigators, or attempted to limit investigations by placing pressure on political leaders. These factors, Bell notes, served as disincentives for pursuing hate crime investigation.

Officers working within the ABTF also encountered challenges from other units within the organization. The Task Force was generally given little power; at times, detectives were not permitted to investigate incidents suspected of being hate crimes. ABTF officers faced suspicion from officers in other units and were especially disliked by officers at some stations. Some officers at district stations felt that ABTF detectives were “going too far” in their efforts to respond to civil rights violations and acts of hate (p. 114). Cooperation between police personnel, police units, and police leadership can

⁷ Bell (2002) does not identify the city in which she conducted her study by name but instead refers to it as “Center City.” She describes it as an American metropolitan city of between 500,000 and 900,000 residents. Sixty percent of the city’s residents were white, with African Americans and Hispanic Americans accounting for the next largest racialized groups (Bell, 2002).

make a significant impact on the effectiveness of police response, likelihood of conviction, and internal dynamics like occupational culture. These findings led Bell to conclude that, “hate crimes are made rather than solved” (p. 8). Hate crimes, she asserts, are “constructed, pieced together, and passed through several stages before hate crime charges can be brought against a suspect” (p. 8).

Bell’s examination of police responses to hate crimes builds on earlier research on specialized police units established to combat hate crime. Susan Martin’s (1996) examination of law enforcement initiatives within the New York City Police Department (NYPD) and Baltimore County Police Department (BCPD) examined strengths and limitations of the specialized police unit approach to combating hate crime. Martin’s study involved 2000 cases handled by the NYPD from 1987-1988 and 700 cases handled by the BCPD from 1982-1988. Since both New York and Baltimore employed similar practices for investigating and verifying hate crimes, these jurisdictions were selected as appropriate sites of comparison. Despite sharing similar investigative practices, Martin noted significant differences in police responses due to organizational structure and policing philosophy. In Baltimore, where beat officers were also involved in elements of investigation, police placed greater priority on information gathering and identifying “trouble spots” than they did on apprehending offenders or solving crimes. In some instances, suspects were apprehended as a result of community-based information gathering efforts and follow up investigation. In New York, where a more traditional policing approach was used, police devoted more time and resources to solving bias crimes, including those that were relatively minor (Martin, 1996). While both

forces achieved relatively high clearance rates for bias crimes, Martin's research shows how enforcement philosophy can affect police success in solving crimes.

Nathan Hall's (2012) comparative study of the policing of hate crime in London and New York City illustrates the degree to which police activity, police officers, victims, and victimized communities drive variations in hate crime response. Based on a mixed methodological approach involving over 1000 hours of participant observation, Hall developed a framework for understanding how hate crime in both London and New York was policed. He argues that four distinct but interrelated factors shape police response: 1) the law which defines the problem and sets the parameters within which police operate; 2) public willingness to notify law enforcement when hate crimes have been detected; 3) public acceptance of the concept of hate crime and their belief that it is a serious problem; and, finally, 4) the particular social, political, and historical context which contributes to individual and organizational dispositions toward hate crime. Hall suggests that these factors influence law enforcement decision making, the allocation of scarce organizational resources, and the extent to which hate crime is prioritized as an organizational focus.

Elizabeth Boyd, Karl Hammer, and Richard Berk's (1996) study of an unidentified American metropolitan police force underscores the importance of police discretion to hate crime response. Identified as the Metropolitan Police Department (MPD) (a pseudonym used in place of the actual department name) Boyd, Hammer, and Berk examined the decision-making processes of detectives in two of the police department's divisions. Based on three months of ride-alongs with patrol sergeants, six months of participant observation at police divisions, and an analysis of three years of police data

collected from 18 of the MPD's divisions, they found that police officer decision making in hate crime investigation was informed by personal perceptions of hate crime, established investigative procedures, and administrative responsibilities associated with defining a crime as a hate crime. Boyd, Hammer, and Berk note that some officers had an aversion to identifying criminal matters as hate crimes because they felt the label created a "special crime category" that required additional, unnecessary, administrative work for relatively minor and trivial crimes – such as graffiti and other forms of vandalism. Some officers believed that hate crimes were 'normal' and that there were relatively few 'actual' hate crimes. The jurisdiction within which the MPD operated was culturally and ethnically diverse. Responding to incidents involving forms of bias or prejudice was typical for officers. As a result, a majority of officers felt that 'real' hate crimes were exceptional, infrequent, obvious, violent, and out of the ordinary. Officers believed that 'real' hate crimes were committed by members of organized hate groups and that they would be instantly recognizable.

When criminal incidents that appeared to have a bias or prejudicial element surfaced, officers across divisions developed different routines. In Division A, which was located in a part of the city that was more racially and ethnically diverse and home to a large Jewish community, officers developed the practice of considering what motivated the crime. In Division B, where investigators alone were responsible for investigating crimes and assessing motivation, officers begin with the "objective facts" of the incident to piece together what occurred. Officers typically used "obvious," "clear," and "easy to see" indicators such as a lack of provocation, no prior encounters between the victim and the perpetrator, or specific targeting and derogatory comments to determine

offence classification (p. 835). Boyd, Hammer, and Berk's research shows that circumstantial factors alone do not determine police response. Rather, officer workloads, the severity of incidents, personal perceptions of hate crime, local demographics, their conceptions of who was truly culpable, local crime characteristics, as well as officers' perceptions of their role are what shape hate crime response.

Much of the research on policing and hate crime confirms what policing scholars have generally noted: that police response is defined, to a large extent, by the exercise of discretion. Policing practices and the exercise of police discretion have received much attention from researchers concerned with how formal police policies translate into on-the-ground police actions. Occupational culture (Manning, 1997; Chan 2003), police mandates (Manning, 1997; Eck & Rosenbaum, 1994), police decision making (Goldstein, 1960; Lundman 1996), police training (Chan, 1997), and policing approaches and tactics (O'Malley & Palmer, 1996) have been central foci of studies examining how everyday police work is conducted. Additionally, research has highlighted the centrality of discretion in police practice and reveals the way in which situational factors, officer attitudes, officer perceptions of victim and suspect, police culture, and institutional redesign of law enforcement agencies can impact enforcement practices (Grimshaw & Jefferson, 1987; Ericson, 1982; Davis, 1975; Manning 1997; Brown 1981).

In examining the work of what he calls "street-level bureaucrats," Michael Brown (1981) notes that frontline officers rarely make decisions on clear-cut legal or policy directives because legal directives often cannot anticipate every circumstance an officer will confront. Although policy may provide guidelines for interpreting what acts, in which

circumstances, constitute an offence, those judgements remain open to the perceptions of individual officers. Brown argues that it is both individual beliefs – the beliefs officers hold regarding their job, law enforcement, circumstances requiring intervention, and the people involved – and organizational constraints that shape the use of police discretion. This gives police significant power over the way policy is practiced and implemented (Davis, 1975). As Brown observes,

Police have critical decision-making power by virtue of their ability to decide which laws will be enforced. At issue [when police exercise discretion] is not merely the legality of these decisions, but the routine use of the legitimate means of coercion in society. The day-to-day choices of policemen [sic] affect the meaning of law, order and justice. (Brown, 1981, p. 5)

Police actions are thus part of the definitional process by which acts are deemed crimes.

Investigators also exercise crucial decision-making power as they further investigate complaints recorded by responding officers. Richard Ericson (1981) argues that “for all practical purposes, crime only consists of those acts that are so designated by the police for their crime control purposes on behalf of the authorities” (p. 8). In order to “make events into crimes,” detectives are informed by a variety of what he describes as “organizational forums”: the community, crime control, criminal justice institutions, the police force, and the occupational culture developed around detectives (p. 8). Each of these settings influences how detectives engage in their work. Importantly, for Ericson, police personnel are never entirely subsumed by the institutional forces affecting their work. Detectives are “human actors” who actively develop a sense of the institutional rules, learning which rules to prioritize (p. 9). Detectives, thus, actively

create daily practices within the institutional framework that allow them to utilize institutional resources toward the objective of investigating crime (p. 9).

Ericson's (1982) classic research on patrol officers has been instrumental to uncovering how patrol work functions to reproduce social order rather than transcend it. He argues that while patrol officers use considerable amounts of discretion, they can also develop prescribed responses owing to the institutional structures within which they are situated, that is, the chain-of-command – supervising officers, the activities of dispatchers, the influence of peers, and the behaviour and demands of citizens. Ericson notes that the bulk of police patrol work involves "cooling out strategies" to manage disputes before they become serious criminal matters (p. 113). He demonstrates how these strategies influence police documentation methods: whether and how public complaints make their way into official police reports or if they are resolved in informal ways upon initial police response. In light of police mandates and the activities that most occupy patrol officers, Ericson argues that the main function of officers is to "employ a system of rules and authoritative commands to transform troublesome, fragile situations back into a normal or efficient state whereby the ranks of society are preserved" (p. 7).

The existing literature signals several analytical and methodological points that are integral for the study of police practices and police responses to hate crimes. The rich descriptive accounts provided by these empirical studies stress the importance of examining the 'first hand' accounts and 'on-the-ground' practices of the actors involved. Ericson's (1982, 1981) work further signals the importance of situating examinations of police practices within the larger organizational structure that governs and informs them. Officer discretion, and the organizational structures through which their decisions flow,

transform criminal categories into observable behaviours and rationales for police action. In highlighting the interplay between the individual and organizational factors, the literature also illuminates theoretical debates about the relationship between structure and agency, which have been integral in sociological theory.

The literature on policing and hate crime highlights personal, social, and institutional level factors important in any analysis of police practices. While existing studies offer important insights into ‘on-the-ground’ police practice, they fail to examine police and police intervention critically. In nearly all accounts, police are seen as important partners in the effort to combat hate crime. They present police policy as a vital mechanism to ensure best practice (Bell, 2002; 2013; Hall, 2012; Chakraborti & Garland, 2014). Where previous studies examined police practice in isolation from the multiple effects of policing – focusing exclusively on the treatment of individual cases, police decision making, or the success or failure of particular police strategies – the present study situates police practice within a larger and enduring fixation on managing diverse people. I draw on this scholarship to classify factors informing hate crime response and to understand how they intersect to shape police action. My analysis sharply departs from existing studies, however, as it reads police response to hate crime along wider priorities and at times anxieties that co-ordinate and sustain police action.

PART II: THEORETICAL AND CONCEPTUAL FRAMEWORK

Socio-Legal Studies, Critical Criminology and Critical Race Theory

This study adopts a critical race post-structural socio-legal approach to interrogate the processes that shape police practice in investigating and responding to hate crimes. To this end, I utilize a socio-legal perspective that recognizes the mutually constitutive nature of law and social relations (Calavita, 2010). By drawing on these perspectives, my aim is to reveal the variability of practice and knowledge, to examine the numerous intersections between formal and informal police practices, to explore institutional and non-institutional factors that influence police practice, and to reveal the significance of racial and cultural difference in shaping police practice.

Since the mid-1980s, the field of socio-legal studies (also referred to as Law and Society) has challenged positivist attempts that reduce law to a set of self-contained rules and principles (Sarat, 2004). While legal realists and critical legal scholars were the first to challenge the firmly held view of law as objective, neutral, value-free, and rational (Leiter, 2003), socio-legal scholars developed a more robust understanding of law and its relationship with society. They argue that law is a social practice reflected within and throughout social relations, culture, knowledge systems, religious practices, and institutions traditionally considered 'non-legal' (Tamanaha 2008; Galanter 1981; Sarat, 2004; Sarat & Kearns, 1998; Ewick & Silby 1998; Merry 1990). Legal doctrine, legal institutions, and legal actors are therefore situated within a social landscape that informs the generation of law and the translation of law *on the books* into *law in action* (Sarat, 2004; Cottrell, 1992).

Drawing on the work of these scholars, my study seeks to present law and law enforcement as a complex set of discourses, practices, ideologies, and experiences. Brian Tamanaha (2008), drawing on Mark Galanter's work, argues that law is a "social

product – a complex of activities of real people with socially shared and produced, but individually carried out, legal and non-legal ideas, beliefs, motivations, and purposes” (pp. 89-90). Socio-legal analysis of legal actors, legal organizations, law enforcement agencies, litigation, and municipal orders, for example, have exposed the variability and complexity of law. Instead of conceiving of law as distinct from larger social relations, the result of formal rules and procedures, or the domain of specially trained professionals, Patricia Ewick and Susan Silby (1998) argue that socio-legal research provides an account of law “from the bottom up.” Socio-legal research, they assert,

Provides a view of law emerging from the routine, often discretionary, encounters among professionals and nonprofessional actors. It depicts a legal system with numerous actors, involved in diverse projects, employing different legitimating discourses, material resources, and political power to achieve a wide range of goals. Emerging from these interactions, the practices and ideals to which the term law might be applied are ... variable, complex and sometimes contradictory. (p. 19)

Moving towards a conception of law that recognizes the mutual imbrications of law and the social world opens up space to consider how “extra-legal phenomena” or “informal” practices can be central to the operation of law and legal institutions. Another critical facet of socio-legal research is the role of social actors – legal practitioners, law enforcement agents, and ordinary individuals – in the workings of law. Rather than viewing legal actors as automatons whose decisions are predetermined by institutional rules, or as passive subjects in the face of law, the socio-legal tradition sees law as a *human process* and individuals as actively engaging law (Ewick & Silby, 1998).

Socio-legal scholars have been driven by attention to, and appreciation of, local, grounded empirical research in order to capture the everyday practices of law. Socio-legal research that stresses the “particularity,” “multiplicity,” and “ambiguity” of legal

processes and practices have been hallmarks of scholarship in the field (Sarat, 2004). In pursuing a research agenda that foregrounds particularized legal contexts, socio-legal scholars have eschewed producing grand narratives or generalized accounts of law as an aim of legal scholarship. This dissertation, therefore, draws on socio-legal insights that challenge the notion that legal or law enforcement procedures can be understood by exclusively examining formal policy or 'black letter' law. Instead, I recognize that historical, social, and political contexts, individual legal actors and law enforcement personnel, as well as official policy and informal dynamics, affect the operation of *law in action* (Hunt, 1993).

In addition to adopting a socio-legal perspective, this study draws on the contributions of critical criminology and critical race theory.⁸ Critical criminology emerged in the latter part of the twentieth century largely as a reaction to conventional criminological accounts of crime. The work of early critical criminologists attempted to challenge taken-for-granted definitions of crime and techniques of crime control by exposing conventional definitions of criminal behaviour and institutional responses to critique. Guided largely by Marxist thought, early scholars centred economic and class structures in their accounts and in their critiques of state institutions (Chambliss, 1975; Quinney, 1970, 1974, 1980). They further critiqued traditional criminological scholarship

⁸ Since the emergence of critical criminology with its initial critique of class relations, inherited in part by its antecedent Left Realism, the field has grown increasingly diverse with feminist, cultural, environmental, post-colonial, critical race, critical disability strands being added. Despite the plethora of approaches, critical criminology is characterized by: 1) a critique of and effort to transgress mainstream criminological questions and sites of inquiry; 2) a rejection of positivist methodologies and incorporation of social theory into criminological analysis; 3) an examination of the political nature of crime; and 4) attempts to make social justice an aim of criminological research. Foundational works include Quinney (1970; 1974; 1980), Chambliss (1975), Chambliss & Seidman (1971); Taylor, Walton & Young (1974); Reiman & Leighton (2009); Box (1984); Schwendinger & Schwendinger (1970); Balkan, Berger & Schmidt (1980); and Michalowski (1985).

for its uncritical acceptance of state responses to crime as inherently positive and for adopting a research agenda allied with criminal justice policy. Critical analysis has thus been at the core of critical criminology from its inception. Rather than accepting dominant narratives of crime, critical criminologists employ an analytic that examines crime as a social and political process. As a result, these scholars opened up new lines of criminological inquiry that move past an exclusive focus on the question of why people commit crime. In moving past the blindness of positivist approaches and widening the analytic reach of criminology, critical criminologists imagine a far more reflexive approach to research; one that recognizes the situated-ness of knowledge and the political implications of criminological research.

Critical race theorists contend that definitions of crime and crime control mechanisms are racially organized, devised, patterned, and experienced (Wacquant, 2002; Alexander, 2012; Hall et al. 1978). Informed by the work of interdisciplinary scholars, critical race research advances a critique of the *official version of the law*, which assumes legal and law enforcement practices to be neutral, unbiased, impartial, and value free (Naffine, 1990). These scholars examine how purported race-neutral measures reproduce racial exclusions and marginalization (Delgado & Stefancic, 2001). A growing body of critical scholarship has adopted post-colonial and anti-colonial perspectives to examine the enduring links between race, colonialism, and criminal justice (Razack, 2002; Comack, 2012; Mawani, 2009; Pasternack, 2015). Elizabeth Comack (2012), for instance, uses the concept of *racialized policing* to denote the ways in which police practices maintain contemporary racial and colonial orders. As well, the concept of racial governance has been foundational to scholarship in this area and has

helped to expose how race is *criminalized*, how crime is *racialized* in contemporary criminal justice practice, and how race secures governmental strategies (Jiwani, 2002).

Policing has been a particularly important site of examination for critical race criminologists in Canada (Tator & Henry, 2006; Tanovich, 2006; Comack, 2012; Chan & Mirchandani, 2002; Chan & Chunn, 2014; Smith, 2007). Critical scholars have illustrated how racial profiling, in the context of police stops and carding practices, is linked to hegemonic racial narratives that represent racialized people as dangers – thereby necessitating policing and surveillance practices (Wortley, 2004; Wortley & Tanner, 2003, 2004; Tator & Henry, 2006). Anti-Blackness, settler colonialism, and white supremacy have become important conceptual frameworks in anchoring accounts of race, law, and criminal justice in Canada (Razack, 2002, 2008, 2015; Maynard, 2017; Comack, 2012; Walker, 2012). Some scholars examining the context of policing and anti-Black racism have employed the framework of state violence to think about how racialized police practices intersect with other state practices that maintain Black marginality (Maynard, 2017; Davis, 1998; James 1996; Richie, 2006).

Socio-legal studies and critical criminology inform the analytic framework of this dissertation. Socio-legal studies insists that law and legal processes be situated within a wider social and political context, while critical criminology insists that any analysis of crime, criminal justice practices, and processes of criminalization attend to power. I also draw on the insights of critical race theorists, in particular, to track how racial governance operates within liberal multiculturalism. These frameworks are brought together in my examination of how hate crime is mobilized and made intelligible by police officers and law enforcement organizations. I employ the term *political* analytically

to signal the ways in which a range of institutional and individual interests inform the way on-the-ground police practice materializes and how rationales for police action are articulated. This analytic diverges from traditional accounts of police practice that have not directly situated race and racism as drivers for police action. My approach recognizes how concerns about race and racialization, and efforts to maintain the social order, are maintained through police practices.

In addition, I draw on post-structural approaches to conceive of race as a social construct and as a discursive object that works to produce material outcomes. I define race as a social construct that attempts to organize social and political life (Miles, 1993). Furthermore, it creates distinctions (material and epistemological) between groups based on notions of physical, biological, and cultural differences that are constituted hierarchically. While race claims to reflect innate and immutable difference, I assert that race is an invention designed to give form and legitimacy to systems of power, knowledge and control. I view race as socially and historically contingent, as a relational phenomenon, emerging in particular ways, at particular times, and in relation to historical and contemporaneous racial projects. This definition draws on the work of Michael Omi and Howard Winnant (1994), who suggest that race is an “unstable and de-centered complex of social meanings constantly being transformed by political struggles” (p. 55). They assert that because race has “no valid biological (phenotypical) foundation,” race is a social construction, “a concept which signifies and symbolizes social conflicts and interests by referring to different types of human bodies” (p. 55). I define racialization as the process of ascribing racial meaning to things both material

and conceptual. Racializing involves drawing connections between objects that are only made meaningful by virtue of their relation to ideas of race.

Racial Governance

While Michel Foucault devoted little of his scholarly work to race, Foucault's insights have nonetheless been foundational to frameworks that treat race as a form of governance (Young, 2007). Foucault's conceptual and theoretical contributions to post-structural theorizing have allowed critical scholars to view race discursively, to understand how race functions as a technology of state power, and to conceptualize race as an object of knowledge and site of power (Said 1978; Goldberg, 1993, 2002; Stoler, 1995, 2002). One of Foucault's (1995) primary aims was to track the emergence and deployment of techniques of control, coercion, and regulation within Western societies. Through what scholars have described as a "genealogy of the state," Foucault showed how disciplinary techniques employed in prisons, asylums, factories, and schools were reflective of a new form of power – disciplinary power, marking a shift from corporeal spectacle to management of the soul (Foucault, 1995, 1990, 1988, 1984). For Foucault, power facilitates the regulation of subjects. He argues that power is diffused within social relations and produces new forms of conduct, and new institutional structures to regulate bodies. It is not solely exercised in repressive ways, as exemplified through the corporeal punishment of the sovereign in medieval Europe, but that power was suffused into the structures and institutions of social life (Foucault, 1990).

Noted critical race scholar David Goldberg employs Foucauldian ideas in his conception of racial dynamics. I draw on Goldberg's (2002) concept of the "racial state" to inform my usage of the term *racial governance*. Goldberg employs the concept of the racial state to analyze the "projects and practices, social conditions and institutions, states of being and affairs, rules and principles, statements and interpretations of racial rule" that continue to maintain modern states (p. 5). He argues that states are racial because of the "structural positions they occupy in producing and reproducing, constituting and effecting racially shaped spaces and places, groups and events, life worlds and possibilities, accesses and restrictions, inclusions and exclusions, conceptions and modes of representation" (p. 104). Goldberg views race as a kind of "conceptual social cement" that concretizes, binds, and forges nation states. It is imbedded in states' "modes of organization and governance" (p. 104). The racial state, according to Goldberg, employs a series of techniques of coercion, manipulation, deceit, incentives, violence, penalties, surveillance, and representations in maintaining racial order, which penetrate into the private and intimate sphere. He refers to the "racial state" as both a "condition of being" and a "state of governance" (p. 98). Goldberg suggests that law is an important medium for authorizing, transforming, and extending racial rule.

I define racial governance as a set of strategies, logics, rationalities, and material practices that manage and organize populations and social life by race. This conception recognizes that race is central to the apparatuses and aims of the state. Racial governance may involve forms of racial exclusion and domination, both of which are vividly illustrated by systems of racialized slavery, segregation, or apartheid. I also

suggest that racial governance occurs through ‘inclusionary’ strategies such as measures that promote tolerance and inclusion, and in celebrations of multiculturalism. Drawing on a Foucauldian conception of power, I maintain that racial governance is productive, that these strategies produce ways of knowing, classifying, categorizing, and problematizing that can obscure, naturalize, and normalize racial rule.

Conceptualizing race as a technology of governance and a mechanism of control provides an important counter to work that has reduced it to a political ideology⁹ or to work that treats it as an independent variable to be quantified.¹⁰ While Foucault’s work has been applied by critical race and post-colonial scholars to examine the specific context of settler colonial state violence, and the “necro-political”¹¹ technologies of colonial governance (Mbembe, 2003; also see Razack, 2015), the role of state organized police in governing populations and in maintaining apparatuses of state control was not directly taken up in his work. The concept of racial governance is also important analytically as it foregrounds the productive capacities of race. That is, racial governance offers a conception of race as active and generative – something that works

⁹ Hannah Arendt in her widely cited 1973 work *The Origins of Totalitarianism* conceptualizes the anti-Semitism of early Twentieth Century Europe as a political ideology. In her analysis of the rise of totalitarian political ideologies, particularly Nazism and Stalinism, Arendt suggests that racism and anti-Semitism were ideological tools used to gain political power. This conception of racism as ideology contrasts with the many critical race and post-colonial scholars who conceptualize race and racism not as ideology but as a method of state governance.

¹⁰ Laura Gomez (2012) in her final address as president of the Law and Society Association urged socio-legal scholars to integrate race and racism into law and society scholarship. She argues that race is often treated as an independent variable by socio-legal scholars. Gomez calls for race to be conceptualized as a social construction rather than a biological fact, and urges socio-legal scholars to examine racial processes.

¹¹ Achille Mbembe defines necropolitics as “contemporary forms of subjugation of life to the conditions of death.” Mbembe uses the terms necropolitics and necro-power to, in his words, “account for the various ways in which in our contemporary world, weapons are deployed in the interest of maximum destruction of persons and the creation of *death-worlds*, new and unique forms of social existence in which vast populations are subjected to conditions of life conferring upon them the status of *living dead*” (2003, p. 40).

to produce material realities and can be 'put to work' as a governmental strategy. In this dissertation, therefore, I centre police and policing practices as a technology of state control and the policing of hate crime as a form of racial governance.

Racial Liberalism

Liberalism has been foundational to the social and political formation of modern Western democracies and has been central to critical race and post-colonial theorizing of race and racism. As critical race scholars note, modern states were patterned on the social, political, and intellectual transformations brought about by modernity (Hesse, 2007; Goldberg, 1993; West, 2002; Hall, 1996). Under modernity, faith-based and religiously grounded value systems gave way to largely secular and scientifically based understandings of the world (Goldberg, 1993). A host of other changes transformed the economic system of Europe. For example, feudalism, which organized labour relations and social hierarchies in medieval Europe, gave way to capitalism and market-based economic systems, and democratic ideals and human rights replaced deference to absolute monarchs (Goldberg, 1993). Modernity also marked significant shifts in social life; urbanization and industrialization, along with technological advancements, rapidly transformed how and where people lived and worked (Goldberg, 1993). Modernity marked the age of 'European discovery' and the establishment of European colonies and global empires. Liberalism espoused a new political and social relationship between states and citizens premised on individual rights, democracy, human and social progress, universal equality, and liberty (Goldberg, 1993; Anderson, 2006; Hall, 1996).

The corpus of critical race scholarship notes that liberalism has been doubly blind to issues of race both in its adoption of an abstracted, decontextualized, and de-historicized universal human subject, and in its treatment of racism as fundamentally incommensurable with liberal ideals. Liberal commitments to moral progress have meant that race and racism are largely viewed as anachronisms that have given way to a 'post-racial present' (Golberg, 2002, p. 70). Race remains significant in the contemporary era to, literally, erase race – to substitute histories and current realities of racial exclusion and domination with de-raced histories and explanations of contemporary states of affairs. Goldberg contends that the denial of race functions to reify racially organized and maintained social arrangements as natural and inevitable outcomes of life. Those racially marked as “savages” or “uncivilized” are transformed under liberalism, Goldberg argues, into the “permanently unemployable” or “lumpenproletariate” (p. 70).

The “paradox of liberalism” has thus been a critical line of inquiry and analysis for critical race scholars (Goldberg, 1993). As Goldberg maintains, the paradox of liberalism is that, “as modernity commits itself progressively to idealized principles of liberty, equality, and fraternity, as it increasingly insists upon the moral irrelevance of race, there is a multiplication of identities and the sets of exclusions they prompt and rationalize, enable and sustain” (1998, p. 6). In other words, even as liberal modernity has declared race a “morally irrelevant category,” race continues to be vital to the strategies and techniques of governance in liberal states (Goldberg, 1993).

Charles Mills (1997, 2017) employs the term “racial liberalism” to represent the ways in which liberalism has maintained (and continues to maintain) domination and

advantage of whites over non-whites. He suggests that white subjects have entered into a “racial contract” – a set of “formal and informal agreements or meta-agreements, designed to secure white privilege and power” (1997, p. 11). The term “racial liberalism” challenges the notion that white domination is a natural and inevitable state of affairs. Instead, it asserts that white domination is a political system that distributes economic, social, and political advantages along racial lines (1997, p. 2). The concept helps explain how “society was created and transformed,” how subjects were “reconstituted,” how states were established, and how moral codes and moral philosophy were “brought into existence” via notions of white supremacy (1997, p. 10).

The popular belief that racism is no longer an “endemic social problem” in liberal democracies has informed the mythologies of many Western states (Hesse, 2004). As Barnor Hesse argues, respect for individual rights, political freedoms, and grand commitments to tolerance and plurality have allowed many in the West to conceive of racism as “a thing of the past” (p. 10). Hesse maintains that racism in modern Western states is seen as “residuum”: social sentiments of another time acted out by individuals on the fringes of society (p. 10).

In response to the purported irrelevance of race, critical race scholars have sought to re-historicize liberal modernity to uncover its racially informed histories and founding philosophical tenants (Essed & Goldberg, 2001; Ward & Lott, 2002). Critical race scholars have done so by revealing how European philosophy, aesthetics, cultural production, and governmental strategies were constituted in relation to their colonial possessions (Gilroy, 2000; West, 2002; Goldberg, 1993; Wynter, 1997; Said, 1979). Colonial and imperial regimes and their methods of population control were central to

theorizing of the human and to European self-identity (Hesse, 2004; Anderson, 2006). In defining the bounds of political citizenship, Frederick Stoler and Ann Laura Cooper (1997) note that newly conquered territories provided Europeans with a “grammar of difference” through which to conceive of people they would encounter and subjugate (p. 3).

Critical race scholars have also sought to reveal the ways in which racial expressions, exclusions, and articulations are obscured under liberalism and recast in “race neutral” terms (Goldberg, 2015; Bonilla-Silva, 2006; Lenton, 2014). The denial of race has been made possible by sanitizing histories of racial violence, and by treating it as an historical episode rather than as routine practice of state governance, or by reducing racism to individual expressions and attitudes. The very concept of racism widely circulated in the West, as Alana Lentin (2016) argues, has been “frozen” in time, used more as a “descriptor of racial situations” rather than a term to expose the structural conditions that maintain racial disparities, exclusions, and mentalities (p. 35). Lentin suggests that the excesses of the Holocaust, Jim Crow segregation, and South African Apartheid – all perceived largely as *isolated* and *historical* – are treated as paradigmatic examples of racism (p. 35). Lentin argues that,

freezing so-called, ‘real racism’ in historical time, allow[s] discrimination and abuse to continue polyvalently under the guise of purportedly post-racial arguments about cultural incompatibility, secularism versus religion, or sovereignty and security. Racism thus becomes debatable, not because the racisms of the past are called into question but precisely because by fixing real racism solely in historical events, the continuities between racisms past and present are made undecipherable. (p. 35)

In Canada, multiculturalism is the main expression of the nation’s commitment to liberal democratic ideals. Multiculturalism has become a prism through which Canadian

nationalism, heritage, and history are imagined, and it has provided new vocabularies to talk about Canadian identity (Thobani, 2007; Mackey, 2002). Canadian scholars of multiculturalism have vividly shown how race is de-politicized in multicultural celebrations of diversity (Bannerji, 2000). These accounts reveal the way white identity, white privilege, and white supremacy are re-centred under liberal modalities of governance despite claimed egalitarianism. Multiculturalism is the dominant national narrative in Canada. It is the primary framework through which racial and cultural diversity is constructed, represented, and celebrated. Multiculturalism also provides 'race free' vocabularies about Canadian national identity (Mackey, 2002; Thobani, 2007). Despite public commitments to racial and cultural diversity, racism continues to be a "permanent and intractable" feature of Canadian society (Henry, 1995; also see Razack 1998; Bannerji, 2000). Socio-legal and critical race scholars have shown that Canada's institutions, particularly its legal institutions, have neither been free of racial bias nor innocent in the perpetuation of white supremacy (Backhouse, 1999; Thobani, 2007; Jiwani, 2006; Tanovich, 2006; Walker, 2012).

While racism is a central feature of Canadian life, it is one that is regularly denied and often trivialized through discourses of multiculturalism and notions of Canadian benevolence. In place of histories of exclusion, oppression, settler colonial violence, and anti-Black racism, grand narratives of reconciliation and cultural inclusion are celebrated as the hallmarks of Canadian identity (Mackey, 2002; Thobani, 2007). As Sunera Thobani (2007) notes, Canadian multiculturalism has not disturbed structures of racial exclusion or disrupted white supremacy but has instead "helped stabilize white supremacy by transforming its mode of articulation in a decolonizing era" (p. 146).

Canadian critical race scholars have also offered important critiques of liberalism's progressive claims. Liberal projects have sought to make racism irrelevant through universal guarantees: constitutional and human rights, the rule of law, impartiality in national institutions, and merit-based rewards. Nations have attempted to "name historical conditions" through progressive measures in the context of sentencing reforms (Murdocca, 2013) and through inquests and inquiries (Razack, 2004, 2015), which can function to both re-inscribe racial and cultural stereotypes and to naturalize and normalize racial and colonial violence.

I draw on critical race frameworks to examine how the paradigm of hate crime challenges, or fails to challenge, structural racism and how it intersects with strategies of racial governance. I trace not only when and how notions of racial difference materialize in police work but how race is put to work in the rationales of police officers and police policy.

CONCLUSION

A framework that views police response within a larger project of governing race also insists that acts of racial violence such as hate crime cannot and should not be viewed in isolation. We are urged, instead, to trace race across its many manifestations, to understand how race is being put to work in racist efforts as well as antiracist ones. The framework of racial governance also challenges the views that state institutions are somehow outside of race, that state institutions are necessarily well positioned to combat racism, or that the racism of institutions is attributable solely to bad policy or bad people. Rather than examining local empirical sites for the benefits and limitations of

particular police strategies, we can instead use local sites to examine the ways larger notions of race and racism sustain, advance, constrict, coordinate, and align institutional practice.

CHAPTER 2: METHODOLOGICAL FRAMEWORKS

My theoretical framework is reflected in my methodology, which draws on the insights of Dorothy Smith's (2005) approach to institutional ethnography and Sara Ahmed's (2000) concept of *encounter*. As discussed in part one of this chapter, the concept of *encounter* emerges from post-colonial and phenomenological epistemologies, and is employed by Ahmed to examine the production of identities considered 'strange.' Anchored in an examination of policy documents produced in the British context, Ahmed argues that the figure of the *stranger* and the ways in which 'strangers' and 'strangeness' are encountered produce national identities and notions of individual belonging. She suggests that techniques of differentiation that produce the figure of the foreigner, the multicultural other, and the refugee serve to constitute what it means to belong, to be familiar, and to be recognizable. 'Strangeness' and 'familiarness' are therefore co-productive in Ahmed's conception. Deconstructing how it is that strangers and strangeness are produced reveals the series of assumptions, claims, and presumptions that configure identities (Ahmed, 2000). As I explore further below, the concept of *encounter* is useful to the analysis of police responses to hate crime because hate crime responses require police to 'encounter' racial and cultural communities often considered strange or foreign. It therefore is possible to examine the political stakes, frameworks of intelligibility, and discourses that mediate police encounters by deconstructing the way police encounter hate crime.

Institutional ethnography, an approach for examining the production of institutional knowledge and practice, provides a valuable way of analyzing the practices and experiences of institutional actors as they interpret and actualize policy. Institutional

ethnography aims to provide an account of institutional processes from the position of those who occupy particular positions. It does this by examining how texts coordinate the institutional lives of actors (Smith & Turner, 2014).

In part two of this chapter, I identify two sets of empirical data that ground this study: 1) texts, including documents obtained through access to information requests and publicly accessible documents pertaining to hate crime policy and training; and 2) 34 semi-structured interviews with uniform and civilian police personnel. This study is qualitative in nature and aims to produce a descriptive and interpretive account of institutional processes and law enforcement practices. Central to my project is an examination of key government documents including formal police protocols, working group documents, internal police job descriptions, statistical reports, officer handbooks, and training materials that outline the official police protocols, guidelines, and rationales relating to hate crime. In addition to these documents, I conducted interviews with police personnel who were actively engaged in identifying and investigating hate crimes. These interviews form a critical part of the analysis in this dissertation. I analyze relevant documents and interview transcripts through a Foucauldian discourse analysis (Foucault, 1990) in order to trace the ways that institutional practices, mandates, and training regimes inform the way police officers respond to suspected hate crimes. I employ a Foucauldian discourse analysis in order to attend to, and examine the ways in which, race, logics of liberal ordering, and law enforcement imperatives materialize in officer narratives, policy documents, and police training materials.

In part three, I briefly identify the ethical considerations pertinent to this project. I also outline how I gained access to research subjects and provide a brief note on the terminology used in this dissertation.

PART I: INSTITUTIONAL ETHNOGRAPHY AND ENCOUNTER AS METHODOLOGY

Institutional Ethnography

Institutional ethnography (IE), as described by Dorothy Smith (2005), is a methodology that begins with the everyday “doings” of people’s lives as a “point of entry” for exploring the ways in which local settings and particular institutional locations are shaped by “translocal ruling relations” (Smith, 2005). The aim of institutional ethnography is to “find out just how people’s doings in the everyday are articulated to and coordinated by extended social relations that are not visible from within any particular local setting and just how people are operating within those relations” (p. 36).

Drawing on Marxist and feminist epistemologies, and the work of symbolic interactionism (particularly the work of Mead, Garfinkel and Bakhtin), IE attempts to theorize social and institutional processes from the standpoint of the practitioners working within institutions. It seeks to “create maps whereby people can see the workings of institutions and their own location within them” (p. x). IE is therefore not a methodology that aims to “understand the institution”; rather, it is an approach that is committed to “develop[ing] inquiry in the very same world we live in” (p. 2). As Smith states, IE has no “prior interpretive commitment” (p. 36). It attempts instead to “find out just how people’s doings in the everyday are articulated to and coordinated by extended

social relations that are not visible from within any particular local setting and just how people are participating in those relations”(p. 36).

IE is not committed to what Smith (2005) calls a “pre-given theoretical destination” and thus is not concerned with explicitly producing accounts that centralize domination or resistance (p. 38). It is anchored in the actualities of people’s lives. Here the researcher’s particular theoretical commitments do not form the starting place for inquiry; instead, inquiry begins with the issues, problems, or concerns of those involved in the work. What Smith proposes is a “sociology of discovery” in which a problem is not definitively answered through research but is instead “opened up” by EI inquiry (p. 33). The aim is to produce knowledge of institutional processes. Thus, IE functions as a method of inquiry that draws attention to discovering how institutional processes work rather than subjecting them to already existing theoretical frameworks.

There are three key features of IE that are relevant to this study: texts, language, and power. Drawing on the work of Michel Foucault, discourse in IE is used to refer to the “translocal relations” coordinating and directing the communicative practices – the writings, speech, reading, and watching – of individuals in particular locales (Smith, 2005, p. 119). A central concern for Foucault is the relationship between knowledge and power in the production of truths about the world. According to Foucault (1980), knowledge is constitutive of the deployment of power, and forms of regulation and state control are made possible through particular knowledge formations. Foucault’s notion of discourse is concerned with the “rules and practices that produced meaningful statements and regulated discourse in different historical periods” (Hall, 1997, p. 29). Foucault argues that discourse is central to the way topics are constructed – how they

are defined and produced – and it governs how topics can be “meaningfully talked about” (p. 29). As Stuart Hall (1997) notes, Foucault maintained that, “discourse never consists of one statement, one text, one action or one source”; rather, discourses become “characteristic of the way of thinking or the state of knowledge at any one time” and, therefore, “will appear across a range of texts, and as forms of conduct, at a number of different institutional sites within society” (p. 29).

According to Foucault, discourse is instrumental in both the production of knowledge and the application of power (Foucault, 1980). Foucault’s usage of the term *discourse* is not simply linguistic, it is concerned with the way language gives rise to knowledge and practice. For Foucault, power and knowledge are joined together in the production of discourse. Foucault believed that knowledge was not passive or neutral but could be ‘put to work’ within institutional settings to “regulate the conduct of others” (Foucault, 1975). Discourse, therefore, opens up, extends, normalizes, and naturalizes particular forms of knowledge and particular practices at the same time that it forecloses, stalls, or constrains other forms of knowledge and practice.

The instability and complexity of the discursive field was notable for Foucault. While dominant discourses can be said to take hold in particular historical periods and transform in other periods, Foucault notes that that the field of discourse on a particular subject is never monolithic or univocal; rather, there exist relations between discourses that may be contradictory to dominant strategies of power (Foucault, 1990). Foucault’s words are instructive to the way a researcher must approach an analysis of power and discourse. As Foucault states:

We must make allowance for the complex and unstable process whereby discourse can be both an instrument and an effect of power, but also a hindrance, a stumbling-block, a point of resistance and a starting point for an opposing strategy. Discourse transmits and produces power; it reinforces it, but also undermines and exposes it, renders it fragile and makes it possible to thwart it. (Foucault, 1990, pp. 100- 101)

The “silences” within dominant discourses which Foucault suggests “shelter power” are thus a critical site of analysis in unmasking the regimes of power that maintain practices, subjectivities, and social relations.

The production of discourses, as Foucault (1995) illustrated, was sustained by new fields of knowledge such as psychology, law, health, or criminology, but also produced new techniques for collecting and aggregating information that allowed for the governance of populations. The emergence of new discourses on punishment in the eighteenth and nineteenth centuries, for example, not only removed punishment from the public eye but created new institutional apparatuses and technologies (or techniques) to govern punishment, as well as new popular knowledges about crime, criminality, and punishment.

Discourse is fundamental to producing systematized knowledge that enables institutions to orchestrate their work in consistent and routine ways. Institutions are established in ways that require uniformity and predictability; institutions require people in individual settings to generate generalizable outcomes (Smith, 2005, p. 225). Institutional discourses and regulatory frameworks thus channel knowledge in ways that prioritize certain practices so as to generate outcomes that are desirable to institutions. For Smith, “text” becomes crucial in the coordination of individual’s activities because, as she states,

The capacity to coordinate people's doings translocally depends on the ability of the text, as a material thing, to turn up in identical form wherever the reader, hearer or watcher may be in her or his bodily being. And when we are addressing institutions.... we must be particularly aware of the role of text in the generalization of social organization which we take for granted when we use the term. (p. 166)

The key, Smith argues, is to incorporate text into ethnography, "to be able to recognize that their reading is situated in actual time and space; that it is an integral part of a course of action; and that there is a text-reader conversation going on that involves an actual person" (p. 167).

Drawing on these insights, my textual analysis considers the situations within which police 'activate' texts. In particular, I focus on the way texts are operationalized in practice. My analysis examines the kinds of documents that are prioritized in institutional practice. Understanding how texts are activated requires reading texts from the standpoint of those within the institution. Once texts are known to be "integral to institutional organization," they can be used to reveal how work is coordinated (Smith, 2005, p. 181).

Another method of data collection central to IE is interviewing. My discourse analysis of interview data tracks both institutional rationales and individual police officer "mentalities" or, as Smith calls it, "work knowledge" (p. 149). Through this approach, I examine the broader social, political, and institutional factors that mediate individual police work. I see the individual decisions and actions of professionals are part of a sequence of actions and explore the way the work of officers is "articulated to and coordinated with others active in institutional processes" (p. 158). This approach allows for an analytic that "maps" the way social relations are networked within institutional

settings. Mapping is not intended to produce an “objective account that stands independently of that of which it speaks”; rather, it seeks to provide an account of what is “discovered in the process of assembling work knowledge” (p. 158).

In much the same way that Foucault refuses to treat the emergence of, for example, madness, sexuality, and punishment as trans-historical objects, my analysis treats the concept of hate crime and police responses to it as objects and practices that emerge at particular times and in particular places, and in response to particular forces (see: Foucault, 1960, 1963, 1975). More specifically, my discourse analysis attends to the ways in which larger discourses of multiculturalism, diversity, and cultural difference operate with the concept of hate crime in police practice.

My methodology makes a significant departure from Smith’s in that it centralizes concerns about race and racial governance in its methodological design. My research is anchored in the historical reality that race and racism are foundational to the development of the Canadian nation-state and in the practices of state institutions such as the police. Goldberg (1997) argues that race and racism exist within a “field of racialized discourse” and are bound up in the emergence of modern nation-states. The contemporary relationship between race and nation states cannot be ignored. My analysis examines the institutional or procedural reasons for police decision-making and situates policing within a larger social and historical context. I also consider how concerns about race (predominantly voiced through the discourse of multiculturalism) continue to be an important imperative within police work. Using an approach anchored in the critical race paradigm, I do not suggest that research outcomes are

predetermined, but rather that the ‘doings’ of officers in the area of hate crime cannot be understood in isolation from how race and racism inform state institutional action.

Encounter as Methodology

This study also draws on Sara Ahmed’s (2000) concept of *encounters* in order to reveal the social relations, politics, and institutional stakes mediating the production of hate crime responses. Emerging from feminist, post-colonial, and post-structural epistemologies, Ahmed utilizes the term encounter both as a methodology and an analytic to examine the frames, alignments, and relations that produce, contain, narrate, and configure identities. Ahmed submits that encounters are the literal and metaphorical contacts between subjects (p. 6). Social and power relations mediate contacts, embody subjects, and constitute practices between subjects; they give integrity to social and political constructions such as ‘multicultural loving citizens,’ ‘bogus refugees,’ ‘ethnic/diverse others,’ and ‘dangerous foreigners’ (p. 6).

I use *encounter* to note the processes “already at stake” in policing generally but also specifically in the policing of hate crime (Ahmed, 2000). I view encounters between police and the public in the context of hate crime as already configured by previous encounters resulting from the stakes *already involved* in police relations with the public at large. For example, encounters between police and racial and cultural communities have generated conflict, concern, and new commitments. These encounters have led to some changes in the rhetoric, individual thought processes, and practices of police.¹²

¹² Police practices have not only shifted in the context of improving relations with racial and cultural communities. Police practice has also changed in response to police interactions with people in crisis. TPS’s recently commissioned independent review entitled, *Police Encounters with People in Crisis*

Likewise, the professional identities and roles of police personnel are also the result of encounters concerning diversity and policing within a multicultural context. Police personnel, policing institutions, police practices, and police policy are thus in a constant state of transformation as police encounters with ‘diverse’ publics reveal challenges and particular institutional needs. Furthermore, institutional shifts are also produced by encounters with national and international enforcement agencies, experts, and senior management with particular institutional visions. Policing is also the product of what many consider negative encounters, such as concerns about racial profiling, targeted policing, or indifference toward the concerns of minority groups. Policing is also a product of successful encounters like celebratory partnerships with local communities, as well as surprising and unexpected encounters.

Recently, police encounters have received much scrutiny and public attention (OHRC, 2018). To this end, police have generated best practices in many areas to ensure future positive encounters or to limit the risk of negative encounters. The police are increasingly aware of the factors that mediate their encounters and the forces responsible for bringing individuals and communities into contact with police. Although encounters may involve specific “face-to-face” meetings, these meetings cannot be viewed in isolation from the larger social forces at play. Specific police encounters with the public are always, and at all times, connected to the social, political, and economic

(2014), also known as the “Iacobucci Report,” examined police policies, practices, and procedures and the use of lethal force with respect to encounters with people who are “emotionally disturbed, mentally disturbed or cognitively impaired”. See the report https://www.torontopolice.on.ca/publications/files/reports/police_encounters_with_people_in_crisis_2014.pdf

narratives of policing, social cohesion, and social order. Encounters, therefore, are generative. While encounters evoke the present and are simultaneously rooted in the past, encounters also shape the future (Ahmed, 2000).

While power relations shape encounters, they are also "antagonistic." They are sites of contestation and struggle, and are thus unpredictable and, at times, uncomfortable. Encounters can produce uncertainty and can be manufactured as a result of forces intersecting in different ways. In the context of the police responses to hate crime, we contend with institutional mandates, policies and procedures, larger values and goals of the police service, evidentiary requirements for advancing cases, and professional experience. At the same time, narratives of Canadian multiculturalism and citizenship mold the professional settings and larger social context within which police operate.

PART II: METHODS OF DATA COLLECTION AND ANALYSIS

Textual and Documentary Materials

This study draws on a range of textual materials, including policy documents produced by provincial government ministries and the federal government (for example, ministry commissioned reviews, white papers, committee reports, and strategic plans). I also rely on documents produced by police services, which include police protocols, mandates, policies, hate crime reports, directives, videos, training materials, case files, pamphlets, reports, handbooks, and guides. Publicly accessible documents were retrieved in digital format through official police websites or through York University library databases, police service and law enforcement websites, or in physical form by

obtaining documents directly from police service personnel. Some examples of publicly accessible information include: materials produced for community awareness; public education documents; media releases; and speeches. Most documents produced for internal purposes were typically not publicly accessible and were only made available via formal request. I also requested access via Access to Information (ATI) and Freedom of Information (FOI) streams for documents that were not publicly accessible.

ATI/FOI legislation provides a formal legal mechanism for individuals and researchers to access information under the control of government institutions. The ATI/FOI mechanisms operate through a “request-response” process (Larson, 2013). Requests are submitted in written form by the researcher to the relevant government agency, which is then reviewed and a search by government personnel is initiated to locate relevant records. Once records are located they are copied and distributed to the requester of the documents (Larson, 2013). Although there are challenges associated with ATI/FOI methodologies, particularly the cost associated with copying documents and the time required for government workers to retrieve documents, there are a number of advantages. Data received through ATI/FOI requests can allow for an examination of what Larsen (2013) describes as the “backstage” of institutional processes, which can be useful in examining the everyday workings of institutions, the historical and political context of government practices, and the representation of government practices (pp. 4-6). Once information has been released by government institutions, it is considered public.

I filed seven ATI requests: one each with the three police services represented in this study, two with the Ministry of Correctional Services and Community Safety

(MCSCS), one with Statistics Canada, and one with the Ministry of the Attorney General (see Table 2.1). I filed ATI requests with the MCSCS in order to obtain materials from the Ontario Police College’s Diversity and Professional Practice course for new recruits. I filed a second request for the Advanced Hate Crime Training Course for all hate crime investigators, including materials from the Ontario Provincial Police (OPP) hate crime training course, and documents relevant to the Hate Crime Extremism Investigative Team (HCEIT) program. I filed an ATI request with the Ministry of the Attorney General to obtain Crown policies relevant to the handling of hate/bias cases and hate propaganda cases.

Table 2.1: Records Obtained through Access to Information Request

Source	Records
Ministry of Community Safety and Correctional Services	<ul style="list-style-type: none"> • Ontario Provincial Police hate crime orders • Provincial Police Academy Operational Field Briefings • Hate Crime Extremism Investigative Team annual report
Ministry of the Attorney General	<ul style="list-style-type: none"> • Crown Hate Crime Practice Memorandum
York Regional Police Service	<ul style="list-style-type: none"> • Command directives • Hate/bias crime statistical figures • Job descriptions • Occurrence Reports • Hate crime training slide decks • Unit descriptions training schedules
Peel Regional Police Service	<ul style="list-style-type: none"> • Command Directives • On-line hate crime training slide deck • Annual hate/bias crime statistical reports
Statistics Canada	<ul style="list-style-type: none"> • National statistics on hate/bias occurrences

Supplementing these documents were videos, manuals, guides, and handbooks provided to me during in-person interviews or during authorized visits to police training sessions (see Table 2.2). Accessing documents from these sources assisted me in tracking the formal institutionalization of hate crime through textual materials that coordinate police practices.

Table 2.2: Materials Obtained During Face-to-Face Interviews

Context	Materials Obtained
Interview	<ul style="list-style-type: none"> • 3 Hate crime training videos • 2 Hate crime awareness pamphlets • 2 Hate crime handbooks for police officers • Hate crime training materials • Hate crime awareness presentation slide deck • News clippings • Training schedules • Binder containing hate/bias crime workshop materials

Semi-structured Interviews

In addition to using documentary material and textual analysis, I conducted 34 semi-structured interviews. These interviews included two groups of interview participants: 1) 33 police personnel (uniform officers and one civilian police personnel) within the TPS, YRPS and PRPS; and 2) an instructor at the Ontario Police College that provides hate crime training (see Table 2.3). Interviews were completed between June 2015 and May 2017. Three interviews were conducted by phone because a face-to-face interview was not possible. Four interviews involved two respondents. Joint interviews were organized due to officer schedules and attempts to maximize interview time. Interviews were as brief as 20 minutes and as long as three hours. These interviews

provided a range of insights into the formulation of hate crime protocols as well as the implementation of police procedures. The interviews further contextualize my analysis of the documentary materials. They also assist in revealing how police operations are coordinated within existing institutional frameworks. Semi-structured interviews were particularly useful for my project. They gave direction to my interviews and allowed me to guide the conversation toward relevant discussion points as they arose.

My interviews explored four distinct lines of inquiry. Firstly, I inquired about the institutional structures and institutional procedures that govern how suspected hate crime occurrences flow through police services and the many institutional actors who inform those processes. Secondly, I inquired about the actual on-the-ground practices and routines of police officers as they engage in hate crime response. Thirdly, my interviews posed questions about officers' experiences working in the context of hate crime (see Appendix A). The second and third lines of inquiry provided insights into education, training, community outreach, and victim assistance processes that form part of the mandate of hate crimes units. My final line of inquiry asked interviewees how internal institutional dynamics such as resource allocation, officer turnover, police service collaboration, and information sharing affect police work (see Appendix B).

Table 2.3: Distribution of Participants by Law Enforcement Agency¹³

Law Enforcement Agency	Number of interviews	Description
Toronto Police Service	8	Divisional Hate Crime Coordinators Intelligence Officers

¹³ The large number of interviews conducted at YRPS was due to larger numbers who agreed to participate in the study.

York Regional Police Service	20	District Hate Crime Officers Members of Diversity Equity Inclusion Bureau
Peel Regional Police Service	5	District Hate Crime Investigators Regional Hate/bias Crime Coordinators
Ontario Police College	1	Hate Crime Instructor
Total Interviews	34	

My interviews gathered information about formal institutional procedures and the broader context in which formal procedures occur. This is particularly important because the institutional/organizational dimensions, as well as the situational contexts of police work, impact the way police draw on and utilize formal rules. I identified interview participants through publicly accessible information outlining the structure of police services. This information was typically accessible via police service websites or police service annual reports. Additionally, media reports of high profile hate crime incidents that took place in the jurisdictions represented in this study assisted in identifying potential interviewees. Furthermore, these contacts provided an avenue for recruiting other interview participants. I relied on a snowball or chain referral sampling approach to recruit some of my interview participants based on referrals from officers I had interviewed (Babbie, 2012). Due to the relatively low number of hate crimes that occur in these jurisdictions, I specifically asked contacts to refer me to current or former officers who had been involved in hate crime response or investigation. During all Interview, I kept written notes in a note book and noted my reflections following the interview in the same notebook.

Interviews with Law Enforcement Personnel

Toronto Police Service

My interviews with TPS personnel engaged hate crime investigators who were directly responsible for conducting hate crime investigation. I also interviewed officers in the TPS's Intelligence Services who are responsible for hate propaganda investigations, who complete the Service's annual hate crime reports, and who ensure that investigations conducted at local divisions comply with the Service's policies. In the TPS, hate/bias motivated crimes investigation occurs at the divisional level by members of the Criminal Investigation Bureau (CIB). At the divisional level, these detectives are assigned as hate crime coordinators.

York Region Police Service

My interviews with YRPS personnel engaged district hate crime investigators trained in hate crime investigation, members of the Service's centralized Hate Crimes Unit, and diversity officers. District hate crime investigators are members of the Service's Criminal Investigation Bureau and have specialized investigative skills. In YRPS, the centralized Hate Crime Unit is located within the Service's Diversity Equity and Inclusion Bureau (DEIB), which also houses the Service's Diversity Relations Unit and Chaplaincy office. Because of the organizational structure of the Hate Crime Unit in YRPS, my interviews also engaged members of the DEIB as well as senior command staff.

Peel Regional Police Service

My interviews with PRPS personnel engaged hate crime investigators in the Service's CIB offices located at divisional stations, an officer in the Service's diversity unit who was a former divisional hate crime investigator, and the Service's current Regional Hate Crime Investigators. In the process of conducting interviews with Peel officers, I also spoke informally with senior command staff about the Service's response to hate crime.

Situating Interviews with Police

My interviews with police personnel concerned the implementation of hate crime procedures, current investigative practices, organizational structure, and the dynamics affecting enforcement practices (see Appendix A). Since officer roles and responsibilities differ, and because officers are situated at different places in the police hierarchy, interview questions were tailored to their particular roles. For example, I asked hate crime investigators questions specific to investigative procedure and to the routines relevant to investigation. Since hate crime coordinators communicate with communities, provide hate crime education, and coordinate victim assistance, I asked these officers questions about broader trends related to hate crime in their jurisdictions and different methods of intervention. Additionally, hate crime coordinators are responsible for collecting hate crime statistics and for categorizing offences by (among other categories) motivation, offence type, and victimized community. I therefore posed questions relevant to the identification and classification process of hate crime to

examine the frameworks these officers utilize to make decisions. Inspectors are the most senior officers that I interviewed. I asked them questions related to the institutional organization of units supporting hate crime investigation, and more specifically posed questions related to resource allocation, senior level leadership, and fulfillment of police service and unit mandates.

Interview with the Police Instructor

I conducted one interview with an instructor who provided hate crime training to police personnel (see Appendix B). This training currently takes many forms – individual sessions as part of larger training modules, hate crime specific seminars and conferences, and intensive multi-day training sessions. In addition, training is conducted by the Ontario Police College (OPC) in its specific hate crime training courses and through electronic training programs offered to local police services. While training provided by local police services was the subject of interview questions, my questions to the instructors involved those programs delivered by OPC. The reason I chose to focus on OPC was because it provides the bulk of the training received by new recruits and by detectives in TPS, YRPS, and PRPS. Additionally, many services draw on OPC resources when conducting their own local hate crime training sessions. My line of questioning to the instructor concerned the development of the hate crime curriculum, the format of training sessions, and the kinds of ongoing support provided by OPC to local services. Interviews at OPC were helpful in contextualizing my textual analysis of the training material that I acquired.

Analyzing Interview Data

Once I transcribed my interview recordings I analyzed my transcripts in a three step coding process. First I collected responses to each question into one electronic document. Once organized, I read each response coding for my four lines of inquiry. First, I tracked descriptions of the institutional structure and reporting processes at each police service. Second, I tracked responses that described on-the-ground investigative practices and response strategies. Thirdly, I tracked all instances where officers provided specific examples of previous investigations. Finally, I tracked the institutional dynamics such as police training, resource allocation, and police service collaboration.

Once I organized my data, I coded my data to identify the rationales, justifications and logics for police action cited by officers. I coded both professional and personal given by officers for their investigative decisions and coded police perceptions of the causes of hate crime, the role of police in responding to hate crimes and final solutions to the problem. From this coded data I developed larger themes that incorporated officer feedback on institutional processes and their own rationales and justifications for their work. These larger themes formed the bases of chapters 4, 5 and 6.

PART III: A BRIEF NOTE ON ACCESS & ETHICS

When this research was first conceived, the intension was to rely on court case files in order to analyze the progression of hate crime cases through the criminal justice system. Because court case files are not organized according to offense type, it was not

possible to access all relevant hate crime case files without the specific information such as the name of the accused and the date of the criminal proceedings. For this reason I decided to obtain records from police services and to focus my research on the frontline policing of hate crime where initial determinations are made.

Initial contact was made via email to hate crime units. These initial contacts lead to preliminary meetings where officers shared Service hate crime procedures and the reporting process for suspected hate/bias motivated crimes. These preliminary discussions provided valuable insight into the institutional processes and would shape the interview questions and lines of inquiry pursued in my formal interviews.

Once I received ethics approval by the police services represented in this study, I began the process of arranging one-on-one interviews with officers. In one police service an email was distributed to all detectives involved in hate crime investigation. From the responses I received to this email, I set up interviews with all officers willing to speak with me.

In the two other police services my requests to speak with officers was facilitated by officers within each service's centralized hate crime unit. These officers connected me to officers who they felt would have the most relevant experience.

When I decided to conduct interviews, I initially intended to complete interviews with officers housed in half of each services district or divisional stations. This would have allowed me to gather officer perspectives that would better represent practices employed Service wide. This was not possible in all services because not all officers responded to my request for an interview and because I had no way to control in what districts or divisions participants were based. Additionally, I interviewed officers who no

longer had hate crime investigation as part of their portfolio. In some cases I was directed to these officers since they had more experience than the officer presently in the role.

Access

The initial contacts I made for this research were informal. I contacted police personnel simply to learn more about what they did and what police response to hate crime entailed. At this early stage, I did not request formal interviews. My access to police personnel was facilitated by my work for the Ontario Association of Chiefs of Police (OACP) in my capacity as a researcher on the first police-led research project on hate crime in Ontario. As my preliminary research advanced, I was contacted by a member of the OACP and was asked to conduct a study to examine the current policies and practices governing hate crime in Ontario, as well as the challenges experienced by officers engaged in investigation and frontline response. In the context of this research, I conducted a series of consultations with representatives of 15 municipal police services, Ontario Provincial Police (OPP), Royal Canadian Mounted Police (RCMP), and a member of the Nishnawbe-Aski Police Service. The research examined Criminal Code provisions relevant to hate crime and current law enforcement initiatives. I also presented findings from consultations with police and outlined a series of recommendations to improve police response to hate crime. This work facilitated my formal access to police and, importantly, gave me access to police spaces. I was introduced to officers conducting hate crime investigations throughout the province and to more senior officers, including chiefs of police. As a result, my personal networks

expanded and allowed me to gain greater access to the police personnel vital to this study.

I was also invited to attend police trainings, symposiums, and conferences. I attended the Ontario Police Service's hate crime training courses and portions of the quarterly Hate Crime Extremism Investigative Team (HCEIT) meetings. HCEIT is a network of 15 police services in Ontario that co-ordinates intelligence and provides specialized support on investigations into hate-motivated crimes and extremism. In attending these events, I gained access to parts of the world of policing that are not easily available to the public or other researchers. I was able to experience the personal side of policing – off duty police talk, police interaction with other police officers – the kinds of things that police rarely talk about with outsiders. I informally experienced how police responded to the training sessions and speakers, which gave me a sense of the kinds of debates and discussions they generated behind closed doors. My presence in these spaces, for over two-and-a-half years, also produced invitations to the meetings of local municipal police services. In York Region, I was invited to three quarterly hate crime meetings where officers would discuss cases ongoing in their jurisdictions. In these settings, I was able to hear exchanges between officers and observe how they collectively discussed (and at times debated) the particulars of suspected hate crimes. As time progressed, and as they became more familiar with my attendance at police events, I noted that police would respond differently to me. These experiences helped me gain credibility and rapport with police which allowed me to build working relationships with officers.

Research Ethics

Since I conducted research for the OACP at the same time that I was conducting my own doctoral work, it was important for me to ensure that interview participants were aware of the capacity I was working in. In one sense, I was an insider who had privileged access to police, but as a researcher, I wanted to remain an outsider as much as possible to ensure that my research for the OACP was kept distinct from my own doctoral work. Whenever I needed to obtain materials in support of my doctoral research, I went through formal channels and official processes. This was particularly true with respect to obtaining documentary material and in gaining approval from the Services to get access to police officers. I submitted formal requests in which I outlined the purpose and aims of my study, my research questions and research design, and how I would manage the ethical considerations involved in this study. Once I received approval to conduct my research, I was provided with lists of officer names, contact numbers, and emails, as well as a letter stating that my research project had received approval from the Service. I then drafted an introductory email that I sent to all officers on the contact list for the Toronto Police Service and to select officers in the case of the YRPS. For example, in YRPS I scheduled a meeting with an officer that I previously met in the context of my OACP research and had advised me on who to contact within the Service. I was not provided with a list of contacts for the PRPS. Instead, contact was made with officers on my behalf by the centralized hate crime coordinator. I then scheduled interviews with willing prospective interview participants by email.

I expected formal access to police would be relatively problem-free, especially since I had already spoken to many of the officers in relation to the OACP project. One

Police Service, which had originally expressed interest in participating in the study, refused my request. A representative of the Service stated that they could not provide access because of internal departmental changes and not because of the nature of my research. I ultimately gained approval to conduct my research after resubmitting my request and stressing the importance of their participation to my overall project.

Encountering institutional barriers made clear the precarious and tenuous nature of my access, and served as a reminder that it could be revoked at any time by the institutions or the individual officers.

My research work for the OACP also created the potential for ethical issues and for conflicts of interest that could have compromised the integrity of my work. Because my doctoral research was closely aligned with the research I conducted for the OACP, there was some danger that interview participants could misconstrue the purpose of the interview. In addition to the required consent forms that stated the purpose of the research, I made sure to introduce myself as a researcher to officers with whom I had previously spoken so that they clearly understood the nature of the conversation. I conducted two completely separate sets of interviews for my research work for the OACP and for my dissertation. Interview data were stored separately.

My research project followed the principles of informed consent. Due to the political nature of my research, it was especially important for me to outline my project clearly. Before participants agreed to take part in my research project, they were provided with a consent form that included a detailed description of the project (see Appendix C). Participants were also informed that participation in this research project was completely voluntary and that they were free to refuse to answer any interview

questions. Interview participants were also informed of the time commitment required to complete the interview. I notified participants of time commitments to ensure sufficient time for the completion of interviews and to respect the time of my interviewees.

Initially, I anticipated providing interview subjects with the option of being identified by name along with their occupational title. There are two reasons why I have chosen not to identify officers by name in this study. Firstly, due to low number of officers directly involved in hate crime response and investigation, there was a relatively high risk that individuals could be identified. Secondly, including officer names would lead the reader to believe that individual officer attitudes, rather than larger structures or processes, were primary in this study. For this reason, I also decided not to use pseudonyms when identifying officers. Furthermore, because of the sensitive nature of some responses, I have ensured that all officer names are kept confidential. Interview participants are identified in the subsequent chapters simply as 'respondent' with a corresponding identifying number (in text citations will appear as "Resp. 1"). In this dissertation, I have also made the decision to provide as few personal identifiers as possible to ensure that comments cannot be attributed to any one person.

In some sections of this dissertation, I have intentionally not provided information that would be helpful in contextualizing the information provided by respondents such as official titles, district/divisional locations or police service name. This decision was made in sections where divulging this information risked disclosing the identity of respondents. I have also change gender pronouns in some sections to prevent disclosing the identity of officers, therefore male respondents are not always identified by the pronoun "he" and female respondents are not always identified by the pronoun "she".

CONCLUSION

The methodology employed in this dissertation allows for an empirically grounded analysis of the policing of hate crime that attends to the way institutional actors and institutional policy mediate practice. The accounts of officers who populate law enforcement organizations as well as documents, mandates and policies are therefore, critical objects of analysis. This methodology also attends to the way race structures and organizes institutional knowledge. Central in this dissertation are the ways in which notions of racial difference configure the way responses to hate crimes are envisioned and encounters between police and the public take place. Policing is not a static practice and policing organizations do not function in isolation from broader social events. This methodology therefore, situates the policing of hate crime along-side the range of encounters that routinely occur between the public and the police.

CHAPTER 3: SITUATING HATE CRIME AND POLICE RESPONSE IN CANADA

This chapter provides an account of the emergence of hate crime legislation in Canada and police procedures that respond to hate crime in Ontario. Part one of this chapter begins by outlining the national and international developments that have contributed to the emergence of hate crime as a criminal justice concern and as an issue of national social cohesion. Part two outlines the specific policies, practices, and processes developed by the police services represented in this study to respond to hate crime.

PART I: THE HISTORICAL EMERGENCE OF HATE CRIME LAWS

No academic account of the emergence of police practices with respect to hate crimes exists in the Canadian context.¹⁴ Given that hate crime is under-researched in Canada, with few empirical studies directly exploring police practices, the historical emergence of anti-hate measures can only be produced by examining available policy documents and key moments in the development of police and national policy. Three historical moments that are critical for charting the emergence and development of hate crime legislation and police-related hate crime responses in Canada are: 1) the development of an international human rights framework and the development of Canadian multiculturalism; 2) sentencing reforms that established new principles and guidelines for punishing offenders; and 3) changes in the paradigm of policing that saw community policing become the primary policing model in Ontario.

¹⁴ To date, Allyson Lunny's (2015) *Debating Hate Crime: Language, Legislatures, and the Law in Canada*, which examines the legislative history of hate propaganda and hate/bias crime, comes closest to providing a historical account of hate crime in Canada.

International Human Rights and Canadian Multiculturalism

Following the Nazi atrocities at the end of the Second World War, the international community committed to preventing their repeat. With the creation of the United Nations (UN) in 1945, and an emerging consensus around human rights, a series of international conventions and rights affirming documents were created. In 1948 the UN adopted the *Universal Declaration of Human Rights*, which established dignity, liberty, and equality as international values and identified rights considered basic to all people.¹⁵ In its preamble, the Declaration states that commitments to “fundamental human rights,” “the dignity and worth of the human person,” and “equal rights of men and women” are vital for social progress and freedom, and to avoid further “barbarous acts which have outraged the conscience of mankind” (Universal Declaration of Human Rights, 1945). In addition to this foundational document, the United Nations adopted two important international conventions – the *International Convention on Civil and Political Rights* and the *International Convention on Economic, Social, and Cultural Rights* – as well as a number of other conventions concerning the treatment of vulnerable people. In 1948, the UN adopted the *Convention on the Prevention and Punishment of the Crime of Genocide* and in 1965 the *Convention on*

¹⁵ The *Universal Declaration of Human Rights* was adopted on December 10th 1948 under General Assembly Resolution 271 A and contains 30 articles that specify particular human rights. Articles 1-2 articulated commitments to dignity, equality, and liberty; articles 3-11 established individual rights and freedom from slavery; articles 12-17 established freedom of movement and participation in community life; articles 18-21 guarantees civil rights; and articles 22-27 establish specific social, economic, and cultural rights to be protected. Articles 28-30 laid out a framework of when and how rights applied. See The Universal Declaration of Human Rights: <http://www.un.org/en/universal-declaration-human-rights/index.html>

the Elimination of All forms of Racial Discrimination.¹⁶ These conventions urged states to take an active role in eliminating racial discrimination and preventing human rights violations based on immutable characteristics. They have been instrumental in establishing national and transnational human rights frameworks.¹⁷

The formation of an international concept of human rights and the adoption of specific measures to counter racial hatred and discrimination shaped and accelerated the establishment of anti-discrimination measures in Canada. The Canadian government passed the *Canadian Bill of Rights* in 1960. This piece of legislation provided a blueprint for the *Canadian Charter of Rights and Freedoms*, which would form part of the Canadian Constitution. Human rights frameworks in Canada have been bolstered by the Canadian Charter of Human Rights, the establishment of federal and provincial human rights commissions, and federal and provincial human rights tribunals established during the mid to late 1970s.

Greater awareness of hate crime in Canada occurred after two waves of racist activity (Rosen, 1994). The first involved the dissemination of hate paraphernalia by organized hate groups in the 1960s and increased activity by far right groups in the mid-1970s. In the early 1960s, anti-Semitic and racist hate paraphernalia was widespread in

¹⁶ The *Convention on the Elimination of Racial Discrimination* urges member states to institute measure to prevent discrimination, prohibit incitement of racial hatred, and promote tolerance and complaints mechanisms. Article 4 specifically calls on states to reject all forms of hate speech and hate crime, and discourage participation within organized hate groups. The Convention defines racial discrimination as, “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life”. See the Convention:

<https://ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>

¹⁷ The European Union Agency for Fundamental Human Rights, a decentralized agency of the European Union, is an example of a major multinational body whose mandate is to support the elimination of discrimination and promote human rights and support member states in upholding the Charter of Fundamental Rights of the European Union. See the organization’s website: <http://fra.europa.eu/en>.

Canada, particularly in Ontario and Quebec (Rosen, 1994). Hate group activity was increasing as neo-Nazi groups from the United States established a stronger presence in Canada (Rosen, 1994). These moments led to important legislative action.

The release of the *Report to the Minister of Justice of the Special Committee on Hate Propaganda* (1965) (commonly referred to as the Cohen Report) made hate an object of criminal justice attention (Lunny, 2015). Concern over hate also centred on fears that Canadian youth would fall victim to the influence of hate groups whose activities had increased in Canada and the United States (Lunny, 2015). The Cohen Report was instrumental in redefining hate propaganda as a threat to Canadian society. It stated that while the extent of hate promotion in Canada was limited, “individuals and groups promoting hate in Canada constitute ‘a clear and present danger’ to the functioning of a democratic society. For in times of social stress such ‘hate’ could mushroom into a real and monstrous threat to our way of life” (Canada, 1966, p. 24). Although the committee did not consider hate to be the most pressing social issue, they warned Canadians that it was “far better to come to grips with this problem now before it attains unmanageable proportions” (p. 25). The Cohen Report’s recommendations ultimately lead to Sections 318-320 of the Canadian Criminal Code, which criminalize Advocating Genocide (Section 318.1), Public Incitement of Hatred (Section 319.1), and Willful Promotion of Hatred (Section 319.2).

In the mid-1970s, Canada experienced a second wave of racist activity from organized hate groups (Rosen, 1994). Groups such as The Edmund Burke Society, the Nationalist Party of Canada, the Western Guard, and the Ku Klux Klan spread anti-Semitic and anti-Black hate paraphernalia, but also targeted South Asians, Indigenous

communities, Catholics, and Canada's French population. This increased hate activity coincided with prominent criminal prosecutions, the most notable being that of Jim Keegstra, who was convicted for spreading hatred in violating Section 319(2) of the Criminal Code. Keegstra was stripped of his teaching degree in 1984 for teaching his high school class that the Jewish people were "treacherous," "subversive," and "sadistic." He also espoused that Jewish people were bent on destroying Christianity and that they were engaged in a conspiracy for global domination (*R. v. Keegstra*, 1990). Keegstra appealed his conviction to the Court of Appeal of Alberta, claiming that his right to freedom of expression, protected under Section 2(a) of the Canadian Charter of Rights and Freedoms, had been violated. The case was ultimately resolved at the Supreme Court of Canada in December 1990 where his conviction was upheld.

R. v Keegstra and its companion case, *R. v Andrews*, were also important in establishing the constitutionality of hate propaganda laws. On December 9th 1985, Donald Andrews and Robert Smith of the Nationalist Party of Canada were found guilty under Section 319(2) of the Criminal Code for willfully promoting hatred by publishing a bi-monthly magazine called *The National Reporter*. The Supreme Court's decision was significant as it upheld the hate propaganda provisions in the Criminal Code as constitutional. Andrews and Smith's convictions were overturned by the Court of Appeal of Ontario for violating Section 2(b) of the Charter. However, the Supreme Court upheld the original conviction and maintained that while Section 319(2) did infringe on freedom of expression, that infringement was justified under Section 1 of the Charter. These decisions were precedent setting in confirming the constitutionality of hate propaganda laws in Canada and set the stage for their further use. The emergence of an

international concept of human rights and the introduction of legislation designed to combat hate propaganda, therefore, established a broader legal framework for the further development of anti-hate initiatives.

The development of hate crime legislation and of police responses to hate crime in Canada was also linked to the emergence of multiculturalism as a paradigm of the Canadian experience. Emerging in the 1960s and 1970s, multiculturalism was first viewed as an objective fact linked to demographic shifts that saw increasing numbers of visible minorities making Canada home. Official multiculturalism emerged out of the recommendations of the Royal Commission on Bilingualism and Biculturalism (1963 - 1969), which made significant changes to the country's language laws.¹⁸ The Commission, which was struck by Prime Minister Lester B. Pearson, was developed in response to growing Quebec nationalism and to concerns about the diminishing place of French culture in Canadian society. The Commission was given the mandate to "inquire into and report upon the existing state of bilingualism and biculturalism in Canada" and provide recommendations to assist with the development of the Canadian Constitution "on the basis of an equal partnership between the two founding races, taking into account the contribution made by the other ethnic groups to the cultural enrichment of Canada" (Canada, 1967, Appendix 1, p. 167). The Commission made a series of recommendations, including declaring English and French official national languages and making Ottawa a bilingual city. Another key outcome was a formal national policy on multiculturalism. Dubbed "Multiculturalism within a Bilingual

¹⁸ The Commission also led to changes to French language education in Canada, the development of the Department of Multiculturalism, and the *Official Languages Act (1969)*.

Framework,” the policy asserted that while Canada was bilingual, “there is no official culture, nor does any ethnic group take precedent over another” (Multiculturalism and Citizenship Canada, 1985, p.15).

While Section 27 of the Charter ultimately made multiculturalism part of the Canadian constitutional framework and required Charter provisions to be interpreted in a manner consistent with “the preservation and enhancement of the multicultural heritage of Canadians,” it was not until 1988 with the passage of the *Canadian Multiculturalism Act* that the terms of Canadian multiculturalism were explicitly affirmed. The Act states that “multiculturalism is a fundamental characteristic of Canadian heritage and identity.” Among other things, the act stresses the nation’s commitment to:

- recognize and promote the understanding that multiculturalism reflects the cultural and racial diversity of Canadian society and acknowledges the freedom of all members of Canadian society to preserve, enhance and share their cultural heritage;
- recognize and promote the understanding that multiculturalism is a fundamental characteristic of the Canadian heritage and identity and that it provides an invaluable resource in the shaping of Canada’s future;
- promote the full and equitable participation of individuals and communities of all origins in the continuing evolution and shaping of all aspects of Canadian society and assist them in the elimination of any barrier to that participation;
- recognize the existence of communities whose members share a common origin and their historic contribution to Canadian society, and enhance their development;

- ensure that all individuals receive equal treatment and equal protection under the law, while respecting and valuing their diversity. (Canadian Multiculturalism Act, 1988)

Critical race scholars note that the emergence of Canadian multiculturalism was more of an adaptation of the framework of biculturalism rather than an original invention by the Canadian state designed to advance multicultural inclusion (Haque, 2012; Breton, 1988). The framework of multiculturalism functioned to manage the potentially destructive fractures existing within Canadian national solidarity by linking a narrative about diversity to national belonging in such a way that all Canadians could belong (Thobani, 2007; Day, 1998; Kernerman, 2005). The script of Canadian multiculturalism continues to solidify a narrative of French and English communities as “founding nations” and white bodies as “exalted subjects,” thereby displacing the contributions of Indigenous peoples and non-Europeans to the founding of the Canadian state (Thobani, 2007).

The policy of official Canadian multiculturalism mobilized cultural and racial difference in ways that supported a project of national unity and prosperity (Haque, 2012; Mackey, 2002). Canadian multiculturalism sought to “shape, manage and control difference” by recognizing and institutionalizing it (Mackey, 2002, p. 83). Multiculturalism has made a lasting impact on public and police policy, training, and rhetoric; it has also informed discourse about hate crime.

Sentencing Reforms

In the late 1970s, the federal and provincial governments began a comprehensive overhaul of criminal justice in Canada (Daubney & Perry, 1999). This

review process, known as the Criminal Law Review, resulted in the publication of two key government documents: *Criminal Law in Canadian Society* in 1982 and *Sentencing*, a White paper released in 1984 that, for the first time, attempted to provide a framework for sentencing and criminal justice reform.¹⁹ In 1987 the House of Commons Standing committee on Justice established the Daubney Committee, which issued a report entitled *Taking Responsibility* in 1988 (Daubney & Perry, 1999). As the title suggests, one of the major aims was to outline a sentencing framework that encouraged offender accountability and recognized the harms of hate crime. Informed by a series of public hearings, the report made 99 recommendations. One recommendation outlined guidelines for determining appropriate sentences for individual offenders and the inclusion of restorative justice measures in responding to crime.²⁰

In 1993 Bill C-90 introduced a new framework for sentencing and created Part XXIII of the Criminal Code (Daubney & Perry, 1999). This section contained:

- provisions that allowed for the creation of diversion programs and other alternative measures
- a statement on the purpose and principles of sentencing
- procedures for evidence at sentencing hearings

¹⁹ *Criminal Law in Canadian Society* and *Sentencing* were instrumental in creating a framework for Bill C-19, a proposed bill to reform criminal justice sentencing in Canada. Although Bill C-19 did not pass, the framework was instrumental in the creation of the Sentencing Reform Commission's report which recommended, among other things, a legislative framework that outlined sentencing principles, the creation of a sentencing commission, greater use of alternative sanctions to reduce reliance on incarceration, and a method for outlining the severity of crimes within the Criminal Code.

²⁰ In 1990 the Federal government issued *Directions for Reform: A Framework for Sentencing, Conditional Release and Corrections*, a discussion paper that in part responded to the work of the Sentencing Commission and the *Daubney Report*. In it, the government agreed that sentencing principles should be included in a sentencing form bill but stopped short of committing to specific sentencing guidelines.

- new provisions for probation
- a new framework for fines and for the payment of restitution to victims
- sentencing alternatives such as conditional sentences
- newly modified provisions concerning parole eligibility, pardons, life sentences, and disabilities. (Daubney & Perry, 1999)

Section 718 specifically outlines the framework that determines sentencing in Canada. Parliament's overarching goal was for sentencing to "contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society" (Criminal Code, 1996). This sentencing objective was to be accomplished through denunciation, deterrence, the separation and rehabilitation of offenders, reparations to victims and communities, the promotion of responsibility on behalf of the offender, and the acknowledgement of harms committed to victims (Daubney & Perry, 1999). Parliament also established a number of aggravating factors to be considered when sentencing an offender. These included the consideration of evidence that an offender was motivated by "hate, bias or prejudice." Section 718.2 states, in part, that

(a) a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender, and, without limiting the generality of the foregoing,

(i) evidence that the offence was motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor" (Criminal Code, 1996).

The introduction of Section 718.2(a) and (i) was significant for sentencing judges and for law enforcement because it imposed a new responsibility on police officers. It required police to not only determine whether a criminal offence was committed but to assess the underlying motivation for the crime in order for the courts to prosecute individuals for bias motivation.

The emergence of enhanced sentencing for hate crimes in Canada is notable when compared with the development of hate crime in the United States. In the United States, hate crime was largely the result of the work of social movements, activist groups, and especially the victims' rights movement which, through high profile incidents of hate crime, raised public awareness of bias-motivated violence (Jenness & Broad, 1997). The civil rights and women's rights movements in the 1960s and 1970s brought racial and gender inequality to the fore (Jenness & Broad, 1997). The civil rights movement fought against institutional racism and for anti-discrimination legislation that guaranteed the rights of Black citizens. The women's rights movement fought for women's sexual freedom and gender equity in the work place while also condemning male violence against women. Later, the gay rights movement would challenge homophobia and the stigma of homosexuality that was deeply ingrained in American culture. At the core of each of these movements was a demand for legal remedies to address discrimination and violence and a new public discourse on race, gender, and sexuality (Jenness & Grattet, 2001). These groups successfully shifted public thinking about hate crime from a problem of individual victimization to a larger social problem. In particular, a growing victims' rights movement pushed for tougher sanctions on offenders. It raised new questions about appropriate ways to protect individual rights,

punish hate, and maintain the safety of minority communities. During this time, the concept of hate crime increasingly made its way into criminal justice and public policy discourse, political statements, popular culture, and mainstream media coverage.²¹ Criminal justice and changes to sentencing became primary mechanisms in the fight against hate.

The lynching of James Byrd Jr, ²² an African American man living in Jasper Texas, by three white supremacists in 1996 and the murder of Matthew Sheppard ²³ in 1998 sparked the development of new anti-hate measures in the United States.²⁴ These shocking deaths led to legislative action and the passage of the *Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act*, which expanded federal hate crime laws to include crimes motivated by gender, sexual orientation, gender identity, and disability

²¹ According to Jacobs and Potter (1998), the term hate crime was first used in American politics by Representatives John Conyers, Barbara Kennelly, and Mario Biaggi who co-sponsored a Bill called the *Hate Crime Statistics Act* in 1985. The Bill would require the Department of Justice to collect and publish data on of crimes motivated by racial, religious, and ethnic hatred.

²² James Byrd Jr. was killed by Shawn Berry, Lawrence Russell Brewer, and John King. On June 7, 1998 Byrd accepted a ride from the three men, who promised to take him home. Instead, the men drove to an isolated area and severely beat and urinated on Byrd, and chained him to the back of their pickup truck. Byrd was dragged for approximately 2.4 km and his remains were dumped on the side of a road. All three were convicted of murder. Lawrence Russell Brewer and John King were sentenced to death while Shawn Berry was sentenced to life imprisonment. On September 21, 2011 Brewer was executed by lethal injection (See Peterson, 2011).

²³ Matthew Shepard was beaten and tortured by Aaron McKinney and Russell Henderson on October 6, 1998. He died 6 days later in hospital. Prosecutors claimed that the attack was sparked by sexual advances made by Sheppard and McKinney and Henderson's bias toward members of the LGBT community. Sheppard's death brought hate crimes committed on the basis of sexual orientation into the national discussion. McKinney and Henderson each received two consecutive life sentences (See Peterson, 2011).

²⁴ The high profile murder of Stephen Lawrence, a Black teenager who was killed in 1993 while waiting for a bus, and the series of nail bomb attacks in 1999 committed by David Copeland, a self-professed neo-Nazi targeting the Black, and gay and lesbian communities in London's Brixton, Brick Lane, and Soho neighbourhoods, were watershed movements in the development of hate crime legislation in Britain. It was claimed that Lawrence's murder was motivated by anti-Black bias but that the Metropolitan Police Force failed to take this concern seriously and mishandled the investigation. A public inquiry was launched by Sir William Macpherson. It found the Metropolitan Police was institutionally racist and made 70 recommendations for police and criminal justice reform. See, *Report of the Stephen Lewis Inquiry* (1999). <https://www.gov.uk/government/publications/the-stephen-lawrence-inquiry>

(Peterson, 2011). The Act also expanded the ability of federal agents to investigate hate crimes that local officials may have chosen not to investigate and required the Federal Bureau of Investigation (FBI) to track hate crimes based on gender and sexual orientation.²⁵

As Valerie Jenness and Kendal Broad (1997) note, the development of hate crime legislation in the United States was shaped to a large degree by how successfully groups were able to politicize their claims. The concept of hate crime and the legal mechanisms developed are best viewed as social constructs rather than objective legal facts (Jacobs and Potter 1998; Chakraborti and Garland, 2010). “In the case of hate crime, the standing of certain individuals and groups as victims,” as Jenness and Broad (1997) write, “is not a mere reflection of an objective state of affairs. Rather, it is the product of collective definitions that have been developed by watchdog organizations, contested in legislative and public arenas and ultimately institutionalized into law” (p. 173).

Although policy documents reference concerns about increased activity of hate groups in Canada and notable incidents of racist, homophobic, and anti-Semitic hate violence, no one particular incident was the catalyst for hate crime legislation in Canada. Instead, according to the *Report on Hate Group Activity: Environmental Scan* (1993), a more general rise in hate group activity during the early 1990s was observed. The Canadian Association for Free Expression and the Canadian League for Rights, accompanied by far right groups such as the Heritage Front, the Ku Klux Klan, and the

²⁵ The *Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act* modified the *Hate Crime Statistics Act* passed in 1990 to require the national collection of hate crime statistics based on race, religion, and ethnicity.

Aryan Resistance Movement were noted in the Solicitor General of Canada's *Report on Hate Group Activity in Ontario* (1993).²⁶ The report notes that in 1993, the Ku Klux Klan handed out pamphlets while dressed in full regalia. Later that year, 30 neo-Nazis disrupted an anti-racism rally that was organized to protest hate group activity (Pitman, Russell & Burbach, 1993).

The sentencing reforms of the late 1980s and early 1990s produced section 718.2 and the provisions for enhanced sentencing for bias, prejudice, and hate. While not directly shaped by hate crime legislation passed in the U.S., Canadian laws did emerge contemporaneously with laws emerging in other national jurisdictions.

The Development of Community Oriented Policing

During the 1990s and 2000s, a number of forces shaped the direction of law enforcement in Ontario that compelled police to develop new methods of service delivery. Many changes in policing were instigated by inquests, inquiries, and commissions investigating the treatment of racialized and Indigenous people at the hands of police. Steering committees, working groups, and task forces were created by police services in response to public pressure, allegations of police misconduct, and calls for reform from community groups.

²⁶ The report defines the radical right as "groups that preach white supremacy or extol the philosophy and leadership style of Adolf Hitler." The report goes on to state that far right groups are "anti-Semitic, anti-Black, anti-Communist, anti-immigration, anti-foreign aid, anti-world government, anti-egalitarian, anti-homosexual, hold a firm belief in a Jewish conspiracy and can sometimes be involved in violence." (Pitman, Russell & Burbach, 1993, p. 6). The report defines the fringe right as "individuals who mix their overtly racist thoughts and views with positions accepted by a large percentage of the population." The fringe right tends to be "anti-communist, anti-homosexual, anti-abortion and anti-egalitarian" (Pitman, Russell & Burbach, 1993, p. 3).

The Report of the Commission on Systemic Racism in the Ontario Criminal Justice System was particularly significant as it confirmed what many residents and activists have claimed: that policing and criminal justice in Ontario were racialized (The Commission, 1995). The Ontario Commission on Systemic Racism, established in 1992, was the most comprehensive review of the effects of criminal justice practices on racialized communities. The Commission examined practices, procedures, and policies within policing, the courts, and correctional institutions. It considered the role racism, and anti-Black racism in particular, played in the administration of justice. Based on interviews, public meetings, focus groups, oral and written submissions, public hearings, and empirical studies examining criminal justice outcomes, the report noted major disparities between the treatment of Black and white offenders in prison admissions, sentencing, pretrial detention, and charging (The Commission, 1995). The Commission found that between 1986 and 1993, Black adults were admitted to prison at over five times the rate of whites, and Black women were admitted to prison at a rate seven times higher than that of their white counterparts (The Commission, 1995). When it came to pre-trial detention, Black accused were 27 times more likely to be held than whites for drug trafficking/importation offences, 15 times more likely for simple drug possession, and 13 times more likely for obstructing justice (The Commission, 1995). The Commission recommended an equality strategy for justice. This strategy included anti-racism training for justice professionals, employment of racialized persons within the criminal justice system, participation of racialized people in the development of justice policies, and monitoring practices of racial inequality. Since the Commission's report, a number of

recent initiatives aimed at examining,²⁷ eliminating,²⁸ and addressing systemic racism²⁹ have been established.³⁰

A number of reports commissioned by municipal police services, most notably the Toronto Police Service, have directly impacted police practice and police engagement with racialized communities. The report of the Police and Community Engagement Review, commonly known as the PACER Report, was issued during the Service's review of its community engagement practices to address concerns about biased policing. The Review examined the Service's use of Field Information Reports (FIR)³¹ and concerns that race was used as a criteria when determining how FIR were

²⁷ In 2016, the Ontario government established a provincial Anti-Racism Directorate. Its mandate is to eliminate systemic racism in government policies and advance racial equality to ensure that all members of Ontario society can fully participate in public life. The Directorate ensures that the province's anti-racism strategic plan outlined in *A Better Way Forward: Ontario's Three Year Anti-Racism Strategic Plan* and the province's *Anti-Racism Act*. See the Directorate's website: <https://www.ontario.ca/page/anti-racism-directorate>

²⁸ In December 2017, the province released its Anti-Black Racism Strategy designed to eliminate disparities in outcomes in education, child welfare, and criminal justice in Ontario by 2024. The strategy has five central aims: i) long term systemic change; ii) capacity building in government employees to assist with combating anti-Black racism; iii) develop evidence-based approaches to reduce race-based disparities; vi) increase Black community engagement; and v) increase awareness and understanding of anti-Black racism. View the strategy: <https://www.ontario.ca/page/better-way-forward-ontarios-3-year-anti-racism-strategic-plan>

²⁹ On November 30, 2017 the Ontario Human Rights Commission launched a public interest inquiry into racial profiling and racial discrimination in the Toronto Police Service. The inquiry will examine Toronto Police practices between January 1, 2010 and June 30, 2017 to assess whether the practices of Toronto police targeted the Black community. The Inquiry will examine key police practices, including police stops and questioning practices, use of force, arrest and charging, as well as the Service's culture, training, policies, procedures, and accountability mechanisms relating to racial profiling and racial discrimination. Previous reports from the OHRC on the subject of racial profiling include: *Under Suspicion: Research and Consultation Report on Racial Profiling in Ontario* and *Paying the Price: the Human Cost of Racial Profiling*. Access these reports through OHRC website: <http://www.ohrc.on.ca/en>

³⁰ The Independent Police Oversight Review headed by Justice Michael Tulloch, as well as the ongoing *Independent Review of Street Checks and Carding* and the *Independent Review of Ontario Corrections*, are notable recent reviews sparked, in part, by concerns about the relationship between the criminal justice system and racialized communities. See the report of the Independent Police Oversight Review: https://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/police_oversight_review/

³¹ The use of Field Information Reports, also known as Community Contact Cards, came to public attention following the *Toronto Star's* series *Known to Police*. The *Star's* analysis of 1.2 million contact cards completed between 2009 and 2011 found that Black and to a lesser extent Brown people were carded at disproportionately higher levels compared with their white counterparts. See the *Star's* reporting at: https://www.thestar.com/news/gta/known_topolice.html

used.³² The PACER report made 31 recommendations to improve police-community engagement and encourage bias-free policing in 11 key areas, including police governance, public accountability, and community consultation (Toronto Police Service, 2016). The report recommended that the Service create a new core value stating its “continued commitment to delivering bias-free police services.” It also recommended the creation of a standing committee to “work continuously with the Service, in order to assess and address the issue of racial profiling,” and called for all uniform officers to receive training on human rights and the “prevention of discrimination, racism and anti-Black racism” (Toronto Police Service, 2016).

Another major focus of PACER was the Toronto Anti-Violence Intervention Strategy (TAVIS), which was widely criticized for engaging in practices that targeted Black communities and damaged community relations (Gillis, 2016). TAVIS was created in response to a spike in violent gun-related crime and gang activity throughout the city and was designed to reduce crime, increase public safety, and improve quality of life for residents in higher crime areas (Toronto Police Service, 2016). The heavy-handed approach of TAVIS was seen by many residents as threatening, which compromised the public image of the police and shook public confidence.³³ TAVIS was also

³² Field Information Cards are completed by police officers in the context of a street check. Street checks (commonly known as 'carding') involve officers stopping, questioning, and collecting information about individuals (many of whom have not committed a criminal offence, have no criminal record, and are not suspected of committing a crime) as an intelligence gathering method. Data collected on contact cards are then entered into police databases, which officers then use to locate suspects during investigations. Carding, along with unwarranted stops of Black drivers (a phenomenon colloquially known as 'driving while Black'), have become emblematic of the ongoing racialized nature of policing.

³³ Concerns about police treatment of communities of colour have not been limited to targeted policing or racial profiling but also include physical violence in the form of assaults, intimidation, shootings, deaths of people in police custody, and indifference to murders and disappearance of Indigenous women and girls and have emerged in startling ways in the last number of years. The ongoing Black Lives Matter protest movement, ignited by the shooting deaths of unarmed Black men in the United States and Canada,

responsible for many calls for change in law enforcement in Ontario that led to the development of a new community-oriented model of policing, which integrates community policing strategies³⁴ and encourages greater contact between law enforcement and communities.³⁵ Once defined strictly as law enforcement or crime fighting, policing has been reconceived and reframed under the banner of crime prevention and community safety. In this model, police work collaboratively with the community and other social service sectors to address the underlying factors leading to crime. In 2012, the Ministry of Community Safety and Correctional Services (MCSCS), in partnership with the Ontario Association of Chiefs of Police (OACP), released *Crime Prevention Ontario: A Framework for Change* in which it laid out its crime prevention approach. The report defines crime prevention as “the anticipation, recognition and appraisal of a crime risk and the actions taken – including the integrated community

marked a new chapter in activism against police violence, highlighting concerns about the relationship between law enforcement and communities of colour.

³⁴ The rise of community policing, an approach that includes a range of policing practices that has become a popular and widely endorsed policing approach in Canada, has significantly changed the tone and direction of policing efforts (Griffiths, Parent, & Whitelow, 2004). As a policing strategy, community policing is committed to many of the tenets of problem-oriented policing but within a framework that prioritizes police-community collaboration, information sharing, and flexible strategies for dealing with crime and community needs. Community policing has also been accompanied by organizational decentralization, increased interaction between police and community members through neighbourhood police patrols and methods that foster two-way communications between police and citizens. The role of the police in community policing approaches is to assist local communities in solving their problems through a network of services, including police, community organizations, social services, health and settlement services, education, and crime-prevention programs. Police effectiveness, which was once measured by numbers of arrest and decreases in overall crime rates, is measured under community policing by police responsiveness to the community. Community policing as a method of policing is one centred on identifying community needs and listening to community concerns. Once identified, community priorities shape the direction of police action.

³⁵ As George Pavlich (2001) notes, the invocation of community in public sector organizations is linked to the institutionalization of ‘community’ as a mechanism through which states govern. Pavlich notes that community has become an object of policy-makers predicated on the belief that there exist discrete, identifiable populations to which police can relate, with which policing can be conducted, and upon which police practices can be applied. Whether geographically or spatially defined, configured by shared values or a common ethno-cultural heritage, the identification of communities is central to community engagement. Communitarian discourses imagine communities as places of safety, health, strength, rehabilitation, civic participation and inclusion.

leadership required – to remove or reduce it” (MCSCS, 2012, p. 8). The approach aims to address crime in partnership with “community members, social groups, businesses and governments” and through the identification of crime trends and relevant information that could inform “prevention strategies,” and be used to develop and apply “best practices” (MCSCS, 2012, p. 8). The approach was developed around four pillars:

- Prevention through social development.
- Prevention through situational measures.
- Prevention through education and awareness.
- Prevention through community policing.

In addition to these four pillars, crime prevention would be guided by six principles.

These principles attempt to:

- Prevent crime through community leadership and a local approach.
- Prevent crime through evidence and evaluation – based experience.
- Prevent crime by establishing integrated, multi-sectoral, multi-disciplinary responses and partnerships.
- Prevent crime through sustainable responses.
- Prevent crime by increasing knowledge and sharing information among police, criminal justice and community agency partners.
- Prevent crime by recognizing the diversity of Ontarians.³⁶

The crime prevention and community safety approach advanced by the Ontario Association of Chiefs of Police and adopted throughout the province draws on Ontario’s

³⁶ Also See: Russell & Taylor (2014a, 2014b, 2014c, 2015); Corley (2015); and Nilson (2015).

risk-driven “Framework for Planning Community Safety,” which incorporates emergency response, risk intervention, prevention, and social development (see Figure 3.1).³⁷ Visualized as concentric circles, at the core is emergency response and at the periphery is social development.

Figure 3.1: Ontario Framework for Planning Community Safety



Russell & Taylor (2014)

Ontario’s Mobilization and Community Engagement Approach to Community

Policing similarly emphasizes crime prevention through community partnership and directs police services to utilize community-based resources, proposes joint police-

³⁷ The MCSCS, along with the OACP, support an annual Crime Prevention Week in Ontario. The event seeks to highlight the crime prevention initiatives of local and provincial law enforcement agencies. The province of Alberta supports a similar initiative, which also includes Alberta Hate Crime Awareness Day. Organized by the Alberta Hate Crime Committee, the day is designed to bring individuals, communities, and businesses together with law enforcement to fight hate crime and promote tolerance.

community initiatives, and expands community consultative committees designed to maintain open communication between police and distinct communities (see Table 3.20).³⁸ Where past models redesigned police roles, the philosophy of community policing adopted in Ontario stresses the roles and responsibilities of community members as well. The model stresses that only through police and community partnership is lasting community safety possible, and “highlights police tactics for stimulating and supporting” positive outcomes (OACP, n.d.). Effectiveness requires police services to “add skills and capabilities” and “reconsider how they organize and operate” (OACP, n.d.). This model draws on problem-oriented policing strategies and encourages a multi-sectoral approach to address crime and promote community safety (OACP, n.d.). Four areas define this model: 1) Enforcement and crime suppression, which involves rapid police response and is deployed in the most acute circumstances where individual and public safety is at risk; 2) Community mobilization and crime prevention, which occurs when immediate threats to public safety are eliminated and police, along with the community, work together to reduce the risk of crime, anti-social behaviour, and victimization; 3) Community engagement, which occurs when communities are largely able to address their own concerns; and 4) Community safety

³⁸ Many police services in Ontario, most notably TPS, are currently engaged in strategic planning to modernize service delivery. In January 2017, TPS’s Transformation Task Force issued its final report entitled, *Action Plan The Way Forward: Modernizing Community Safety in Toronto*. The report was the product of a year of research and public consultations, and represents the most comprehensive review of policing in Toronto. The Report offers a set of guiding principles informing the modernization of TPS which include accountability and trust, transparency, inclusivity, sustainability, and affordability. The Task Force also identified three main goals of effective public service: community partnership and meeting the needs of city residents. Other recommendations include ongoing public engagement, better engagement with members of the Service, culture change within TPS, strengthening public accountability, investing in change, and realigning police divisions and stations to make them more neighbourhood centred. See, *The Way Forward: Modernizing Community Safety in Toronto* (<https://www.torontopolice.on.ca/TheWayForward/files/action-plan.pdf>)

and consultation, which occurs where people are relatively safe and there are few calls to police (MCSCS,n.d.). The role of police is to consult with the community and be prepared to offer assistance if the need arises.

Table 3.1: Ontario’s Mobilization and Community Engagement Approach

Enforcement and Crime Suppression	Community Engagement & Liaison
<ul style="list-style-type: none"> Analyzing Crime Targeting Enforcement Monitoring Crime Reduction Initiating Problem Solving 	<ul style="list-style-type: none"> Liaising with neighbourhoods and groups Public education and risk prevention Monitoring Special at-risk groups Partnering in early intervention
Community Mobilization and Crime Prevention	Community Safety & Consultation
<ul style="list-style-type: none"> Mobilizing Community Partners Problem-oriented Policing Monitoring Crime Prevention 	<ul style="list-style-type: none"> Engaging Community Leaders Consulting with community groups Monitoring hazards

Hate crime response in Ontario was shaped by policy-oriented work designed to produce uniform ways of tracking and reporting hate crime, and of responding to victims of hate crime. In 2010, Citizenship and Immigration Canada issued its evaluation of the Nationally Standardized Data Collection Strategy on Hate Crime that is delivered by the Canadian Centre for Justice Statistics (CCJS). This report was issued in support of Citizenship and Immigration Canada’s role in implementing the Federal government’s *Canadian Action Plan Against Racism*.³⁹ CCJS undertook a series of activities aimed at

³⁹ In 2005, Citizenship and Immigration Canada, along with three other federal departments (Canadian Heritage, Human Resources and Social Development Canada and Justice), developed and implemented *Canada’s Action Plan Against Racism* (CAPAR). CAPAR covered six key areas. It sought to: 1) more effectively assist victims and communities with responding to racism and forms of discrimination; 2) develop approaches promote diversity and combating racism; 3) more effectively incorporate social service agencies into the anti-racism approach; 4) regional and international cooperation on anti-racism; 5) strengthen anti-racism education for children and youth; and 6) develop initiatives to counter hate and bias crime. In 2008, the Department of Justice conducted an evaluation of CAPAR and in 2010

standardizing the collection of hate crime statistics in order to more accurately capture the scope of hate crime in Canada. This included:

- developing a standardized police-approved definitions related to hate-motivated crime;
- creating training materials and delivering on-site training to police services;
- compiling and performing quality assurance on data on hate crime reported by police services across Canada;
- providing assistance and support to police services on hate crime reporting through telephone and e-mail;
- developing reports on hate crime in Canada and making data and reports available to stakeholders on the STC website.

While the report stated that police services had “successfully” implemented CCJS’s hate crime reporting processes, the evaluation found that greater stakeholder awareness of existing hate crime initiatives was needed to improve reporting and victim care.

Initiatives designed to improve police recording of hate crime have been at the centre of many consultations completed by the CCJS with local police agencies over the last two decades. Consultations with police resulted in the release of *Hate Crime: A Summary Result of Consultation* in 2002 and, following another set of consultations over a decade later, *Hate Crime Consultations and Recommendation*, which was released in 2014. These reports cited a number of significant factors affecting the collection of hate crime data and made important recommendations to improve the

Citizenship and Immigration Canada conducted a similar evaluation. See, *A Canada for All: Canada’s Action Plan Against Racism* (2005); *Canada’s Action Plan Against Racism Formative Evaluation Final Report* (2008); *Evaluation of Canada’s Action Plan Against Racism* (2010).

reliability and quality of that information. These reports urged: 1) improved officer training to ensure consistency in identification and classification of suspected hate/bias motivated occurrences; 2) a uniform definition of hate/bias crime; and 3) uniform guidelines to ensure consistent application of hate/bias crime procedures (CCJS, 2002; 2014).

The most significant report shaping response to hate crime is the 2016 report of the Attorney General and the Minister of Community Safety and Correctional Services, Hate Crime Community Working Group (HCCWG). The mandate of the Working Group was to advise the provincial government on strategies to address individual and group-based victimization arising from hate crime. The Working Group released its final report entitled *Addressing Hate Crime in Ontario* in 2006. Nine guiding principles informed the approach identified in the report to reducing hate crime and hate crime victimization. It was determined that the approach needed to be: victim centred, systemically focused, inclusive of difference, evidence based, multi-sectoral, holistic, sustainable, transparent, and accountable (HCCWG, 2016; pp. 9 - 10). The Working Group issued recommendations for increased support for victims, education and training of criminal justice staff, and changes in the approach by the criminal justice system – including police (HCCWG, 2016). In response to concerns of “inadequate and insensitive” investigations by police, “failures to consult,” and a “lack of understanding” for the personal and community effects of hate crime, the report called for increased officer training and a review of hate crime procedures by the police (HCCWG, 2006, p. 52).

PART II: HATE CRIME RESPONSE IN CONTEXT

In order to situate the social context in which the policing of hate crime occurs, this section provides an overview of the demographics of the police jurisdictions represented in this study, as well as the reporting and investigative processes employed when a suspected hate crime is reported. While reporting structures are similar in each service, differences in jurisdictional contexts mean that police may receive complaints from different ethnic, religious and cultural communities.

JURISDICTION AND DEMOGRAPHICS

The Toronto Police Service (TPS), Peel Regional Police Service (PRPS), and York Regional Police Service (YRPS) are neighbouring police jurisdictions in the Greater Toronto Area (GTA). Five municipalities comprise the GTA: The City of Toronto, Peel Region, York Region, Halton Region, and Durham Region. According to Statistics Canada, the area has a population of 6.4 million people, 4.9 million of whom live in the City of Toronto (2.7m) and in the Regional Municipalities of Peel (1.3m) and York (1.1m) (Statistics Canada, 2016a; 2016b; 2016c). In addition to being the most populous metropolitan area in Canada, the region is one of the most diverse in the world. The City of Toronto has claimed that half of its residents identify as visible minorities with about the same proportion identifying as foreign-born (City of Toronto, 2006). In total, the city has claimed it is home to over 200 distinct ethnic communities and over 140 distinct languages and dialects (City of Toronto, 2006).

Both Peel and York make similar claims about the ethnic, cultural, and linguistic diversity their municipality. Peel Region is home to the largest South Asian community in the GTA, which accounts for 50.8% of the region's visible minority population (Region

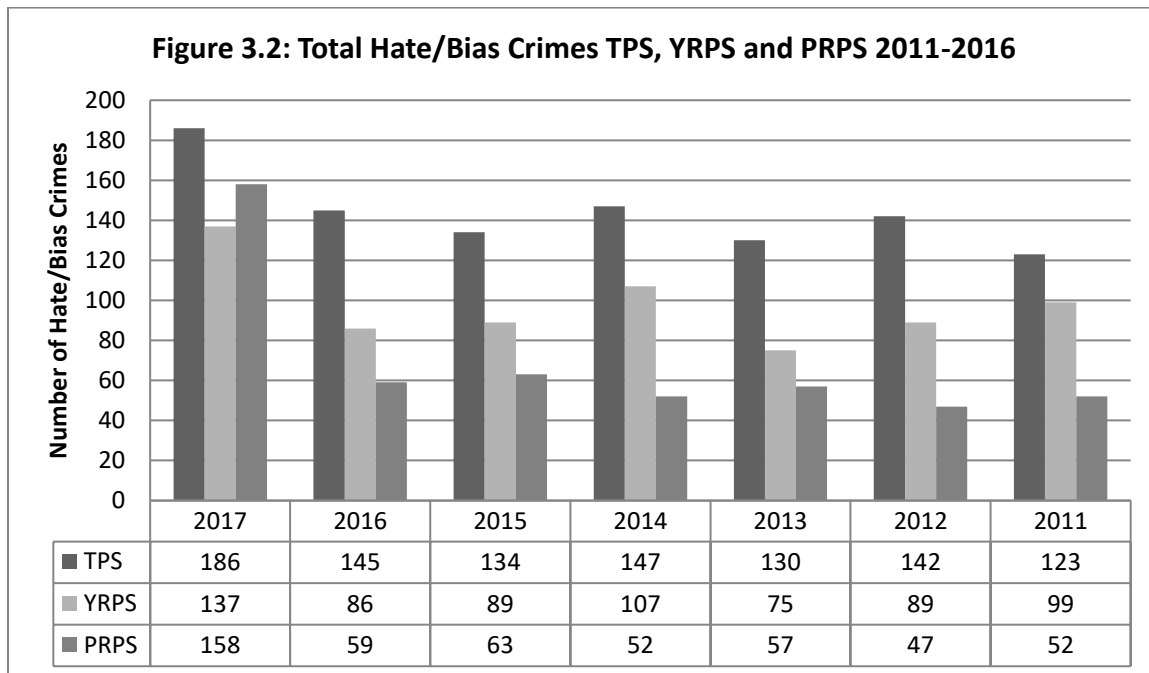
of Peel, 2017). York Region is also home to large concentrations ethno-cultural and religious communities. Of the 43% of residents that identify as visible minorities, the Chinese community accounts for the largest proportion in Toronto and the most commonly spoken languages, other than English or French, are Cantonese and Mandarin (Regional Municipality of York, 2008).

The ethnic, cultural, and religious diversity in Toronto, York, and Peel is not uniform. Immigration and settlement patterns, access to housing, employment, and social services, and family and kinship supports have all shaped how racial, cultural, and religious communities experience the city. Toronto is known for its distinct ethnic and cultural communities, which have become important for the city's tourist economy. These demographic realities have meant that police methods of service delivery, philosophy, and priorities have (according to police) changed to make policing more responsive to the communities they serve.

HATE CRIME IN TORONTO, YORK REGION, AND PEEL REGION

Official numbers of hate/bias motivated crimes committed are determined by reports to police. Police then confirm that the incidents are criminal in nature and likely motivated by bias, prejudice, or hate. All three police jurisdictions represented in this study produce statistical counts of hate/bias crime occurrences that are publically accessible via police websites. In 2017, the last year for which figures were available, 186 hate/bias crimes were committed in Toronto, 137 were committed in York Region, and 158 were committed in Peel Region (Toronto Police Service, 2018; York Regional Police Service, 2018; Peel Regional Police Service, 2018). Hate/bias crimes increased

dramatically in all three jurisdictions in 2017 compared to the previous year. Hate/bias crimes increased by 28% in Toronto, 59.3% in York Region and 268% in Peel Region, whereas from 2011 to 2016 the number of police reported hate crimes in each of the three jurisdictions had remained relatively stable, with the exception of small peaks and dips in reporting (see Figure 3.2).

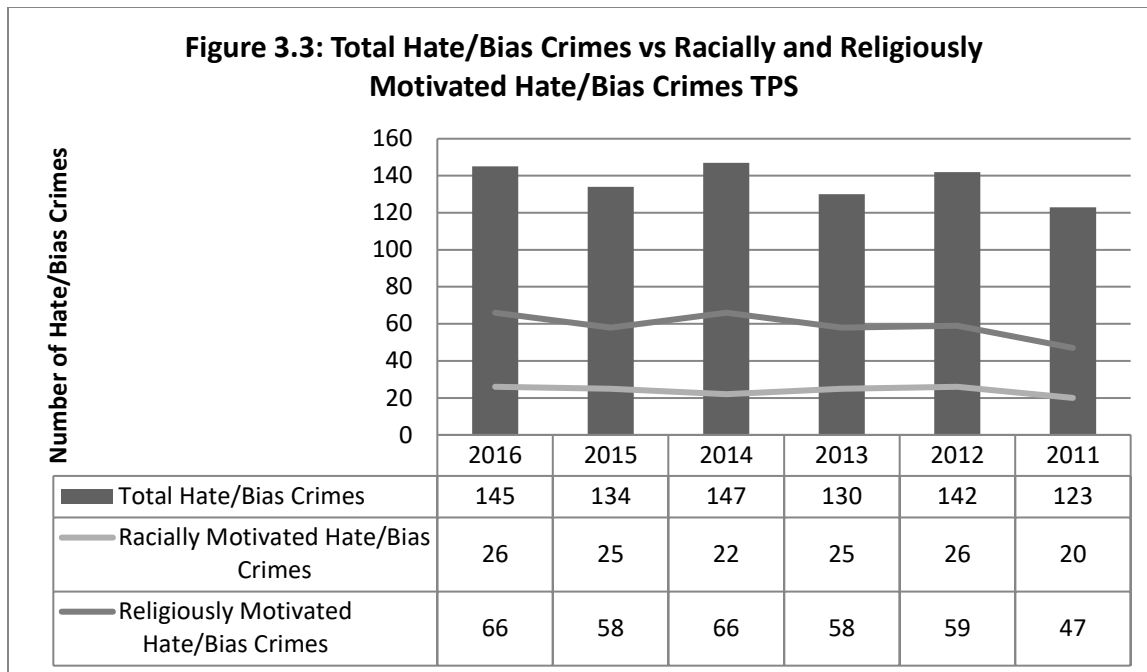


*Figure 3.2 derived from TPS, YRPS and PRPS Annual Hate/Bias Crime Reports released from 2011 to 2016.

Of the total number of hate/bias crimes reported to police in all three jurisdictions, racially and religiously motivated hate crimes account for a large proportion of offences (Toronto Police Service, 2012; 2013a; 2014a; 2015; 2016a; 2017; 2018; York Regional Police Service, 2012; 2013; 2014; 2015; 2016a; 2017; 2018; Peel Regional Police Service, 2012; 2013; 2014; 2015; 2016; 2017; 2018).

My analysis of police responses to racially motivated hate crimes includes offences categorized by police as religiously motivated hate crimes. While religiously motivated hate crimes can include those directed at any faith community, including majority faith communities, the vast majority of these offences in all three jurisdictions were anti-Semitic or anti-Muslim or directed against religious communities that are also racialized. I bring racially and religiously based hate crime together in my analysis of hate crime statistics due to the intersectional nature of religious adherence to racial, ethnic, and cultural identity.

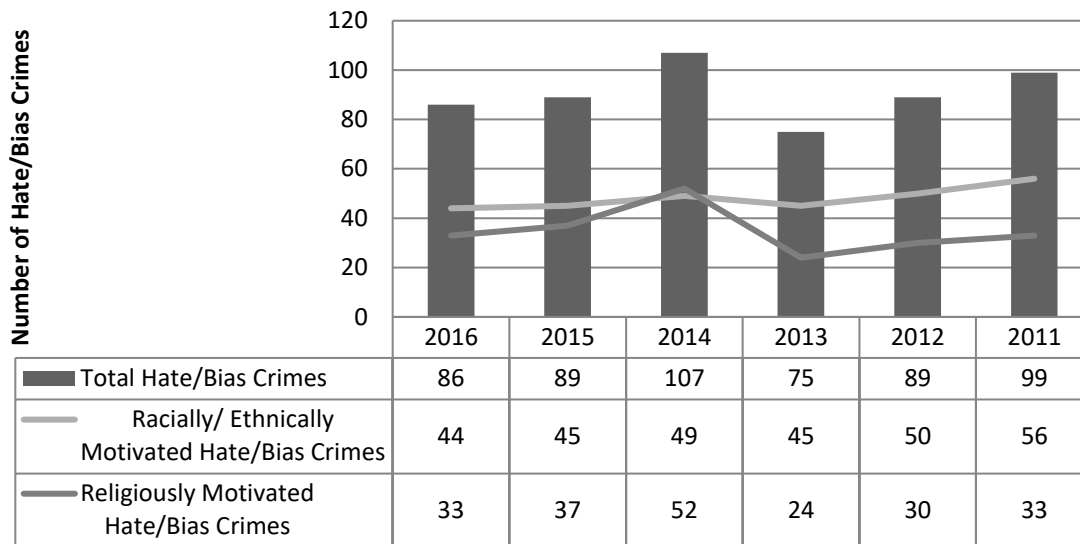
From 2011- 2017, religiously motivated offences comprised the single largest motivated crime category, with the Jewish community being the most victimized group in Toronto (Toronto Police Service, 2018). The Black community was most targeted over this same period with respect to racially motivated hate crimes reported in Toronto. In 2018, for example, the Jewish community accounted for 61% (53 offences) of all religiously motivated hate/bias crimes and the Black community accounted for 80% (33 offences) of racially motivated hate/bias crimes (Toronto Police Service, 2016a). The share of racially and religiously motivated hate crimes in Toronto has remained relatively stable. In 2017, racially and religiously motivated hate crimes accounted for 68% of total hate crimes, roughly the same proportion as in 2015, 2014 and 2013 (Toronto Police Service, 2013a; 2014a; 2015) (see Figure 3.3).



* Figure 3.3 derived from TPS Annual Hate/Bias Crime Reports released from 2011 to 2016.

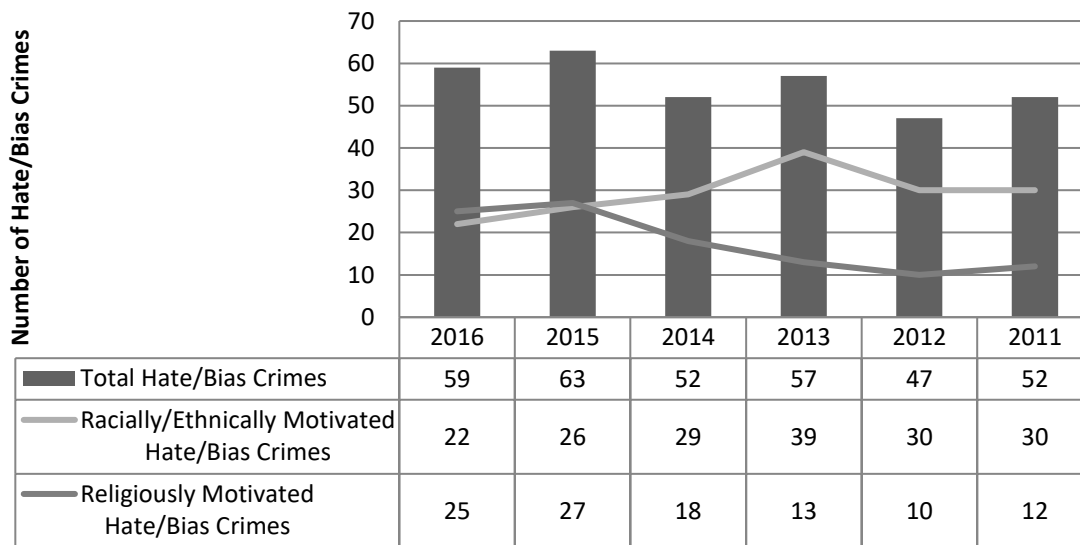
In both York Region and Peel Region, racially and religiously motivated hate crimes together comprised more than three-quarters of police reported hate crimes each year from 2011 to 2017 (York Regional Police Service, 2012; 2013; 2014; 2015; 2016a; 2017; 2018 Peel Regional Police Service, 2012; 2013; 2014; 2015; 2016; 2017; 2018). For example, in 2017 York Region saw 39.4% of total hate/bias crimes motivated by race, while 48.9% of total hate/bias crimes were religiously motivated (York Regional Police Service, 2016). That year, in Peel Region, race-based hate/bias crimes accounted for 24.7% of all offences while religiously-based hate crimes accounted for 48.1% (Peel Regional Police Service, 2018). In 2017, the most victimized communities in York and Peel were the Jewish, Muslim, Black, and South Asian communities (see Figures 3.4 and 3.5).

Figure 3.4: Total Hate/Bias Crimes vs Racially/Ethnically and Religiously Motivated Hate/Bias Crimes YRPS



*Figure 3.4 derived from YRPS Annual Hate/Bias Crime Reports released from 2011 to 2016.

Figure 3.5: Total Hate/Bias Crimes vs Racially/Ethnically and Religiously Motivated Hate/Bias Crime PRPS



*Figure 3.5 derived from PRPS Annual Hate/Bias Crime Reports released from 2011 to 2016.

Tables 3.2, 3.3, and 3.4 depict the total number of hate crimes reported in Toronto, York Region, and Peel Region based on motivation from 2011 to 2016. The

data in these tables are based on annual TPS, YRPS, and PRPS hate crime reports. Since police service reports do not use the same terms to classify motivation (for example, TPS lists race and ethnicity as separate categories while YRPS and PRPS merge both within one category), the tables appear slightly different across police services.

Table 3.2: Total Hate/Bias Crimes by Motivation 2010 – 2017 TPS⁴⁰

Year	Ethnic Origin	Sex	Multi-Bias	Nationality	Race	Religion	Similar Factor	Sexual Orientation	Total
2017	7	6	27	2	41	86	0	16	186
2016	7	6	14	8	26	66	0	18	145
2015	6	2	10	6	25	58	0	27	134
2014	1	3	14	19	22	66	0	24	147
2013	12	0	10	2	25	58	2	21	130
2012	5	0	21	11	26	59	1	19	142
2011	3	0	18	12	20	47	0	23	123

* Figures represented in Table 3.2 are derived from Toronto Police Service's Annual Hate/Bias Crime Statistical Reports released from 2011 to-2017.

Table 3.3: Total Hate/Bias Crimes by Motivation 2010-2017 PRPS

Year	Race/ National Ethnic Origin	Religion	Sexual Orientation	Disability	Multiple Motivations	Language	Gender Identity	Total
2017	39	76	8	0	35	0	0	158
2016	22	25	7	0	4	0	0	59
2015	26	27	1	1	8	0	0	63
2014	29	18	3	0	2	0	0	52
2013	39	13	4	0	0	1	0	57
2012	30	10	7	0	0	0	0	47
2011	30	12	7	1	0	0	1	52

* Figures represented in Table 3.3 are derived from Peel Regional Police Service Annual Hate/Bias Crime Reports released from 2011 to 2017.

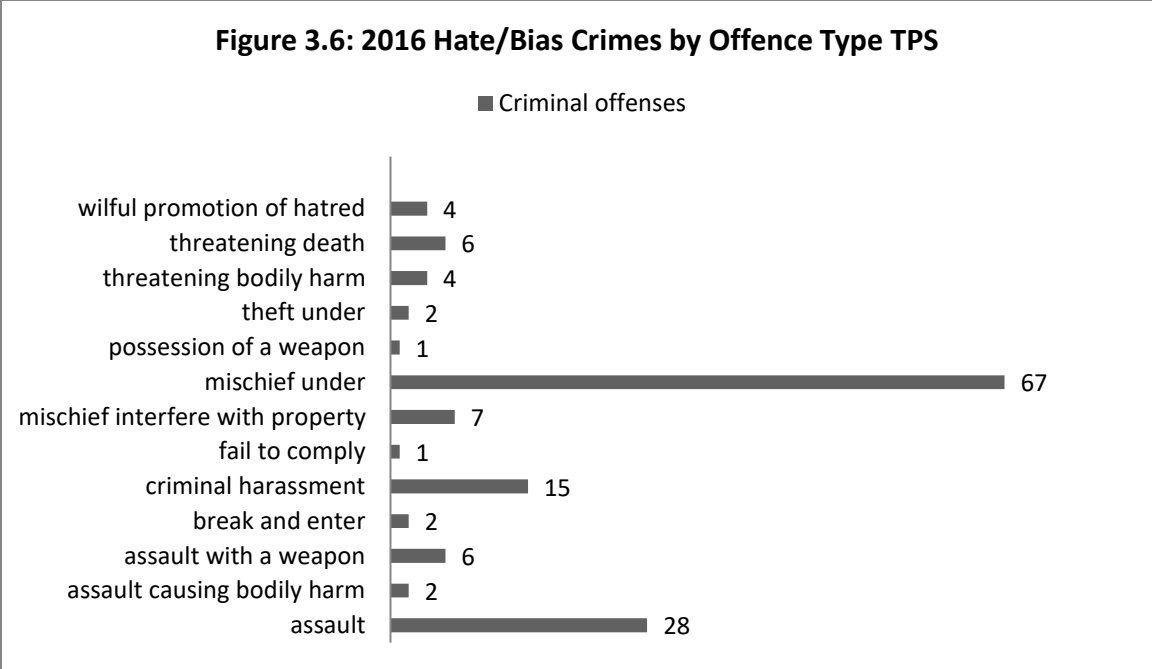
⁴⁰ TPS Annual Hate/Bias Crime Reports record hate/bias crimes based on age, disability, and language; however, no offences motivated by age, disability, and language were recorded during the periods represented in this chart.

Table 3.4: Total Hate/Bias Crimes by Motivation 2010-2017 YRPS

Year	Race/ National Ethnic Origin	Religion	Sexual Orientation	Disability	Language	Gender	Total
2017	54	67	15	0	0	1	137
2016	44	33	9	0	0	0	86
2015	45	37	6	0	0	1	89
2014	49	52	5	0	1	0	107
2013	45	24	6	0	0	0	75
2012	50	30	8	1	0	0	89
2011	56	33	10	0	0	0	99

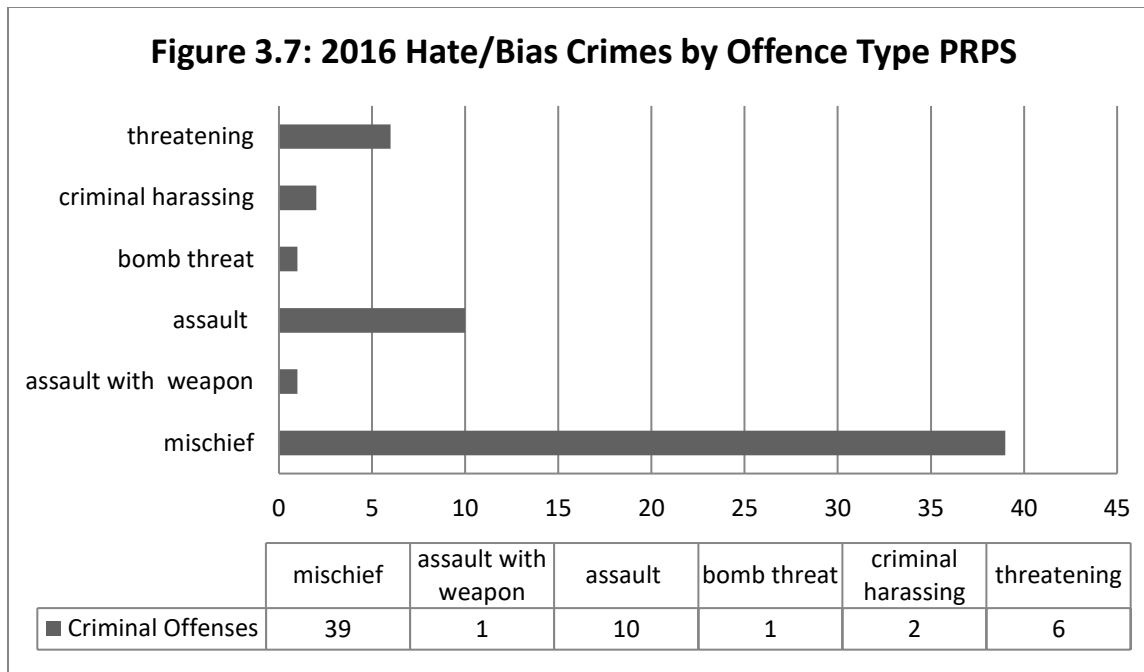
* Figures represented in Table 3.4 are derived from York Regional Police Service Annual Reports released from 2011 to 2017.

The annual hate crime reports of the TPS and the PRPS also tabulate hate/bias crimes based on offence type. Comparable data were not available for YRPS. In both Toronto and Peel Region, mischief offences comprised the single largest offence type. The overwhelming majority of mischief offences were directed at property in the form of graffiti and other forms of vandalism. In 2017, mischief offences accounted for 64.5% (120 occurrences) of TPS's 186 hate crimes (see Figure 3.6). A further seven offences not recorded in the mischief category were related to property offences (Toronto Police Service, 2018).



*Figure 3.6 derived from TPS 2016 Annual Hate/Bias Crime Report.

The distribution of hate/bias crimes by offence type was similar in Peel Region during 2017, with mischief offences constituting the single largest number of hate/bias crimes (see Figure 3.7). Of the 158 total hate crimes reported in Peel, 67% (106 reports) were mischief offences directed at property (Peel Regional Police Service, 2018). These figures show that in Toronto and Peel, hate crimes are disproportionately directed at property rather than people.



*Figure 3.7 derived from PRPS 2016 Annual Hate/Bias Crime Report.

The data from TPS, YRPS, and PRPS are consistent with the most recent national data, which show that racially and religiously motivated hate crimes comprise 81% (48% racially motivated and 33% religiously motivated) of all police-reported hate crime in Canada. Similarly, mischief offences accounted for the majority of hate crimes by offence type, although the proportion of violent offences did increase 16% in 2016 when compared to 2015 figures (Stats Canada, 2017).⁴¹

Trends in the total number of hate/bias crimes, motivation type, and offence type in Toronto, York Region, and Peel Region are important for contextualizing hate crime within and across these jurisdictions. The nature of hate crime in each jurisdiction

⁴¹ In Statistics Canada's most recent hate crime report, hate crimes in Canada increased by 47% nationally. Hate crimes in Ontario increased by 67%, the highest increase of all provinces, with hate crimes targeting the Jewish community increasing by 41%, hate crimes targeting the Black community increasing by 84%, and hate crimes targeting the Muslim community increasing by 207%.

informs the way police responses materialize and how police efforts to prevent hate crime occur. The following sections outline the structure of the hate crime units within the TPS, YRPS, and PRPS. They will also cover the reporting process for hate crime, and the structure and design of hate crime training programs.

INSTITUTIONAL STRUCTURE OF HATE CRIME UNITS

This section examines the structure of Hate Crime units in each of the three jurisdictions represented in this study. The structure of units is relevant because they inform the internal processes that are engaged in the event a hate crime is reported.

Toronto Police Service

The Hate Crime Unit of the TPS is comprised of two dedicated officers located within Intelligence Services. These officers conduct all of the hate propaganda investigations and oversee hate/bias crime investigations conducted by the Service's divisional investigators to ensure that hate crime investigations are being done in accordance with TPS policy. The officers of the Intelligence Services have four responsibilities: hate crime investigation, counter terrorism, VIP protection, and criminal extremism.

According to TPS, the hate crime unit is mandated to:

- Provide assistance and expertise to all investigations and prosecutions of hate/bias crimes;
- Investigate and liaise with the Ministry of the Attorney General in relation to hate propaganda cases;

- Maintain an information base of hate/bias occurrences and arrests to assist divisional analysts and investigators;
- Assist in developing public education programs in partnership with other members of the Service and the community; and
- Act as a central focus for the dissemination of information and provide support to divisional hate/bias crime co-ordinators, other police services, government agencies and the community. (Toronto Police Service, 2018, p. 5)

One officer at each of the 17 divisional stations is a designated hate crime coordinator. This officer conducts investigations into suspected hate crime occurrences. If the role is vacant due to transitions within the Service, detective sergeants may assume the role or assign hate crime investigations to a detective they deem qualified.

Peel Regional Police Service

The Hate Crimes Unit of the PRPS is housed within its Diversity Relations Unit (DRU). This unit was established in 1986 and is responsible for police outreach to the community and delivering educational and training sessions on hate crime and diversity to officers. The primary responsibilities of the Unit include: the identification of community needs; the promotion of positive police-community interactions; and networking with community organizations, schools, and government. The DRU is comprised of one inspector, one staff sergeant, and four diversity officers (one sergeant and three constables). Additionally, one detective at each of the five police divisions is trained in hate crime investigation. PRPS hate crime investigations are conducted at a divisional level. The regional hate crime coordinator assists detectives to ensure that

police protocols are followed and to ensure that the full breadth of investigative techniques are used. The regional hate crime coordinator also maintains hate crime statistics, publishes statistical reports, and identifies trends in hate/bias offences.

York Region Police Service

Similar to PRPS, the Hate Crimes Unit of the YRPS is housed within the Service's Diversity Equity Inclusion Bureau (DEIB). The Bureau consists of the Diversity Relations Unit (DRU), which is responsible for building positive community-police relations with the region's many racial, cultural, and religious communities. The DRU is comprised of six officers – one staff sergeant, one sergeant, and four constables – who are overseen by the inspector of the Bureau. The Bureau also contains: a Chaplaincy Office, which serves as a vehicle for police outreach to the region's religious communities; the services hate crimes unit; and a diversity and inclusion specialist who works to eliminate barriers to inclusion and equity within the service. The Hate Crime Unit is comprised of a 23 member decentralized team. This team is responsible for overseeing hate crime investigations and conducting hate propaganda investigations. At each of the district locations of YRPS, officers are designated as hate crime investigators and can be assigned hate crime occurrences.

HATE CRIME REPORTING PROCESS

Hate crimes are reported in very similar ways across all three police services. Typically, hate crimes are reported by witnesses, victims, or concerned citizens via a 911 call. Frontline officers, often from the Primary Response Units (PRU), are

dispatched to conduct an initial investigation into the matter. Command directives in all three services require a road or patrol sergeant to be dispatched whenever possible. This sergeant's role is to supervise the initial contact between the responding officer and the complainant to ensure that proper procedures are followed. Responding officers stabilize the scene, provide victim support, preserve evidence, and conduct an initial investigation into the matter. Typically, initial investigative steps involve: identifying and interviewing suspects, victims, and witnesses (where possible); locating video surveillance footage; and recording any observations or statements made during the commission of the crime (See Tables 8, 9, and 10).

Specialized police units or specific police resources may also be deployed depending on the nature of the crime. Scenes of Crime Officers (SOCO) or Forensic Identification Officers (FIO) may attend to take photographs, acquire fingerprints, or collect forensic evidence pertinent to the incident. Mischief offences often involve graffiti or vandalism to property, which requires detailed photographs of the crime scene and the collection of other forms of evidence to provide possible investigative leads. Graffiti experts may also be utilized to make determinations about the nature and meaning of symbols and potentially locate the responsible individual. If the matter is sexual in nature (a sexual assault, stalking, or sexualized harassment), members of the Sex Crimes Unit may be deployed to conduct behavioural assessment and profiling, particularly if there are concerns that the incident could be serial in nature. In arson cases, the fire marshal may be involved with a team of forensic investigators to determine the cause, source, and type of fire (See Tables 8, 9 and 10).

Hate crimes can be reported to police by complainants who were not direct targets of the crime, including: property managers, outdoor municipal workers (such as city clean-up crews or janitorial staff), private security officers (such as university or college security officers, mall security personnel, transit police, park rangers), or members of religious communities who have been informed by one of their members that a hate crime has been committed. Private security personnel may be the first to respond and pass on details to police. In these situations, private and public police may work cooperatively to collect evidence.

In all three police services represented in this study, officers are required to indicate on occurrence reports that the offence was motivated by bias. YRPS requires their officers to mark hate/bias occurrences using the “study flag” “H” to indicate hate (YRPS, n.d.). The initial classifications made by police greatly determine how cases will be assigned and investigated. Some services have also created a mechanism to capture non-criminal hate incidents in their systems. Although hate incidents do not result in criminal charges, and are not counted within official hate crimes figures, some police services have decided to track them because non-criminal hate incidents can develop into hate crimes.

Once reports are received and initial classifications are made, detective sergeants assign cases to detectives for further investigation. Typically, suspected hate crimes are assigned to a division-designated hate crime investigator. The service’s centralized hate crimes officers are also notified of the occurrence (directly through phone calls or via police input systems). Depending on the reporting structures of each service, and the severity and nature of the offence, intelligence units, diversity units, and

the corporate communications unit may also be alerted. Investigators conduct follow-up interviews with victims and witnesses, attempt to locate potential suspects, review surveillance footage (if available), arrange to have offensive graffiti or signs removed (if that has not already been done), consult with designated Crown attorneys, and begin the process of piecing together evidence in order to determine or confirm a possible motivation. According to the Policing Standards Manual (2000), which provides police services boards with a hate crime policy, key factors in assessing hate/bias motivation include:

- Statements made by the suspect that would indicate that the crime was motivated because of hate/bias toward the victim's group.
- The absence of any apparent motive for the offence.
- The use or display of any symbols, graffiti, oral comments, acts or gestures that are commonly associated with hate/bias towards the victim's group or are known to be used by organized hate groups (eg. swastika).
- Whether the offence coincided with a holiday, event or date of significance (religious, historical) to the victim's or suspect's group.
- The perception of the victim or victim's community of the motivation behind the offence;
- The perception of any witnesses to the offence.
- Any historical animosity that exists between the victim's group and the suspect's group.

- Whether the suspect has previously been involved in similar incidents, or is a member of an organized hate group or an organization which is known for its hate/bias/animosity towards members of the victim's group.
- Whether several occurrences have occurred in the community with victims from the same group and by a similar manner and means for each offence.
- Whether the offence occurred at the same time, or shortly after, a hate group was active in the community (i.e. distribution of hate literature). (Police Standards Manual, 2000, pp. LE-007)

Once detectives have completed their investigation, they assemble a Crown brief and decide whether the crime should be flagged as hate motivated. This allows the Crown attorneys to request an enhanced sentence upon conviction. Crown prosecutors assess the evidence collected by police, determine if there is a reasonable prospect of conviction, and evaluate whether pursuing the case would be in the public interest. Discussions between police and the Crown can result in a recommendation that no charge(s) be laid or that the hate elements should be forgone. At this point, police will often notify victims or complainants of the status of the case and how it will, or will not, proceed.

When a non-criminal hate incident (name calling, racist comments, and rude gestures) is reported, the process is less formal. Some services have developed a mechanism to formally record hate incidents, but the majority of the time they are recorded in the officer's notebook and not in an official report. Roles and responsibilities of officers involved in hate crime response are outlined in each police service's

command directives.⁴² Tables 8, 9, and 10 outline the roles and responsibilities of police when responding to hate crimes in TPS, YRPS, and PRPS.

Table 3.5: Roles and Responsibilities Hate/Bias Crime Response TPS

Police Officer
<p>1. When dispatched to the scene of a hate/bias crime shall</p> <ul style="list-style-type: none"> • Attend promptly • Notify a supervisory officer of the circumstances • Provide Assistance to the Victim by <ul style="list-style-type: none"> - Ensuring immediate medical attention is provided if required - Complying with Procedure 04-31, if applicable • Conduct a Person Query, including a CPIC and Canadian Firearms Registry On-line (CFRO) check • Determine whether any of the individuals involved in the occurrence own, possess, or have access to a firearm, ammunition, weapons, firearms certificate, registration certificate, permit, license or authorization and comply with Procedure 05-21 • Consider using the search and seizure provisions contained in s. 117CC to minimize and subsequent risk to public safety • Assess whether reasonable grounds exist for believing there is a threat to safety by obtaining the type of information outlined in Chapter 5, Appendix A • Protect the scene and secure all evidence, including such items as poster, literature, graffiti, recordings and clothing in compliance with Procedure 04-21, 04-30 and 09-01 • Have the scene photographed where graffiti is found, or when evidence cannot readily detached or retrieved • Arrange with the property owner or occupier for the expeditious removal or covering of any graffiti following photographs being taken <p>2. Where initial investigation determines that an offence has been committed shall:</p> <ul style="list-style-type: none"> • Complete the applicable eReports and include <ul style="list-style-type: none"> - a full description of the incident, including any statements or utterances made by the suspect where possible

⁴² YRPS's hate crime response procedure is outlined in command directive "LE-007 Hate Propaganda and Hate Motivated Crime." TPS's hate crime response procedure is outlined in command directive "05-16 Hate/Bias Crime and 05-." PRPS's hate crime response procedure is outlined in command directive "I-B-130(F) Hate/Bias Motivated Crime." Tables 5, 6, 7 detail the roles and responsibilities of officers within the hate/bias crime policies of these services. The Ontario Provincial Police (OPP) also have a hate/bias crime procedure under OPP order 2.25.

- the cultural/ethnic background of the victim and any past relationship with the suspect
 - information to assist in making further contact with victims and witnesses including addresses, phone numbers and dates of birth
 - the applicable information contained in Chapter 5, Appendix A
 - Complete the applicable MO Detail page
 - Provide the relevant eReport numbers to
 - The divisional hate crime investigation co-ordinator (divisional co-ordinator)
 - INT – Hate Crime
 - Consider the following criteria in determining if an incident is a hate/bias crime
 - Motive or absence of motive
 - The perception of the victim and the community about the crime
 - The display of offensive symbols associated with hate groups (graffiti, symbols, hate literature, etc)
 - The date and time of the occurrence corresponding to a date of significance to the victim and/or suspect (i.e. historical or religious)
 - A review of circumstances surrounding the incident including
 - the group involved in the attack
 - The manner and means of attack
 - similar incidents in the area or against the same victim
 - statements, comments, or gestures used by the suspect
3. When a suspect is arrested for a hate/bias crime shall
- Comply with Procedure 01-01
 - Ensure the confidential crown envelope (crown envelope) and its contents clearly indicate the hate/bias nature of the charges
 - Clearly label the face of the crown envelope with 'hate/bias crime' in red
 - Comply with Procedure 17-01, if applicable
4. When investigating an incident that appears motivated by hate but revealing no apparent offence shall
- Preserve and collect any evidence that may assist in any further investigation of the allegation in compliance with Procedures 04-21, 04-30 and 09-01
 - Complete the appropriate eReports
 - Submit a TPS 228 to place the address on the Special Address System, if appropriate

Supervisory Officer

5. Upon being notified of an incident suspected to be a hate/bias crime shall
- Attend the scene whenever possible
 - Assign sufficient police officers to ensure a thorough investigation is conducted

- Ensure all evidence is dealt with in compliance with Procedures 04-21, 04-30, and 09-01
- Request the attendance of investigators from the divisional detective office, Specialized Criminal Investigations – Forensic Identification Service, INT – Hate Crime and Victim Services Toronto, as appropriate
- Ensure compliance with Procedure 04-31, if required
- Assure the victim and the community that the Service will fully investigate the occurrence and assist the community in taking measures to prevent any repetition of the offence
- Advise the Officer in Charge of all relevant facts

Detective

6. Upon initiating an investigation of a hate/bias crime shall
- Ensure the divisional co-ordinator is advised of significant aspects of the investigation
 - Ensure the relevant eReport numbers are provided to the divisional co-ordinator and INT – Hate Crime
 - Where applicable, consider and exercise all powers of search and seizure, with and without warrant, relating to weapons, firearms, ammunition, explosives and the related licenses, certificates or permits
 - When firearms are or may be a factor
 - Notify Organized Crime Enforcement – Integrated Gun and Gang Task Force
 - Comply with Procedure 05-21
7. When an arrest results from an investigation shall
- Ensure that information on the hat/bias aspect of the crime, is prominently incorporated into the crown envelope and the face of the crown envelope is clearly labelled ‘hate/bias crime’ in red
 - In cases involving stalking, threatening or harassing behavior, and where there is an identifiable target and serious potential for violence, consult with the divisional detective sergeant regarding consultation with Specialized Criminal Investigations – Sex Crime – Behavioural Assessment Section (BAS)
 - Consider contacting all persons known to police who may provide the accused access to firearms or related licenses, certificates or permits
 - Consider applying for a prohibition order or seeking a revocation where reasonable grounds exist to believe it is not desirable in the interests of safety for the offender to possess weapons

Officer in Charge

8. Upon being notified of a hate/bias crime shall ensure
- Detective personnel attend the scene as required
 - In cases involving bodily harm or major property damage, the Unit Commander and INT- Hate Crime, are notified promptly
 - Compliance with Procedure 17-01 and 17-08, if applicable

<ul style="list-style-type: none"> • The relevant eReport numbers are provided to the divisional; detective sergeant • The particulars are recorded in the Unit Commanders Morning Report (UCMR), as required <p>9. When booking a prisoner, and before considering release, shall ensure all reasonable inquiries have been made into the possession by an accused of weapons, firearms, authorizations, permits, Firearms Acquisition Certificate, etc., and that such items are surrendered before release to enhance victim safety</p>
<p>Detective Sergeant</p>
<p>10. Upon being notified of a hate/bias crime shall</p> <ul style="list-style-type: none"> • Review the circumstances to determine if further action is required • Ensure the eReport number is provided to <ul style="list-style-type: none"> - INT – Hate Crime - The divisional co-ordinator to permit referral of the persons to community based agencies <p>11. If further investigation is not warranted or a charge is not supported shall</p> <ul style="list-style-type: none"> • Add supplementary information to the original eReport detailing the reasons for the decision • Ensure the victim and INT – Hate Crime are advised of the decision <p>12. If further investigation is warranted shall</p> <ul style="list-style-type: none"> • Assign the appropriate resources to the investigation including assistance from INT – Hate Crime • Ensure all evidence is dealt with in compliance with Procedures 04-21, 04-30, and 09-01 <p>13. In all cases where a charge is supported shall</p> <ul style="list-style-type: none"> • The investigation is completed in compliance with the applicable Service Governance • Evidence is submitted for expert examination, if necessary • Compliance with Procedure 17-04, if applicable • The victim is informed of developments in the investigation • At the conclusion of any court proceeding <ul style="list-style-type: none"> - Supplementary information is added to the original eReport, indicating the disposition of the case - INT – Hate Crime is advised of the disposition <p>14. When an arrest has been made in a hate/bias crime case involving stalking, threatening or harassing behavior; and where there is an identifiable target and serious potential for violence shall contact the BAS for advice, referral or an assessment of risk, if appropriate.</p>
<p>Divisional Hate Crime Investigation Co-coordinators</p>
<p>15. When designated by the Unit Commander shall</p> <ul style="list-style-type: none"> • Consult and liaise with other divisions and INT – Hate Crime • Track all hate cases to ensure proper application of the increased sentencing provisions of ss. 718.2 CC

<ul style="list-style-type: none"> • Following up on all hate crime occurrences to ensure victims are provided access to appropriate police and community based resources • Provide information and training to divisional personnel on hate crime matters • Maintain a unit specific file on hate crime occurrences <p>16. Upon receipt of an eReport for a hate/bias crime shall ensure</p> <ul style="list-style-type: none"> • Appropriate referrals are made to community based agencies to assist in resolving/defusing the incident • A TPS 228 is completed to place the address on the Special Address System, if appropriate • Supplementary information is added to the original eReport, outlining the action taken and any resolution achieved • INT – Hate Crime is advised to any supplementary information
Unit Commander
<p>17. When in charge of a division shall appoint a divisional hate crime investigation co-ordinator</p> <p>18. Upon being advised of a hate/bias crime shall ensure</p> <ul style="list-style-type: none"> • A thorough investigation is completed • Liaison is maintained and assistance sought from <ul style="list-style-type: none"> - INT – Hate Crime - Victim Services Toronto, as applicable - Divisional Policing Support Unit - Outside agencies, as applicable <p>19. When appropriate, meet with the victim and the affected community to address any concerns</p>

*Table reproduced from TPS command directive 05-16

Table 3.6: Roles and Responsibilities Hate/Bias Crime Response YRPS

1. Communications shall:
<ul style="list-style-type: none"> a) Upon receiving complaints that are suspected to involve hate propaganda, a hate/bias crime or a hate/bias motivated incident, dispatch a unit; and b) Ensure that a patrol supervisor is notified of the occurrence
2. Police Officers attending incidents of alleged hate propaganda, hate/bias motivated crime or hate/bias motivated incident shall:
<ul style="list-style-type: none"> a) Attempt to verify if incident is hate propaganda or a hate/bias motivated crime; b) In all incidents submit a General occurrence report; c) Conduct interviews with the victim(s), witnesses and, if possible, the suspect(s); d) Search for, gather and secure all evidence (including pamphlets, literature, graffiti and other symbols) relating to the complaint in accordance with LE-020 Collection and preservation of Evidence and Property;

- e) Contact Forensic Identification or Scenes of Crime Officer to photograph evidence that cannot be seized (e.g. damage to property, graffiti ect.);
- f) If appropriate arrest and/or charge the suspect(s);
- g) Refer victims to Victim Assistance as per VA-001 Victim Assistance;
- h) Upon suspicion that the incident is hate propaganda or is hate/bias motivated crime, notify the Hate Crime Unit;
- i) When submitting occurrence reports via Mobile Report Entry (MRE), ensure that a special study flag (H) reflects that the incident indicates a hate crime;
- j) Ensure that an OC – Organized Crime/Street Crime/Hate Crime and Cyber Crime text page is entered on the MRE except for local non-criminal (9999) codes;
- k) Ensure that an HC – Hate Crime details page is completed and entered on MRE for all hate propaganda, hate/bias motivated crimes and hate/bias motivated incidents;
- l) Contact communications branch to create premise history on any involved premise;
- m) Ensure that the location of the occurrence is entered in a complaint area entry form on the YRPNet located under Data Entry pursuant to LE-352 Complaint Areas (formerly LE-052);
- n) Where appropriate, submit a police circular on the YRPNet Police Circular System outlining the details of the occurrence. Members are to abide by the direction set out in LE-307 Police Circulars (formerly LE-006B);
- o) Ensure that all reports/forms used to document the occurrence are marked as HATE/BIAS CRIME;
- p) Highlight on the Crown Brief that the offence is hate propaganda or is a hate/bias motivated crime; and
- q) Forward all particulars and evidence of the occurrence to the Unit Commander of the Criminal Investigations Branch.

3. Supervisors, when advised of an occurrence possibly involving hate propaganda, hate/bias motivated crime or hate/bias motivated incident, shall:

- a) Attend the incident and notify investigative personnel of the occurrence;
- b) Notify the District Commander or Duty Inspector as soon as possible;
- c) Where appropriate, ensure that Corporate Communications is notified of the occurrence and that a media release is prepared;
- d) Route all general occurrences that fall within the mandate of the Hate Crime Unit otherwise route the general occurrences to the Criminal Investigation Bureau; and
- e) If the case has been completed by a Uniform Officer with the required knowledge, skills and abilities pursuant to LE-006 Criminal Investigation Management Plan (e.g. an arrest has been made and charges laid), notify the Hate Crime Unit via workflow.

4. District Commander or Deputy Inspector

- a) Notify the Chief of Police or designated Senior Officer and Officer in Charge of the Diversity and Cultural Relations Bureau of the occurrence as soon as possible.

5. Officer in Charge of the Diversity and Cultural Relations Bureau shall:

- a) Liaise with the Officer in Charge of the Hate Crime Unit and ensure that appropriate resources are assigned to the investigation;
- b) Liaise with the victim or group affected and inform him/her of the police service's activities to investigate the occurrence;
- c) Ensure accurate statistical data is kept on hate crime occurrences and is provided to the Canadian Centre for Justice Statistics (CCJS) in the form designated by that organization; and
- d) Ensure accurate statistical data is kept on hate incidents. Coordinate with other members of the Diversity and Cultural Resources Bureau to address community concerns involving the release of hate crime, hate incidents and/or areas of concern.

6. Officer in Charge - Hate Crimes Unit shall:

- a) Ensure that all incidents that fall within the mandate of the Hate Crime Unit as outlined in LE-006 Criminal Investigative Management Plan are assigned to a Hate Crime Unit Investigator;
- b) When a suspect is arrested, ensure that it has been determined whether the offender owns, possesses or has access to firearms, and if so, utilize powers available under the Criminal Code to seize the firearms;
- c) In the case of a hate propaganda incident, consult with the local Crown Attorney with respect to sections 318 and 319 of the Criminal Code to determine whether the matter falls within the parameters of these sections, and where appropriate, seek the Attorney General's consent to prosecute;
- d) Provide specialized knowledge and support, as required, to Crown counsel during the prosecution of hate/bias motivated crimes;
- e) Monitor the response to and the investigation of hate crime occurrences and ensure compliance with procedures by all members;
- f) Monitor and evaluate follow-up investigations into hate/bias motivated crimes or hate propaganda investigations;
- g) Liaise with the Victim Witness Assistance Program (VWAP), Victim Services of York Region (VSYR), and other local services and community representatives who have a vested interest in issues arising out hate crime occurrences;
- h) Liaise with the Intelligence Unit and create ongoing dialogue with reference to organized hate groups;
- i) Coordinate with the Corporate Communications Bureau to address the media on hate related occurrences; and
- j) Share appropriate information on the occurrence of hate/bias motivated crime with other police services.

<p>7. Investigative Personnel – Criminal Investigations Bureau</p> <ul style="list-style-type: none"> a) Conduct a thorough investigation in compliance with LE-006 Criminal Investigation Management Plan; b) Determine if similar incidents have been reported to police, or if there are possible linkages with known hate groups; c) When a suspect is arrested, ensure that it has been determined whether the offender owns, possesses or has access to firearms, and if so, utilize powers available under the Criminal Code to seize the firearm; d) Share appropriate information on the occurrence of hate/bias motivated crime with other police services; e) Regularly update the Officer in Charge of the Hate Crime Unit on the status of the investigation; f) Consult with the Officer in Charge of the Hate Crime Unit and the local Crown Attorney with respect to the application of section 718.2 of the Criminal Code and; g) If through investigation offences contravening section 318 and 319 of the Criminal Code appear to have occurred; liaise with the Officer in Charge of the Hate Crime Unit.
<p>8. Officer in Charge – Criminal Investigations Bureau</p> <ul style="list-style-type: none"> a) Review all hate propaganda and hate/bias occurrences submitted within that District b) Refer any hate propaganda and hate/bias occurrence that fall within the mandate of the Hate Crime Unit to the Officer in Charge of the Hate Crime Unit, if it is unclear as to whether the occurrence falls within the mandate consult with the Officer in Charge of the Hate Crime Unit. c) Assign the case to a District Hate Crime investigator in accordance with this procedure and LE-308 Workflow and Case Management (formerly LE-006C); and d) Keep the Officer in Charge of Diversity and Cultural Relations Bureau informed of the investigation.
<p>9. Officer in Charge – Corporate Communications</p> <ul style="list-style-type: none"> a) Determine the necessity to attend the scene; and b) Respond to and assist the media in covering the investigation.
<p>10. Chief of Police</p> <ul style="list-style-type: none"> a) Report to the Police Services Board on the incident of hate propaganda and hate/bias motivated crimes and the public education and community liaison efforts of the York Regional Police to promote understanding and tolerance; b) Inform the Police Services Board of any exceptional activity or increase in hate crimes in York Region.

*Table reproduced from YRPS command directive LE-007

Table 3.7: Roles and Responsibilities Hate/Bias Crime Response PRPS

<p>1. When a Communicator receives a complaint from the public alleging a hate/bias motivated incident has occurred, the communicator shall:</p> <ul style="list-style-type: none"> a) Initiate a call for service and dispatch an Officer following the Strategic Police Response (S.P.R.) Guidelines; b) Ensure that the incident is coded “in progress” as per the Communications Operations Manual; and, c) Immediately notify their Supervisor.
<p>2. The Communications Centre Supervisor shall immediately notify the Duty Inspector and Divisional Staff Sergeant, and ensure sufficient resources are dispatched to investigate the hate/bias motivated crime.</p>
<p>3. Upon arrival at the scene of a crime where it is suspected that the criminal offence was motivated by hate/bias, Officer shall:</p> <ul style="list-style-type: none"> a) Ensure that the Duty Inspector, Divisional Staff Sergeant, Divisional Detective Sergeant, Detective Sergeant – Intelligence Services, Diversity Relations Unit and Public Affairs Unit personnel are notified of all offences; b) Seize all relevant evidence (e.g. pamphlets and literature) and submit to Forensic Identification Services (F.I.S.) personnel for analysis; c) If required notify F.I.S. personnel to attend the scene and photograph cases of graffiti and other evidence which cannot be retrieved; d) Inform the victim(s) of the Victim Services Program and, if required, request Victim Services personnel attend the scene; e) Assure the victim(s) there will be a thorough investigation of the crime; f) In cases of graffiti, upon completion of the scene being photographed by the F.I.S. personnel, arrange for such graffiti to be removed expeditiously; g) Submit an occurrence with the notification “Hate” under the offence title, (e.g. Mischief Over \$5000.00, (Hate)); h) When submitting the case synopsis, ensure that the reason for the “Hate” classification is indicated which may include, but not be limited to, bias towards a person, in whatever manner, based on the victim’s race, ancestry, place of origin, colour, religion, ethnic origin, sexual orientation, age, sex, citizenship, marital or family status, physical or mental disability, criminal record, or social condition, contrary to the Ontario Human Rights Code; i) Include in the Occurrence synopsis the actions of the accused/suspect, which indicate how “Hate” was determined (e.g. “racial epithets were stated and these words were...”); j) Ensure the race/ethnic origin of the suspect/offender, victim and/or complainant are identified in the Occurrence; k) In case of arrest: <ul style="list-style-type: none"> - Consider the applicability of Section 430 (4.1) of the C.C., “mischief to religious property”; and, - Ensure the contents of the occurrence and any subsequent Court Brief, reflect to the Court and the Crown Attorney the hate/bias motivation of the crime; and,

<p>l) Ensure copies of the Occurrence, follow-up and arrest reports are submitted to both Intelligence Services and Diversity Relations Unit.</p>
<p>4. The Detective/Staff Sergeant of the appropriate Division/Bureau/Unit Head where the hate/bias motivated crime occurred shall ensure that</p> <ul style="list-style-type: none"> a) Appropriate resources are assigned to the investigation so that a thorough investigation of the crime takes place; and, b) All hate/bias motivated incidents, whether suspect or obvious, are assigned an investigative priority 1 or 2, regardless of monetary value, to ensure the follow-up action is taken and that the victim(s) is re-contacted.
<p>5. The Investigating Officer shall:</p> <ul style="list-style-type: none"> a) Manage the investigation of a hate crime(s) in accordance with the Criminal Investigation Management Plan; b) Ensure that victims of hate crimes are kept informed of specific investigations, as is appropriate under each set of circumstances; c) Ensure the race/ethnic origin of the victim and/or complainant is identified in the Occurrence; d) In the case of an arrest, ensure the contents of the Occurrence and any subsequent Court Brief, reflect to the Court and the Crown Attorney the hate/bias motivation of the crime; e) Ensure copies of the Occurrence, Follow-Up and Arrest Reports are submitted to both Intelligence Services and the Diversity Relations Unit; f) Keep appropriate Division/Bureau/Unit Heads informed of significant aspects of the investigation; and, g) If a suspect is charged with a hate/bias motivated criminal occurrence, check to see if the suspect owns, possesses or has access to any firearms, and if so consider the powers available under the C.C. to search and seize the firearm.
<p>6. The Divisional Crime Analyst shall ensure that patterns or trends are expeditiously identified at the local level and convey relevant information to the appropriate Divisional/Bureau/Unit Heads, Officer-in-Charge (O.I.C.), Intelligence Services and the O.I.C., Diversity Relations Unit.</p>

Responsibilities – Divisional Hate/Bias Crime Coordinators

1. The Divisional Hate/Bias Crime Coordinator shall:
 - a) Be a member of the Divisional Criminal Investigation Bureau as appointed by the Divisional Superintendent or designate;
 - b) Where possible take an active role in investigating hate/bias motivated Occurrences within the Division;
 - c) Ensure that victims are contacted by the investigating Officer and advised of the progress of the investigation;
 - d) Liaise with the Regional Hate/Bias Coordinator;
 - e) Act as a resource to Divisional personnel regarding hate/bias motivated crimes;
 - f) Maintain a file of all reported hate /bias motivated crimes occurring within the Divisional boundaries; and.
 - g) Provide a report at the end of each month to the Regional Hate/Bias Crime Coordinator outlining the following:
 - Any new hate/bias crime Occurrences;
 - The status and follow-up to previous hate/bias Occurrences; and,
 - Any arrests made in relation to hate/bias crimes.

Responsibilities – Regional Hate/Bias Crime Coordinators

1. The Regional Hate/Bias Crime Coordinator shall:
 - a) Be the O.I.C., Diversity Relations Unit or designate;
 - b) Liaise with the Divisional Hate/Bias Crime Coordinators;
 - c) Compile and maintain a database of all information relevant to offences that are motivated by hate/bias for the purpose of submitting a statistical report, through the chain of command, to the Chief of Police annually;
 - d) Coordinate training programs, conduct lectures and disseminate information to the members of the Service in relation to hate/bias motivated crime;
 - e) Establish and maintain a liaison with other police agencies and organizations dealing with issues related to hate/bias motivated crimes;
 - f) Act as a resource to members of the Service and the community;
 - g) Ensure all Occurrences related to hate/bias crime incidents are reviewed for the purposes of determining the following:
 - Whether policy has been followed;
 - The effectiveness of the Officer(s) response; and,
 - Whether appropriate service was provided; and,
 - h) Provide investigative support and specialized knowledge, as required, to those conducting investigations and to Crown Attorneys prosecuting hate/bias motivated crime;
 - i) In consultation with the investigating Officers, keep community groups informed of specific investigations, as is appropriate under each set of circumstances;
 - j) Assist in organizing support, when necessary, of the broader community, for the victim(s) and their community who have been the target of hate/bias motivated crimes; and,
 - k) In consultation with the investigating Officer, make the final determination of whether specific crimes are motivated by hate/bias.

Responsibilities – Intelligence Services

1. Upon receipt of an Occurrence or information involving hate/bias motivated crime and or hate propoganda/willful promotion of hatred, Intelligence Services personnel shall:
 - a) Network with other agencies and other government agencies to share information on current trends and incidents involving hate/bias motivated crime;
 - b) Liaise with Project Pornography/Hate (P/H) Officers on investigations, where appropriate;
 - c) Liaise with member agencies in the Hate Crime/Extremism Investigative Team (H.C.E.I.T.);
 - d) Complete and maintain a database of known or suspected individuals involved in hate organizing living in or frequenting the Region of Peel;
 - e) Monitor any activities undertaken by organized hate groups within the Region of Peel;

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| <ul style="list-style-type: none">f) Review and liaise with Regional and Divisional Hate Crime Coordinators; and,g) Ensure that the Chief of Police or designate is notified, through the appropriate chain of command, on an immediate basis, of any unusual activity or increase in hate/bias motivated crimes within the Region of Peel, especially as instigated by organized groups. |
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*Table reproduced from PRPS command directive I-B-130(F).

HATE CRIME TRAINING

There are currently three sources of hate crime training for officers in Ontario: 1) courses offered at the Ontario Police College (OPC); 2) in-service hate crime training; and 3) police conferences and workshops, such as those organized by the provincial Hate Crime Extremism Investigative Team (HCEIT).

The Ontario Police College

OPC offers two courses relevant to hate crime and is the primary site of training for frontline officers and investigators. Training for frontline officers takes place through the hate crime component of the Diversity and Professional Practice Course.⁴³ This course is designed to be an introduction to hate crime. Instructors outline the effects of hate crimes on victims and relevant Criminal Code provisions, and identify the roles and

⁴³ The Diversity and Professional Practice course is organized in five sections. Section 1 entitled Human Right and Responsibilities covers relevant sections from the Ontario Human Rights Code, the Ontario Public Services Workplace Discrimination and Harassment Prevention Operating Policy, and the Ministry of Community Safety and Correctional Services' Equal Opportunity, Discrimination, and Workplace Harassment policy. Section 2 entitled Policing in Changing Demographics reviews racial profiling and procedures to guard against it. Section 3 concerns hate crime and provides an overview of the definition of hate/bias crime and hate propaganda, the Policing Standards Manuals policies on hate/bias crime and hate propaganda, service-specific hate crime procedures, and symbols associated with hate groups. Sections 4 and 5 entitled Aboriginal awareness provides a brief history of Aboriginal peoples in Canada, terminology which refers to Indigenous peoples and guidelines for respecting and honouring Aboriginal customs and items. The training manual also contains an appendix that provides information on terminology relevant to the LGBTTIQQ2S community and definitions for diversity related language (Ontario Police College, 2013).

responsibilities of officers when responding to suspected hate crimes. This training utilizes scenario-based exercises, videos, slide presentations, and current and historical events to stress the seriousness of hate crime and to underscore the importance of police response. The aim is to equip responding officers with the knowledge and skill-sets required to identify hate crimes and provide effective on-scene response.⁴⁴

Hate crime training is provided to investigators through OPC's Advanced Hate Crime Training Course. The course is designed to provide investigators with the requisite skills to perform a thorough hate crime investigation and to prepare Crown briefs. An overview of the history of hate crime in Canada, Criminal Code provisions, right and left wing extremism, case law, and offender typologies is provided through the different modules of the course. Officers who have conducted high profile investigations are often invited to share the details, challenges, and complexities of their investigation. A Crown Attorney is also invited to provide officers with greater insights into the court process, Ministry protocols, and the evidentiary thresholds required to secure an enhanced sentence.⁴⁵ Officers also engage with scenario-based questions to test officer knowledge on the appropriate course of action given the circumstances. Some course

⁴⁴ On October 11th 2013, I observed the delivery of the hate crime component of the Diversity and Professional Practice course at OPC. During this session, the course instructor utilized historical events of hate activity, such as the actions of the Ku Klux Klan, the Nazi atrocities of the Second World War, ethnic cleansing, and acts of terrorism to convey to students the importance of taking hate crime seriously.

⁴⁵ On July 20, 2009, The Ministry of the Attorney General (MAG) Criminal Law Division issued a Practice Memorandum. The memorandum provides an overview of the Criminal Code provisions concerning hate/bias crime and hate propaganda; the impact of hate crime on victims, the targeted community and the community as a whole; and the responsibilities of the Crown in prosecuting hate crime. Two specific hate-related offences require the consent of the Attorney General in order for charges to be laid. S. 318(1), which relates to advocating and promoting genocide against an identifiable group, and s. 319(2) which relates to the willful promotion of hatred require this consent.

expectations have even required officers to write a paper on a topic relevant to hate crime.⁴⁶

In-service Training

In-service training is largely designed to refresh officers on their knowledge of service hate crime procedures and relevant legislation. These trainings are often presentations to frontline officers delivered by the services' centralized hate crime officers. They typically review much of the content included in the hate crime training provided at OPC. These training sessions may involve different training methods, including power point presentations, scenario-based questions, and multiple choice questions that examine the competency of officers.⁴⁷ In-service training may also be

⁴⁶ In one version of the Advanced Hate Crime Training course conducted at the Ontario Police College over 4 days, participants were presented material in four modules. Module one provides an introduction to the concept of hate crime and the history of hate crime in Canada, existing Canadian case law, and Ontario hate crime cases. Module two examines offender motivation and offender typologies, emerging trends in Left and Right wing extremism, and hate propaganda. Module three introduces participants to the Crown policy on hate crime, Ministry of Attorney General protocols/procedures, and hate on the internet. It also provides an opportunity for dialogue with Crown attorneys and presents an environmental scan of hate crime. Module four involves group presentations and course evaluations.

⁴⁷ For example, YRPS provides in-service training that covers legislation and police response to hate/bias crime and hate propaganda. This training provides an overview of relevant Criminal Code provisions, factors that contribute to under-reporting of hate crime, the service's command directives, instructions for entering hate crimes into the service's electronic database called Versadex, and scenario-based questions. Scenario-based questions assist officers with detecting possible hate crimes and responding appropriately. The following are examples of scenario-based questions included in the training: (Scenario#1) "Complainant lives in a predominantly Muslim neighbourhood and is being harassed by some of her neighbours. The complainant has integrated into Western society and she feels this is the root cause of the harassment. The harassment has included the targeting of her children and has caused her to fear for her safety. The harassment has included being accused of not being a good Muslim for not wearing a burka and allowing her children to listen to Western music. What is the appropriate police action?" (Scenario#4) "Complainant advises that they found a swastika drawn backwards on their garage door. Anti-Black statement on the door of their vehicle. Complaint is of Asian descent and feels that he was not intended target. What is the appropriate police action?" Similar scenario-based questions are included in the Provincial Police Academy under its Operational Field Briefing 07-05. Another scenario read as follows: "While on patrol you are dispatched to an assault at a local park. Upon arriving, the victims, a male and his male partner, report they were assaulted while walking in the park holding hands. They explain that a group of 5-6 white males with shaved heads, wearing bomber jackets and Dock Martin boots approached them, called them derogatory names and began punching them until they fell to the ground. The group upon leaving the area stated, "We don't want any of your kind around here" (YRPS, n.d).

delivered through on-line training sessions that review and test the knowledge of officers. The Canadian Police Knowledge Network (CPKN) provides an on-line training program that police services throughout the province utilize to train their officers.⁴⁸ The inclusion of hate crime training as a component of in-service training is not mandatory and, therefore, each service decides what content to include, how much time to devote to it, or whether to offer it at all. All three services represented in this study include hate crime as a component of their in-service training.⁴⁹

Conferences

There are relatively few hate crime specific conferences available to police officers that are organized by policing agencies. The Hate Crime Extremism Investigative Team (HCEIT), a provincially funded initiative designed to increase the ability of police services to collaborate and develop their intelligence gathering abilities, and the Ontario Association of Chiefs of Police (OACP), a provincial association of law enforcement leaders that advocates on issues relevant to police, have assisted with the organization of conferences and symposiums on hate crime and extremism.⁵⁰ Past

⁴⁸ PRPS's Diversity Relations Bureau provides an on-line training program that covers five key areas: definitions of hate crime, indicators that a hate crime has been committed, Criminal Code sections, police directives, and a police duties checklist. The training concludes with a multiple choice skills assessment.

⁴⁹ It should also be noted that some services hold meetings with members of the CIB to discuss current and past hate crime occurrences and to provide additional training to investigators. On three occasions, I attended quarterly hate crime meetings with investigators of the YRPs. At these meetings, officers discussed cases and trends, and received presentations from invited guests.

⁵⁰ In the fall of 2014 and the winter of 2015 the Ontario Police College in partnership with HCEIT organized a two-part conference examining issues relevant to hate crime, radicalization, and extremism. Part one, which ran on November 24th and 25th entitled "Do They Hate Us: Unpacking Extremism & Radicalization," provided an introduction to the issue of hate crime and radicalization in the Canadian context. Part two, held on February 18th and 19th, was titled, "Focus on Hate & Extremism, Radicalization and Countering Violent Extremism in Ontario," and provided community-based and multi-sectoral perspectives on prevention and intervention with respect to hate crime and radicalization.

conferences have included presentations by national and international law enforcement personnel, academics, community speakers, attorneys, and community leaders.⁵¹ The objective is to provide officers with a multi-disciplinary perspective on the causes and effects of hate and extremism, and to offer remedies and insight to the broader issues of police engagement with diverse communities.

CONCLUSION

Growing national and international attention to violence directed at religious and ethnic minorities, human rights frameworks that emerged after the Second World War, and Canadian multiculturalism contributed to the legal developments that lead to criminal code provisions on hate in Canada. Developments in policing approaches that incorporated community policing frameworks also shaped the way the policing of hate crime was institutionalized.

The jurisdictional, institutional, and training and policy contexts of all three police services represented in this study provide insights into the empirical contexts within which police decision making occurs. Understanding these contexts is significant when interpreting the circumstances and events faced by officers; it allows for an analysis grounded in the particularities of each site. By revealing the contexts in which officers

⁵¹ More recently the Toronto Police Service in partnership with HCEIT hosted a one day Hate Crime Seminar on May 3rd 2017 at the Toronto Police College that featured presentations on the legislative framework pertinent to hate crime and academic- and policy-related presentations on hate crime response. The OACP Diversity Steering Committee held a diversity and inclusion symposium on October 18th and 19th that included presentations examining police response to hate crime, the ongoing Missing and Murdered Indigenous Women and Girls Inquiry, the Truth and Reconciliation Commission, radicalization, and anti-LGBTQ bias.

are situated, it is possible to trace the way interconnected and overlapping factors shape police action.

CHAPTER 4: HATE CRIME AND THE POLITICS OF CRIME RESPONSE

This chapter draws on interviews conducted with hate crime investigators in the Toronto Police Service (TPS), York Regional Police Service (YRPS), and Peel Regional Police Service (PRPS) as well as an interview conducted with an instructor at the Ontario Police College (OPC). Annually produced hate crime statistical reports are also incorporated. In this chapter, I examine police officer accounts of the challenges they encounter with hate crime investigations. In particular, I examine the extent to which evidence – lack of evidence, new evidence, or unclear evidence – affects the intervention strategies used by police. I argue that hate crime is an inherently unstable and, at times, unclear category that is stabilized in and through police action. Police responses are not programmed or pre-determined by formal policy or by the nature and quality of evidence. Instead, I contend that individual and institutional conceptions of hate crime, as well as police decision-making, are the factors that shape police response. In this chapter, I show how conceptions of hate crime as deliberate acts of violence, as acts driven by ignorance, or as conflicts produced by miscommunication can alter police responses. Police often respond in one of three ways to hate crime: 1) as law enforcers who make arrests and lay charges; 2) as mediators or peacemakers who attempt to bring parties together; and 3) as educators who attempt to enlighten offending parties.

In the final section, I argue that while police claim to respond to hate crimes appropriately given the circumstances, these responses merely aim to ‘keep-the-peace.’ Keeping-the-peace by making arrests or laying charges does little to challenge the

structures of racial violence that give rise to acts of hate. In fact, these methods of response function to subordinate issues of racial hatred to a problem of crime.

INVESTIGATING HATE CRIME

During the interviews I asked officers about challenges associated with investigating hate crimes. Virtually all of the investigators agreed that the most difficult aspect of hate crime investigation was determining offender motivation, because police cannot assess an offender's true biases. I was told that short of a confession, there is no definitive way to prove offender motivation. One YRPS detective stated that the best you can do is to try and "connect the dots" – to piece together the evidence that allows a Crown attorney to pursue a criminal prosecution (Resp. 9). While many view hate crime as obvious, self-evident, and extreme in nature, investigators report that making hate crime determinations is more complex than most imagine.

The quality and availability of evidence not only effects whether police define incidents as hate crimes, but also whether police are able to pursue a credible investigation. Typically, officers determine 'the facts' by corroborating witness, victim, or offender accounts with available evidence. But, as many officers told me, locating suspects remains a challenge. One hate crime investigator with YRPS experienced difficulties locating suspects in some mischief cases. He stated that when there is little to no evidence to support further investigative steps, there is little an investigator can do. "Unfortunately, there isn't anything to really do in a graffiti or mischief type crime other than finding out if there are video cameras, but in most parts there is nothing..." (Resp. 20). He explained that mischief often occurs on public buildings such as schools,

community centres, fences, public parks, or in isolated areas where there is rarely surveillance footage or eye-witnesses.

Police figures seem to corroborate these accounts. According to TPS's latest hate crime statistical report, in the vast majority of police reported hate crimes, no charges are laid (Toronto Police Service, 2017). In 2016, for example, only 22 charges were laid against 12 individuals out of 145 reported hate crimes. These figures were similar in Peel Region. In 2016, PRPS recorded a total number of 59 hate crime occurrences and laid 19 charges against an unspecified number of individuals (Peel Regional Police Service, 2017).⁵² Police state that these figures may be related to the nature of the criminal offences that constitute the majority of police-reported hate crimes. The lack of witnesses and surveillance footage poses a challenge since witness accounts and video footage often provide investigative leads that result in the apprehension of suspects.

While residences are generally located in heavier traffic areas they can still yield few investigative leads. One officer recounted a previous investigation involving mischief to a residential property.

I had a couple [of graffiti offences] that were on a driveway. The home owners didn't have cameras so other than maybe looking around at fellow neighbours, witnesses or businesses [there were few viable investigative steps]. But what always comes up is that nobody saw anything. (Resp. 20)

Although suspects may not be located or questioned, officers told me they still examine the characteristics of the crime – its location, the nature of markings, symbols, and similar patterns of offending – in order to make a determination about the likely

⁵² A breakdown of the number of charges laid in relation to police-reported hate crime offences was not provided in YRPS hate crime figures and thus not included in this dissertation.

motivation behind the crimes. Often, the clearest examples of hate crimes are graffiti offences in which individuals have scrawled racist words, symbols, or messages on structures, signs, or places of religious significance. With these offences, perpetrators want to send a message about their beliefs to others and therefore the markings are rarely ambiguous. Because finding suspects is difficult, the primary response to these incidents involves evidence collection, documentation, removal of offensive markings, and victim support.

The nature and circumstances of hate related incidents, according to officers, posed challenges in other ways. In some cases, incidents develop as a result of on-going or pre-existing conflicts. Hate crime investigators in TPS, YRPS, and PRPS all cited challenges in responding to disputes between neighbours that develop into hate crimes reports. Neighbour disputes often arise over disagreements about garbage, parking, snow removal, leaves, tree limbs, loud music, children, and pets. In the course of these exchanges, one or both parties may utter racial slurs, which are reported to police.

It's almost like a regular dispute where something triggers it, but then they bring race or religion into it. They start painting everyone with the same brush, they are bringing out the various negative stereotypes about each other's culture to get at each other because they are arguing over the property line, or your dog peed on my lawn, or your grandchildren are too loud. You know, it is just the regular neighbourhood disputes but because they have argued about everything else now they are going to go personal. (Resp. 27)

Neighbour disputes often involve a prior history of conflict between parties and the issue sparking the encounters is not always directly related to prejudice or hate, but to the mundane issues of everyday life. In these cases, police are faced with two

challenges: 1) sifting through previous interactions to determine an underlying motivation for the offence, and 2) determining an appropriate response.

Even where disputes rise to the level of criminal behaviour, and where charges are laid, officers explained that they might elect not to identify the incident as a hate crime. During one interview with a TPS detective, the officer read to me the details of a criminal occurrence that took place in the lobby of a Toronto Community Housing apartment building. Police responded to a report that two women were involved in an altercation on the ground floor of the complex. According to the officer, a verbal argument ensued when one of the women blocked the other from exiting the elevator with her children. The woman exiting the elevator was Muslim and wore a hijab. When she exited the elevator, the other female yelled, "You Muslim bitch" in her direction. The complainant stated that the comments led to a physical altercation, which ended when by-standers stepped in to separate the two women. Police took video statements from the complainant and photographed her injuries, which were described as "slight bruises and scratches" (Resp. 14). The officer explained to me why he did not believe the incident was a hate crime.

So upon reading that I didn't believe it was racially motivated. I believe it was a neighbour dispute that got out of hand. There were some things said that were racially motivated so I added a supplementary entry to the occurrence. (Resp. 14)

According to the officer, the situation escalated when the complainant confronted the suspect and therefore racial or religious prejudice did not precipitate the interaction.

Although the comment made by the suspect is offensive and insensitive, and an aggravating factor in this occurrence, the offence as reported does not constitute

a hate or bias crime because the crime itself doesn't appear to be motivated by hate. (Resp. 14)

The officer concluded that bias was not the primary factor leading to the conflict. Instead, the larger context of the offence determined the way the officer ultimately treated the case.

Accounts of the challenges involved in hate crime investigation in which the success of police crime solving efforts are dependent on 'quality evidence' suggest that detectives are passive agents who are simply led by the evidence they happen to find; the better the quality of evidence, the greater the likelihood that police can resolve the crime effectively. Similarly, when 'indisputable' evidence of an offender's bias exists, police are better able to identify incidents as possible hate crimes. In this account, the success of police investigations is attributed to the good fortune of finding quality evidence, locating witnesses who are willing to speak to police, or finding surveillance footage that captures the incident in question – rather the actual desire to solve crimes or the particular investigative decisions of officers. While evidence greatly influences police action, police continually make decisions often based on pragmatic concerns that are not directly connected to evidence. For example, police make decisions about how investigations are conducted, what constitutes strong evidence, what investigative leads to follow-up on, and how much time and resources to dedicate to an investigation. They also hold their own views on what constitutes a positive outcome. Police perceptions of the circumstances where police action is warranted and what they believe to be the most appropriate way to address the situation are, therefore, integral to hate crime response.

When a pre-existing conflict 'boils over' into a physical confrontation (in the context of a neighbour dispute, for example), police are less likely to view the incident as a 'true' hate crime or to believe that criminal sanctions are the most appropriate way of resolving the situation. The decisions of investigators also establish institutional ways of interpreting and responding to hate crime that can then be utilized by others in the institution when making decisions about how to respond to future hate crime cases. Decisions about what constitutes quality evidence or what investigative steps are most appropriate function to transform policy guidelines into police action and, in doing so, construct the very category (hate crime) police claim to be 'passively' investigating.

Decisions about how to respond to conflicts that arise from road rage similarly reflect the significance of police decision-making in hate crime investigation. Road rage occurs when disputes arise between two or more motorists that result in criminal or offensive behaviour. These disputes often occur when one party feels they have been deliberately mistreated or when another motorist's actions have placed them at risk. Being cut off, blocked from entering another lane, driving too fast or too slow, driving erratically, minor car accidents, or taking a parking space often sparks these disputes. Similar to neighbour disputes, hateful or offensive language and gestures may appear during the course of the altercation and, while some cases become criminal, the majority, officers state, do not. Another complication may arise when motorists drive away and a license plate number is not recorded.

When asked about discussions with parties involved in road rage incidents, a hate crime investigator with one police service stated that offending parties can be

difficult to locate because some complainants only have vague descriptions of the motorist and vehicle involved. The respondent continues by explaining,

Well, you know, [with] all the vehicles on the road it's hard to follow up with something like that. Nine times out of ten something will have happened and the person who cut off the other person probably did not even realize they did it and the other person will pull up next to them at a red light and make a comment and then drive away. And the person doesn't even realize what just happened and then they call [and tell us] this is what was said. "Ok what did the person look like?" "Umm, well I don't know, it was a male." "Ok, well what did the vehicle look like?" "Well, I don't know because it happened so fast," right. So that's part of the problem. (Resp. 33)

Even if suspects are located, officers report that determining an appropriate response can be challenging because the parties recount differing versions of events. "A lot of these hate incidents that are reported," the same detective notes, "it's [because] someone has directed a comment against them. There is no offence there, there is no criminal offence. Yeah, you were insulted but being insulted in Canada isn't a criminal offence" (Resp. 33). Because of the non-criminal nature of the incident, the officer claimed he could not make an arrest or proceed with criminal charges. Instead, he attempts to speak to the offending party and explain to the complainant what police can and cannot do. "At the end of the day, myself personally, I would explain what has gone on, this is what has happened," he stressed.

You can say to them what you can do – talk to the other person and explain to them that it was kind of inappropriate what you said. But at the end of the day, whether the person listens to you or not, it doesn't matter. That's what you can offer. In a situation like this you can say, "I'll talk to the other person and see where that goes," but unfortunately, nine times out of ten, it's not a police matter... That's about the most that will come out of a situation like that. (Resp. 33)

Evidence in any investigation allows police to assess the incident and determine appropriate courses of action. While evidence is vital, according to many hate crime investigators, it takes on an added importance in hate crime cases. Missing evidence, inconclusive evidence, or new evidence, they state, can change the direction of an investigation.

In road rage incidents, similar to neighbour disputes, investigators claim to be constrained by the ambiguities inherent in these conflicts. According to officer accounts, road rage can present significant challenges in establishing a criminal offence and offender motivation. Police, once again, claim there is little they can do when complainants provide vague descriptions. While fewer criminal justice options may exist for police in these circumstances, officers formulate intervention strategies to respond to incidents with little to no evidence. Explaining the limitations of police action or reassuring complainants that police take their claims seriously results from a series of decisions and judgments that police make about how best to handle incidents. Regardless of whether police action results in arrests or charges, police decisions – even in circumstances where suspects are not located – inform institutional perceptions and decisions about how best to respond to hate crime in the future. While police action is scrutinized when high profile hate crimes are committed, the significance of police decision making is revealed in the way officers respond to the range of circumstances that involve bias motivation.

Despite claims that evidence determines police classifications and police action, discretion is inherent to police work. An officer with the TPS noted that in their 14 years

of investigative experience, hate crimes have posed a greater challenge than any other crime category.

I'll say this. In my experience with investigation ... hate crimes are the most challenging. Because 'A' doesn't necessarily lead to 'B', and 'B' doesn't necessarily lead to 'C.' It's very much of a grey area as opposed to sex crimes [or] investigating sexual assaults. I was also in the child exploitation section so the on-line the internet stuff, very clear-cut what's a crime and what's not. Very clear-cut was homicide. Here, it can be a judgment call and it's applying the law, the very limited case law. You think about laws that have been on the books for as long as these ones have, [there are] very few cases to draw from as opposed to other offences because they have been tested in court ... (Resp. 25)

Two PRPS hate crime investigators expressed similar sentiments when asked if frontline officers had difficulty identifying hate crimes. As one of them commented:

Yes and no, I would say. There are some that are so obvious that it's a hate crime and it's easy to say, "Yes, that was definitely a hate crime." And there are some [where] there is no indication it was a hate crime. (Resp. 27)

The officers went on to explain that just because a member of an identifiable group was the victim of a crime does not conclusively mean that a hate crime had been committed.

Because a person wearing a hijab got assaulted does not necessarily make it a hate crime. It could have had a different motivation. So there's the ones in the middle that are really, really hard to determine sometimes because if you are speaking about motivation, unless you tell me what your motivation is, it's up to the perceptions of everyone else. So there are some in the middle that are really, really grey. (Resp. 27)

One TPS investigator told me that ensuring that responding officers are "asking the right questions" and "getting enough information" were vital steps that he impressed upon junior officers (Resp. 22). He stressed that getting all the information is the first step in pursuing a credible investigation, whether the matter is criminal or not. A thorough investigation allows police to proceed with criminal charges or with other measures, such as engaging community resources to help mediate the situation.

According to this officer, “the facts” must drive the investigative processes, thereby giving legitimacy to police action (Resp. 22).

Even where motivation is clear, officers told me that at times there is very little they can do if vital evidence is missing. One YRP officer recalled an investigation where a boy who was wearing traditional Middle Eastern clothing was assaulted by two unknown men and told to go back to his country. The boy was walking through a catwalk when he was punched and kicked. After the assault, the men ran off. The officer stated that he wished that he could charge the men for the assault. Unfortunately, due to the circumstances of the offence, they were unable to locate suspects.

The difficulty with that was that it was unprovoked, as he had never seen these two males before. It was such a quick incident and there was no video surveillance in the area so it made it very challenging. I know it’s not the outcome I want. I obviously want to make an arrest and bring someone to justice. But I went through all the investigative steps and I explained that if there were any more information by all means open up the file again. (Resp. 19)

In this case, like many others recounted by officers, police stress that decision-making power is dependent upon the evidence they are able to locate. Explaining the process, expressing desire to “bring someone to justice,” and documenting the encounter become the standard methods of response.

The steps involved in the investigation process, and the nature and the complexity of hate crimes and hate incidents greatly affect the intervention strategies of police. The insistence on the part of police that ‘facts’ drive their investigative decisions and judgements plays a significant role in the way hate crime materializes as an institutional concern. Decisions to pursue further investigation, to warn suspects, to lay charges, to explain the limitations of police action, or to pursue no further action are

choices that not only determine police response to hate crime but work to stabilize methods of dealing with what is an inherently unstable category for police. Individual officer's decisions have the effect of producing institutional practices, which are repeated by other officers and can then become standard practice.

Police generally respond to criminal occurrences or non-criminal incidents by adopting one of three roles: 1) the role of a law enforcer who makes arrests and lays charges; 2) the mediator or peace keeper who tries to bring parties together; or 3) the educator who tries to enlighten and reform the offending party. In the following sections, I examine each of these responses in relation to hate crime. I argue that while police claim to respond in ways most appropriate to the circumstances of a hate crime, with the hopes of producing the 'best possible outcome,' police response often subordinates hate to concerns about criminal behaviour. Hate crime response, therefore, does not combat hate or expressions of racism as is claimed. Instead, these responses function in very similar ways to standard police response where criminal behaviour is the primary focus of police attention.

RESPONDING TO HATE CRIME

Police as Law Enforcers

Making arrests and laying charges are practices popularly associated with police work despite the reality that the average police officer in Canada makes on average seven to eight criminal arrests (Sewell, 2010). In the context of hate crimes, arrests and charges serve as tangible measures of police effectiveness and commitment to eliminating hate crime. Despite the association between arrests and charges and

effective police response, however, many of the officers stated that during their tenure as hate crime investigators they conducted only a handful of investigations. When asked about the number of hate crimes that comprised a caseload, one YRPS hate crime investigator stated, “I would say me, specifically, 10 percent. Yes, very small. Personally I saw, looking at my entire workload, I would say maybe 10 to 15 percent of that might involve hate crime investigations” (Resp. 7). Yet, despite the relatively low number of incidents that are pursued officially as hate crimes, officers stressed the importance of arrests and charges in hate crime response. A strong law enforcement response was important, according to officers, because hate crime posed a significant threat to public safety and the security of minority communities.

Officers shared the details of cases in which they were actually able to locate suspects and lay charges. The incidents were particularly egregious, involving deliberate acts that resulted in significant harm to victims. For officers, the brazen, reckless, and public nature of an offence also made charges particularly important. A TPS investigator, for example, recounted an incident in which a self-identifying white supremacist was involved in an altercation at an apartment complex a number of years previously. “There was a white supremacist living in a building,” the officer said. “He had the classic shaved head, wore leather, that kind of stuff, had a swastika tattoo, death head SS symbols, death-head tattoos, the whole straight out of TV. He had the whole look going on and was quite proud it” (Resp. 12). This man assaulted an acquaintance because the man did not support his racist views. “He knew that guy had a Filipino girlfriend so he literally beat the crap out of that guy.” During the assault, the offender stated that the victim was “polluting the white race” (Resp. 12). Police apprehended the

offender and charged him with assault. The overt, deliberate, and callous nature of incidents in which police made arrests was a larger theme in officer accounts.

During interviews with YRPS investigators, many recounted a particularly noteworthy 2007 hate crime targeting the East Asian community that occurred in the northern-most area of the region in the community of Georgina. The incident garnered significant media attention and became well-known throughout the Police Service. According to officers, the incident was the perfect example of a hate crime occurrence. One of the officers indicated that the incident occurred when a group of men from the Toronto area travelled to Mossington Park in Georgina to do some fishing. The group included two white men and two East Asian men. The two East Asian men were fishing at the base of a bridge while the two white men were fishing from the top of the bridge. “Along comes a carload of kids [from the Georgina area],” the officer recalled, “and they have a discussion [with the group of men from the Toronto area] about how they catch all of the fish and the local people can’t catch fish” because the outsiders were overfishing (Resp. 21). The confrontation quickly escalated, resulting in an assault by the group of men from Georgina on the two white men fishing at the top of the bridge. “So the locals beat up the two people on the bridge and they throw [one of] the white guy[s] over the bridge into the water” (Resp. 21). At that moment, the two East Asian men fishing at the base of the bridge join the altercation to defend their friends. The men from Toronto were able to force the other group to withdraw from the fight. But when they attempted to leave the area, more men from the Georgina area arrived. “This fishing hole is along lake drive,” the officer noted as he described the area in which the incident took place, “and it is sort of dark and there are no houses around and stuff like

that” (Resp. 21). As the group of men from Toronto attempted to drive away, they were followed by the group of men from Georgina in their vehicles. “So now it’s the game of chicken on the road with their cars. They are playing a game of chicken. So the people from Toronto go along lake drive.” The officer explained what happened next:

And Lake Drive is not the best road to drive, maybe 40K [kilometers per hour] at the most, lots of hills and corners. So as a result of them tagging their vehicles, the vehicle loses control, hits the tree and flips over in the water, resulting in some serious injuries to a couple of the guys. Everybody else takes off. (Resp. 21)

Occupants of the vehicle suffered serious injuries, including permanent brain damage and paralysis from the crash.

During the investigation, police discovered that the group of men from Georgina used racially offensive language. “So we start to investigate the actual incident on the bridge, how the fight started, the overfishing, and all that stuff. And there was some talk about foreigners. You know, these locals are calling these guys ‘foreigners’ for overfishing” (Resp. 21). During the investigation, a number of individuals of East Asian descent reported similar experiences, which pushed the investigation into addressing whether the incident was a hate crime. “The guy who was driving the original vehicle and rammed them and caused them to have an accident,” the officer recalled, “got charged for dangerous driving and causing bodily harm” and had their sentences increased due to evidence of bias motivation (Resp. 21).

Both of these incidents involved deliberate criminal acts committed by individuals who quite vocally expressed racial bias. In both cases, victims experienced physical injuries and the circumstances of the incidents were quite shocking. While police make arrests and lay charges in circumstances where victims have not experienced serious

physical injury, or where offender motivation was not as overt, these accounts are instructive as they reveal circumstances where police view charges as most necessary. When hate crime is extreme, overt, and dangerous police intervention is considered critical. In this formulation, hate crime resembles incidents popularly associated with the acts of organized hate groups or white supremacists that are violent, criminal, and pose a public safety risk.

Police intervention is not unique to concerns about hate crime but fits within larger mandates to keep the peace and prevent crime that presently defines police work. In these terms, the driving factor in police response to hate crimes, particularly those involving physical injury, is not actually hate, but crime. The motivation of offenders in the above examples is inconsequential to the action police would have taken since the crime itself. In this way, crime remains the primary police focus as they attempt to 'keep the peace,' even as they stress the importance of strong law enforcement responses to hate. Hate, therefore, is not a factor which, in and of itself, can lead to arrests and charges but rather a consideration that is folded into what would otherwise be a standard police response to criminal activity.

Police as Mediators/Peace Makers

Officers told me that disputes often require police to act as mediators or peace-makers. Police often assume these roles when parties cannot easily be separated. Police spoke about mediation and peace-making in situations where parties have pre-existing relationships, frequent the same locations, or live near each other. Since both parties have established ties to shared places, the likelihood of future encounters is

quite high. Officers told me that the aim of mediation was to help parties understand each other's differences. While mediation may not result in mutual agreement, parties can accept that they must air their grievances civilly. While conflicts may not be permanently resolved, mediation may prevent non-criminal disputes from becoming criminal matters.

Efforts to establish guidelines, protocols, and codes of conduct to avoid future disputes featured prominently in officer accounts of their mediation work. These guidelines establish how parties will engage should they come in contact with one another in the future. In the context of feuding neighbours, this may involve respecting the property line as a way of setting up a buffer zone (or boundary) between the two parties. Both parties agree to respect these boundaries and stay in their respective areas. In many instances, officers stated that there was an underlying issue that resulted in the call to police.

Disputes between neighbours are classic examples of incidents in which officers attempt to mediate between parties. A hate crime investigator with YRPS recounted an attempt to mediate a dispute between two men in their seventies. One of the men was of Jewish descent and the other German. The dispute arose when the German man flew a German flag in his front yard in recognition of Germany's national holiday. This provoked the Jewish neighbour to respond by flying the Israeli flag. For the Jewish neighbour, the flying of the German flag was offensive because it celebrated German atrocities toward the Jewish people during the Second World War. These acts provoked racist and anti-Semitic exchanges between the men and spiteful activity that resulted in a number of calls to the police.

When police attended to these incidences, both men spoke about the historical roots of the conflict. The Jewish neighbour noted “the terrible things that happened during the war” and how Jewish people were discriminated against. The officer recalled his unsuccessful attempt to mediate between the two parties by sitting down and talking to them. Because neither man was willing to change his behaviour, the officer enlisted the assistance of the men’s children and supports from the community. The officer stated that they reached out to community organizations and to the adult children to help mediate the dispute. These intermediaries, they hoped, would act as voices of reason that could assist in settling the matter. Involving well-meaning third parties who have an interest in a positive outcome to the situation can provide greater authority to an officer’s message. These individuals can be enlisted to ensure that the situation does not escalate in the future. In this way, family members, friends, or acquaintances become guarantors of the involved parties’ behaviour. Efforts to bring community organizations, family members, and friends into the mediation process involve a more holistic de-escalation approach. Despite the intervention of the men’s adult children, the officer commented:

They just couldn’t change his behaviour. I told the one young lad, and he was in his forties, “I don’t want to see your dad get arrested. I don’t want to see him get charged for any offence. And if he keeps pushing and pushing eventually someone is going to end up getting assaulted, more than just throwing dog stuff [dog excrement] or cutting branches and stuff. Someone is going to get hurt and then we are going to be forced to play in our hand.” ... And I told the son, “Don’t be surprised if your dad steps over those grounds [and commits a criminal act]. at what’s going to happen. Because then our hands are tied and the moment that happens we are going to lay a charge.” (Resp. 21)

Enlisting others in the mediation process was backed-up by the spectre of criminal prosecution or serious bodily harm. The threat of charges is mobilized as a

warning, the officer told me, in the hopes of preventing future destructive behaviour and to exert more pressure on intervening parties. Mediation may therefore involve multiple strategies that provide police with flexibility in their encounters with disputing parties.

Where consensus is not possible, mediation may involve appeals to common decency and a shared humanity that requires individuals to respect differences and live at peace with others.

Just because I don't agree with what my neighbour believes, I still live beside my neighbour. I don't have to be spiteful and throw roofing nails in his driveway or throw glass in his driveway.... Okay, maybe you disagree about his past but then you got to respect him as a human being and vice versa. (Resp. 21)

Although disagreements may exist, human decency should at the very least allow parties to live at peace with one another. Mediation is seen as an appropriate course of action because, from the police perspective, at the heart of the dispute is a failure to communicate and see past individual differences. Because these conflicts are not believed to involve individuals who hold 'truly' prejudicial beliefs, relationships can be repaired and peace can be restored. Racial slurs, inappropriate gestures, or offensive comments that occurred during the encounter are simply seen as weapons in longstanding conflicts.

In these circumstances, police believe their role is to encourage civility and mutual respect. Hate crime response, in this fashion, is disconnected from the way racism structures interactions between individuals and instead takes the form of producing positive interactions, even if issues of structural oppression go unaddressed. By shifting attention to positive interactions and away from the structural dimensions of

bias crime, police intervention reflects standard police response aimed at maintaining order.

While personal differences may lead to conflict, framing incidents involving racist expressions as misunderstandings or miscommunications also allows police to re-distribute responsibility to all involved in the conflict. At times, police attempt to show that victims share responsibility for the conflict and, at other times, police attempt to shift responsibility for resolving the conflict to the victim. A PRPS officer recalled a conversation with a man involved in a conflict with his neighbour. The man and his family had experienced significant stress as a result of the on-going conflict. The officer said that he advised the man: "If you feel this way, if your wife is that upset, I would personally consider moving. Look how it's affecting your life. You have to consider your life and your family, even just your mental health" (Resp. 32). The officer explained that feuding neighbours often refuse to back down because, for them, the conflict has become an issue of principle. For those subjected to racially offensive behaviour, it is not simply a matter of personal pride but a statement about their refusal to tolerate racism itself. Refusing to back-down is a way to stand up for oneself, especially for those who have experienced overt racism in the past. But refusing to back-down, I was told by many officers, may lead to extremely harmful effects. While officers claim they agree in principle with an individual's refusal to compromise, especially where racist behaviour is involved, parties must realize, as one officer put it, "things are escalating" and that there is a potential that someone can end up seriously harmed (Resp. 32).

The potential for non-criminal neighbour disputes to develop into serious criminal matters is a very real possibility, according to one TPS officer I interviewed. He

recounted an incident between feuding parties that resulted in death. The dispute occurred between two men who lived in the municipality of Scarborough, in the east end of the City of Toronto. One of the parties, who he referred to as “Old Scarborough,” identified as white and had been born and raised in the area. His neighbour, who the officer named “New Scarborough,” was a Brown man who was new to the area. They lived next to each other, separated by one house. Police received numerous calls from both parties regarding their disputes. At trial, it was revealed that ‘Old Scarborough’ routinely called ‘New Scarborough’ derogatory names such as “camel jockey” and “towel head” in reference to the man’s ethnic and religious background (Resp. 25). Neighbours commented that while the two men routinely engaged in verbal battles littered with offensive language and racial slurs, the conflict never became criminal. While it was “extremely rude,” the officer told me that it never led to assault, threats, or harassment. One day ‘Old Scarborough’ was driving his motorcycle down a fairly long street in the neighbourhood, while ‘New Scarborough’ was driving his truck in the opposite direction. “And we got this from eyewitnesses,” the officer recollected, “New Scarborough turned into the lane of the motorcyclist, and without hitting his brakes, ran him over. Killed him. Dead. Right there in front of his house” (Resp. 25). Although the Crown did not identify this as a hate crime,⁵³ the incident serves as a reminder of the potentially deadly consequences of ‘refusing to compromise’ and ‘live in peace with one another.’

Here, making the responsible decision and moving away in order to de-escalate the situation or to be the ‘bigger person’ and learn to ignore or avoid conflict are folded

⁵³ The officer did not explain why the incident was not deemed a hate crime.

into responses where police mediate between parties. The inability of police to lay criminal charges is used to further persuade parties that relocating or coming to an understanding is the only viable option to resolve the situation. Despite the many ways that mediation may be practiced by police in response to hate crimes, it is also premised on a belief that racially charged encounters emerge when individuals fail to communicate and respect each other and a belief that prejudicial conduct can be overcome if individuals exhibited more “love and compassion” (Goldberg, 1998, p. 19). These conflicts can be resolved if police are able to bring parties together and encourage them to see things more clearly.

For police, mediation guards against the potential of non-criminal conflicts becoming criminal matters. At times, police officers attempt to reason with people by asking them to ‘look beyond’ the very issues that animated their call to police in the first place and to consider instead their physical safety and quality of life. Although racist expressions are inappropriate and hurtful, they do not pose a risk to physical safety in the same way that acts of violence do. Often, it is victims who are asked to, in effect, ‘be the bigger person’ by ignoring or walking away from the situation. Mediation may also serve police in other ways. If mediation is successful, it may result in fewer calls for service, which would allow police to dedicate resources to more urgent matters.⁵⁴ While mediation appears to encourage outcomes that are beneficial to all involved, as a form of hate crime response it is chiefly concerned with de-escalation rather than addressing

⁵⁴ The issue of service levels, 911 wait times have become a source of contention between the Toronto Police Union and the TPS Chief of Police. The Union has claimed that hiring freezes have drastically cut the number of frontline officers available to respond to urgent calls. Media reports have also noted that in Toronto police response times have increased (Hayes, 2018).

concerns of hate and racism. In this way, mediation reflects strategies that manage racism through 'mutual understanding' rather than structural change.

Police as Educators

When officers become educators they attempt to impart knowledge designed to produce a permanent change in an individual's attitude. Officers told me that education requires dialogue and the willingness of parties to engage in a process of change. Education is often deployed when hate crimes or hate incidents involve young people who police believe can be reformed. In these instances, officers are not only guided by the merits of bringing a criminal case forward but in what they see as the best interest of those involved.

Two officers from one service recounted an incident in which a teenage boy made anti-Semitic comments to a Jewish girl from his class over the phone. When the parents of the girl learned about the comments, they placed a call to police and an investigation commenced. The officers received search warrants to secure phone records and call logs. "What we had was a 14- or 15-year-old suspect who did not understand the crime being committed" or "the context of the comments he was making," the officer told me (Resp.17). Rather than lay a charge, the officer mobilized the resources of the Service's Diversity Unit and tapped into the educational resources available in the community. They brought the boy and his father to the Canadian Jewish Centre and a Holocaust museum. The boy participated in an hour-long meeting with a holocaust survivor. "Sitting in the background watching how engaged this kid was, he

had no idea of the historical significance of what he was saying. He was just being a stupid kid" (Resp.17).

The officer explained to me that education works by opening the eyes of offenders to the gravity of their actions and by helping individuals, especially younger people, understand the roots of their comments. In this particular instance, understanding historical events became a method of education. Understanding the histories of individuals who have suffered at the hands of those propagating hate allows young people to appreciate the implications of their comments today. That said, the decision to intervene in this way was not uncontested. The officers faced resistance from the girl's parents, who wanted the boy charged. "We had to talk to that family," one of the officers noted, "Because the family was saying that charges should be laid" (Resp. 17). According to the officer, charges were not warranted because the incident did not constitute a true hate crime, since the teen's actions were not motivated by hate. "He didn't do it because he hated the Jews or he hated [their] Jewish daughter." Instead, the more likely scenario, according to the officer, was that the boy "probably just wanted attention" (Resp. 17). After explaining to the family their strategy, and that the incident would not have amounted to a strong legal case, the family accepted the officers' plan.

Educational approaches not only inform parties about historical events, they also warn individuals about the legal consequences of their behaviour if it continues. Officers told me that they warn offending parties that although charges were not laid, if the incident escalates and results in criminal conduct they may be charged with a hate crime. This process occurs through a formal citation, which is a documented warning to

an individual about his or her conduct. The caution provides an alternative to criminal charges where criminal charges, according to police, may not be appropriate. A formal caution and the spectre of criminal prosecution are used to compel good behaviour.

Occasionally, this approach occurs in the context of a home visit where an officer will show up at the residence of the offending party to discuss events that occurred earlier that day or, in some cases, the previous day. Home visits work to change behaviour through embarrassment and public shaming. As one YRPS officer stated, “sometimes the public humiliation of a police officer coming to your house in uniform and car does the trick” (Resp. 16). In road rage incidents, for example, the offending party may not want friends or family to be aware of the language used during the incident. The offending party often does not tell their spouse, parents, or relatives about the incident, or does so in a way that conceals inappropriate behaviour. Police presence threatens to expose their conduct to family and, in some cases, their community.

Police stated that these encounters often become moments where they attempt to get offending parties to reflect on their conduct. Here, reflection involves gaining perspective on the situation. Officers attempt to explain that the expression of anger was unnecessary and that the incident resulted in more trouble than it was worth. Officers also warn parties that the incident could have escalated into something more serious. Police remind drivers that, “sometimes people want to get out and fight as well,” and that too often road rage results in serious injuries (Resp. 31). Officers also attempt to distinguish between the identity of the driver and bad driving habits. “Everybody’s not a great driver,” a PRPS officer recounts of a conversation he had with a driver in a road rage incident, and stressed that, the way one drives “has nothing to do with race. That

has to do with driving ability and confidence” (Resp. 31). In such cases, motorists are asked to place themselves in the shoes of the other driver and to consider differences in driving ability and driving confidence as reasons why the incident may have taken place. Drivers are reminded that roads are shared spaces and that driving incidents are not always intentional.

Understanding the impact of hateful words is another message police attempt to convey when they intervene. Officers from the PRPS recounted an incident in which a security guard, who was also the building manager, made inappropriate comments to a courier who arrived to drop off a package. When the officers received the report, they reached out to the building manager. The manager explained that the words were a joke and that they were not meant to be offensive. Officers reminded the manager that jokes can mean different things to different people and that the comments were not amusing. “If you said it to me I would not have thought that it was entertaining either and I’m not of that background. So you need to choose your words wisely,” the officer told him (Resp. 28). In this example, the officer occupies the position of a neutral third party who can provide perspective on whether something was appropriate or not. Feedback can function to confirm that the complaint in this situation was not simply an over-reaction, but a legitimate concern.

Education as hate crime response takes many forms but, in all instances, the approach is grounded in notions of individual reform: by educating offenders, prejudicial attitudes can be diminished. As the above examples illustrate, police deploy education in efforts to promote an understanding of historical events or to help feuding motorists understand that driving ability and racial identity are not one and the same. However,

this approach only becomes effective when racism is conceptualized as ignorance. Framed as ignorance, racial expressions in the form of angry comments or practical jokes can be removed from a broader context in which race and racism are structures of social life. In this formulation, racist expressions are hollowed out of their larger significance and are instead treated as evidence of the need for an educational intervention.

While education as hate crime response may assist individuals in understanding the significance of their actions, educational responses remain individually focused both in their practice and in the minds of officers. Racism, as David Goldberg suggests, is not treated as “relations of power,” defused into social and cultural value systems, but instead abstracted from its larger significance (1998: 23). Goldberg stresses that racist expressions are not idiosyncratic, individualistic, episodic, or pathological, but so routine – normalized and naturalized – in contemporary societies that the effects of racism often go unnoticed and unacknowledged. Mutual understanding, empathy, and increased knowledge about global histories and global events all fail to disturb the larger systems that make possible and sustain expressions of hate. While education is considered an important tool to address forms of discrimination and oppression in a variety of organizational contexts, the deployment of education by officers responding to hate crime is predicated on managing conflicts rather than eliminating hate.

Officers told me that educational responses are not a solution for all situations since outcomes are dependent on the receptiveness of parties involved. They seemed aware that their efforts to change attitudes and behaviours could amount to nothing. “Investigating crime is one thing, changing people’s attitudes is a whole different idea,” a

YRPS detective noted (Resp. 21). “And, I don’t change attitudes. I just open their minds to see things differently because I can’t change them” (Resp. 21). In this respect, officers remind themselves of their own limitations even as they attempt to resolve matters by educating people.

Education as hate crime response does not involve arresting or charging suspects. Instead, officers draw on communication skills and a range of background knowledge and experience to work things out in a manner that is consistent with the law and, they claim, in the best interest of all involved. “The ultimate goal is to have a better understanding and to stop it from ever happening again.” This officer went on to note: “So really our job is not always about making arrests, [or] laying a charge. Sometimes it’s just investigating and opening people’s minds to what’s appropriate and inappropriate” (Resp. 17). This standpoint marks a shift in the traditional crime fighting image of the officer to what is, in actuality, more reflective of the activities in which police are routinely engaged (Sewell, 2010). Police habitually employ a range of strategies that do not involve arrests or charges in response to the disputes they encounter. The recognition that multiple strategies are necessary to effectively conduct police work alters how hate crime response and general police practice is explained to frontline officers. “I say to my guys,” the officer continued,

I don’t go out to lay a charge, I go out to investigate the crime. Sometimes it becomes an educational role of teaching. It doesn’t always result in being in front of the judge. We don’t have to be in front of a judge to teach people the lesson. Sometimes it’s just let’s go over here and let’s do an education part to this.
(Resp. 16)

Educational responses are deployed more routinely than the traditional law enforcement practice of making arrests and laying charges. Education occurs more often, in part, because there are more non-criminal hate incidents than actual hate crimes (and also because hate crimes can be difficult to prove in court). Education holds promise, in the eyes of some officers, for producing lasting change, which is far more effective than simply laying a charge. Education, in the words of one officer, “carries [with you for] a lifetime” (Resp. 21). If a charge is laid it may go to court and be thrown out or withdrawn, he explained. He further elaborated:

But if I can teach somebody, I’m not just teaching them, I’m teaching everybody else because now he is going to talk to his friends and say, “Hey listen, I did this and the police called me in. We had a talk and he educated me on the law, or he educated me on the offence, so now I have a better understanding and I will never go back to that because I don’t wanna end up here being charged.” (Resp. 21)

Arrests and charges can be counterproductive, according to this officer, because they don’t “solve the root of the problem,” a problem that requires a new mindset (Resp. 21). Since education changes how people think, and ultimately how people act, it has the potential to make meaningful, lasting change. Educational responses, similar to mediation and peace-making, position police officers as facilitators of a process that (hopefully) results in mutual understanding or perspective gaining. In this process, police do not and are not responsible for producing outcomes but, rather, for pointing people in the right direction. In these responses, emphasis is placed on the decisions of those involved and not on police officers and their intervention methods. Lasting change or ‘getting to the root of the problem’ occurs when individuals make choices – choices over which police have very little control. Similar to the way police speak about how

evidence determines police action, police position their effectiveness with educating parties as being up to the will of those involved.

This framing of police response also positions police as figures with the requisite knowledge to impart education to others about hate, racism, and discrimination. I asked officers how they learned to communicate with parties involved in suspected hate crime incidents. Almost all of the officers pointed to their previous experiences in communicating with victims and offenders, but no officers pointed to formal hate crime training programs. None of the officers I spoke with discussed prior anti-racist or anti-oppression training they had received when discussing the way they implemented educational strategies. The officers I spoke to were not using 'hate crime specific' educational responses, but instead relied on common sense notions of decency, respect, and common courtesy to educate individuals about appropriate behaviour.^{55 56}

⁵⁵ Police narratives of their efforts to address racial bias stand in contrast to the Ontario Human Rights Commission's (OHRC) 2018 interim report on racial profiling in the Toronto Police Service. The OHRC found that racial discrimination, racial profiling and anti-Black racism against the city's Black community continues despite decades-long calls for change (OHRC, 2018). The OHRC inquiry, which was based on input from 130 individuals, a review of the SIU Director's Reports for investigations involving Black people from January 2013 to June 30 2017 and the Wortley Report, identified four areas of concern with TPS: 1) unnecessary stops, detentions and searches; 2) excessive use of force; 3) unnecessary charges; and 4) the impact of race based policing of Black residents of Toronto, who the Report notes experience feelings of trauma, humiliation, and mistrust of police (OHRC, 2018). Based on SIU data, the Report noted that between 2013 and 2017, Black individuals were 20 times more likely to be involved in fatal encounters with police than white individuals and that while Black people comprised 8.8% of residents of Toronto, 61.5% of deadly encounters with police involved Black people (OHRC, 2018). The Report stressed that racial discrimination experienced by the Black community at the hands of police hinders community co-operation with police investigations and, thus, negatively affects police ability to solve crime. In advance of the release of its Final Report, The OHRC urged the TPS, the TPS Board, and the City of Toronto to do the following: 1) acknowledge racial disparities in policing and negative experiences of community members; 2) continue support by the TPS and the TPS board of the work of the OHRC; 3) collection and public reporting of race based data; 4) implement the recommendations of the Report of the Independent Police Oversight Review ; and 5) implement recommendations in the Toronto Action Plan to Confront Anti-Black Racism. View the full report here: ohrc.on.ca/sites/default/files/TPS%20Inquiry_Interim%20Report%20EN%20FINAL%20DESIGNED%20for%20remed_3_0.pdf#overlay-context=en/news_centre/ohrc-interim-report-toronto-police-service-inquiry-shows-disturbing-results.

⁵⁶ The Report of the Independent Street Checks Review also known as the Tulloch Report released in December 2018 and found that the practice of random Street Checks hard police-community relations,

CONCLUSION

While responses to hate crime vary, police typically respond in one of three ways: as law enforcers – who make arrests and lays charges; as mediators/peace-makers – who bring parties together; and, as educators – who attempt to teach new lessons. These responses are configured, in part, by the legal parameters that establish the limits of police power and the circumstances of particular incidents. They are largely shaped by the discretionary decisions of officers. Police decision-making works to stabilize what is an unstable and at times unclear crime category for officers. In doing so, police officers produce institutional knowledge about hate crime that is used in hate crime response. Since many conflicts involving bias, prejudice, or hate are non-criminal in nature, officers employ responses less often associated with police work. Education and mediation/ peace-making allow police to intervene in situations where a criminal offence has not been committed and where criminal charges are not possible.

Police state that they try to bring parties together by facilitating positive and constructive dialogue, by establishing rules for healthy interaction, and by reminding parties of the potential consequences if disputes escalate. Making arrests and laying charges, mediation/ peace-making, and education are not specific to hate crime offences. These responses are routinely employed by officers in the regular course of their work, work that is designed to control crime as a way of reproducing order (Ericson 1980; Manning, 1997). In these terms, policing hate crime does not involve ‘new

was ineffective as an investigative tool. The report called for an end to random street checks and new guidelines on the collection of personal information by police. See the report here: <https://www.mcscs.jus.gov.on.ca/sites/default/files/content/mcscs/docs/StreetChecks.pdf>

strategies' specific to hate crime but rather is an extension of existing approaches already in use by police. Although these strategies seem quite disparate from traditional policing, education and mediation are chiefly concerned with responding to (potential) criminal behaviour.

The strategies employed by police align with normative ideas about how to address discriminatory behaviour: through punishment, (re)education, or by reconciliation. These liberal logics conceptualize racism as a problem of the behaviour and attitudes of individuals. Hate crime response, therefore, is a project of individual reform that enables police to "keep-the-peace" without confronting the structures that give rise to individual expressions of hate. The preceding sections further illustrate how conceptions of racism as deliberate and intentional criminal acts, as misunderstandings, or as failures to communicate determine police response and, in so doing, constitute institutional notions of hate crime. As police respond to incidents of hate crime by making arrests or laying charges and through mediation or education, their actions construct hate crime in ways that assist police in stabilizing what is an unstable construction. Responses are also 'successful' when suspects are located or when offenders reconsider their actions or attitudes. While these responses may produce 'successful' outcomes in the minds of police, these outcomes fail to protect victims from the consequences of hate. Hate crime response is thus not transformational, as the wider discourses around it suggests, or as officers believe. In this way, these approaches are both connected and function to maintain a system of racial governance that operates by appearing to acknowledge racist expressions, while employing strategies that do little to directly address issues of race and racism.

CHAPTER 5: HATE CRIME AND THE POLITICS OF INSTITUTIONAL REPUTATION

In Chapter 4, I argued that police decision making produced the very category of hate crime and that police response functions in very similar ways to standard police response. When responding to hate crimes, the objective for police is to 'keep-the-peace' and maintain public order by preventing disputes from becoming criminal matters. Since the vast majority of "hate crimes" are in fact non-criminal acts reported to police, mediation/peace-making and education are more typical responses than making arrests and laying charges. While victims of hate crimes can demand criminal justice remedies, the non-criminal nature of the majority of incidents leave victims of hate to live with, negotiate, or find strategies to cope with the actions or words of offending parties on their own. A key aspect in police response to hate-related matters, criminal or non-criminal, is that responses are not transformative as discourses of hate crime often suggest. These responses do not end hate, nor do they truly transform hate into a criminal justice matter.

In this chapter, I examine how hate crime response involves the protection of institutional reputation. I argue that hate crimes have political implications that directly impact the public perception of police services and the professional lives of officers. I suggest that hate crimes are 'political' not solely because they threaten to attract negative media attention, but because police response to hate crime is seen as a measure of police effectiveness and a reflection of police commitment to racial and cultural diversity. Guarding against the political fallout of hate crime involves meeting the needs of victims and victimized communities. By keeping victims informed at every stage of the investigative process, and by ensuring that victims feel like police are taking

hate crime seriously, police attempt to ensure that their personal and organizational reputations are positively maintained. Respecting the needs of victims and the wishes of communities is touted as a progressive step to addressing concerns about police interaction with the public. I argue, however, that this approach is not mobilized for the benefit of victims but to maintain the public image of the organization. In doing so, concerns about protecting institutional reputation obscure concerns about effective response to hate crime and structural violence. This chapter draws primarily on interview data with hate crime officers representing all three police services in this study.

RESPONDING TO VICTIMS

In multiple interviews, I was told that hate crimes affect victims in a number of ways. Officers reiterated points found in many policy documents about hate crime victimization. As an Ontario Police College (n.d.) guide states, victims often experience fear, intimidation, and anxiety as a result of hate crime. Victims, their families, and close acquaintances may also feel traumatized and powerless to protect themselves, which may lead to resentment and suspicion of others. These effects are not limited to the direct victim but extend to a victim's community and broader society. Since hate crimes are regarded as 'message crimes' designed to make a larger statement about the place of minority communities in society, the implications of hate crime are far reaching. Communities may become more insular and suspicious of outsiders. In some instances, communities may take their protection into their own hands, which can result in clashes with other communities (Ontario Police College, n.d.). Because of these negative

factors, strong law enforcement response that prioritizes victim assistance is considered critical to address hate crime.

Victim assistance is not only central in police policy; victim participation plays an important role in the criminal justice process. The success or failure of many cases relies on the willingness of victims to report matters to police and on the continued participation of victims in court. Officers interviewed for this study told me that cases cannot proceed when victims refuse to participate in the process. I was told that police can do very little if victims are not on board because, in the words of one officer, “the victim is everything” (Resp. 21). A senior investigator with the TPS spoke of the importance of victim care, especially for more junior officers. He told me that he continually stresses the importance of proper victim care to his officers. “What I’d tell new officers when it comes to this job or who comes into my office is continually scene management and victim care.” He explained that you cannot advance a case unless you can ensure that the crime scene is maintained and that you have a willing victim. He said that, “If you fail in any of those [scene management or victim care], your case will go [will not be successful]” (Resp. 26).

Police treatment of victims of crime became a greater priority with the passage of the Victims Bill of Rights in 2015. The Act was designed to ensure that victims of crime were treated with “compassion” and “fairness” and in a manner that did not “discourage victims of crime from participating in the justice process” (Canadian Victims Bill of Rights, 2015). Three of the Act’s guiding principles are: “courtesy, compassion and respect” for victims of crime; ensuring that victims “have access to information concerning services”; and ensuring that victims have access to “information about the

progress of criminal investigations” (Canadian Victims Bill of Rights, 2015). Police procedure requires officers to refer victims of crime to Victim Services, a non-profit organization that works alongside police to provide immediate crisis response to those affected by crime. The *Victims Bill of Rights*, Victim Services, and police protocols mandating victim support are in part a result of victim dissatisfaction with the criminal justice process and high profile incidents of police failing to adequately care for victims (Victims Bill of Rights, 2015).⁵⁷

Police efforts to engage victims, to explain procedures, and to prevent victims from walking away from the criminal justice process also works in the service of the organization in that victim care can help police avoid potential complaints or miscommunications. Officers often described their approach to hate crime as victim-centred, whereby officers ask complainants what they want to have happen. One TPS investigator noted that she made a practice of asking complainants what course of action they wanted from police. “I always tend to ask: what do you want?”, the officer told me, “Because they are the complainant and a victim but at the same time they are a person in need” (Resp. 15). For the police, listening to victims is important because victims often have different needs and may want to proceed in different ways. According to some of the officers I spoke with, there are victims who do not want to lay charges at all, even in cases involving bodily harm, because they do not want to become involved with the criminal justice system. In other cases, victims will notify police because they

⁵⁷ In 2003, Federal, Provincial and Territorial leaders issued *Canadian Statement of Basic Principles of Justice for Victims of Crime*. See the Statement: <http://www.justice.gc.ca/eng/rp-pr/cj-jp/victim/03/princ.html>

want the offending party to be spoken to by police and the incident documented in an effort to ensure that a similar incident does not happen to someone else.

I was told by one officer that in some situations the criminal offence is incredibly sensitive. Prosecuting crimes against children, for example, can be stressful and result in psychological strain on young people and their families. A detective sergeant in one service compared the difficult decision to pursue criminal charges faced by victims of hate crime with the difficulties faced by child victims of sexual assault, indicating that he would tell victims:

Just like victims of sex assault, you need to decide and I'm here to support and you'll get all the support that our Victim Services ... can offer and all that sort of stuff. But it is up to you to do what is best for you. This case isn't about me or about my clearance rate or anything about that, I don't care about that. It's what is right for you because even though it is not as bad at court as it is depicted to be for victims it is still emotionally draining and emotionally traumatic even though. (Resp. 16)

The officer suggests that pursuing criminal charges can take a significant toll on victims and their families and that appropriate victim assistance may involve supporting victims outside of the criminal justice process. In this regard, supporting the choices of victims becomes a method for police practice, in that police gauge appropriate steps based on wishes and feedback of victims. The officer noted that decisions to participate in the criminal process are not automatic and that victims may be encouraged to weigh the costs and benefits of their participation. Police must be mindful that respecting victims' wishes and supporting victims through the criminal justice process may involve accepting a victims' decision to 'walk away.' Consequently, a victim's decision based on their own best interest may not align with the aims of police. Victim support, therefore, may also require supporting decisions that police may not agree with.

Police, of course, are not led exclusively by victims' wishes. In the case of domestic violence incidents, for example, police are required to lay charges. In some situations, victims may demand charges where police have no grounds to lay a charge. Police must explain to the victim that an arrest or criminal charges are not warranted. Conversely, I was told by officers that some victims prefer that no charges be laid or that no further investigation occur despite the fact that a serious offence may have taken place. In those cases, police attempt to pursue victims by stressing the seriousness of the matter and the potential danger to the public should this matter not be pursued criminally. Officers may also consult with Crown attorneys to determine if charges are in the public interest, regardless of the wishes of the victim.

Police claim their response is built on efforts to identify with victims and respond with sympathy and understanding. Another YRPS officer stressed the importance of being able to identify with victims of hate crime in order to properly serve victims.

First of all, I put myself in their shoes. It's almost like you are victimized twice because you're victimized by an assault or if somebody damages your property, and then you are being victimized because of who you are, your culture, your religious beliefs. (Resp. 19)

According to this police officer, effective response relies on understanding the deep emotional pain that victims experience. For this officer, "it's a little bit of empathy" that helps victims understand that police know what they are going through is difficult (Resp. 19). Being able to identify with the trauma victims feel also helps forge positive and trusting relationships. It establishes clear lines of communication that can benefit police investigations:

Being able to put yourself in their shoes goes a long way towards opening that communication because with victims, sometimes, if they don't feel like they are being engaged, they're not going to open up to you. (Resp. 19)

I was repeatedly told that this communication is especially important when victims have information vital to the success of an investigation. In some cases, the success of a criminal prosecution depends on victim testimony. "If you were just kind of cold and you read the same script to every victim" they will not open up to you (Resp. 19). Therefore, the interaction must appear genuine. If victims do not feel that officers are sincere in their interactions, it poses a challenge for developing, as one officer stated, "that personal connection" (Resp. 19). The officer further explained: "It's very important to have that connection with your victim and have the victim trust you as police and as the investigator," especially with victims who may have had negative interactions with police in the past (Resp. 19).

According to many officers, police sensitivity with victims is also tied to expectations of officer professionalism. While officer demeanour is key in forging positive relations, being professional and knowledgeable helps to engender trust and confidence. Officer presentation, even the condition of an officer's uniform, can make a positive or negative impression on a victim since victims are more likely to feel that officers will be careful and diligent in their investigation. An officer with considerable years of experience within the YRPS states: "If the officer shows up, and I'm totally stereotyping here, (and) if there are food stains on the vest and he's chomping on gum or drinking coffee and he kind of has the attitude that he doesn't care ... that just sets the tone" (Resp. 20). A professional looking police officer better reflects the kind of

detailed attention that responding to hate crime requires and visually aligns with narratives of doing 'good' police work.

Emphasis on sensitivity, understanding, and empathy becomes a way to manage police interactions with victims and victimized communities and, in so doing, an attempt to manage and protect against the potential political fallout of a hate crime case. According to officers, victim care is critical to the success of police investigations because very little police action can occur without a supportive victim. Caring for victims involves officer sensitivity and professionalism. Empathizing with victims and allowing victims to 'lead the process' assists in forging positive relationships.

In the next section, I explore claims that victim support, community demands, and negative media attention to hate crimes can make hate crimes 'political issues.' I examine officer narratives that claim that media attention can turn minor crimes into hate crimes. For individual officers, and the police service in general, increased media attention, as well as public and community pressure to solve crimes, can make hate crime investigations politically dicey. Hate crimes, as one officer put it, become "political hot-potatoes" for the organization because police response is interpreted as a reflection of the Service's commitment to public safety and its value for racial and cultural diversity (Resp. 7).

THE 'POLITICAL' NATURE OF HATE CRIME

Media Attention and Sensational Cases

The officers I interviewed offered two quite divergent views about the effect of media on hate crime investigation. Media attention can assist police with locating

witnesses, raise awareness of hate crime, and provide a platform for police to advance their message. One TPS hate crime investigator noted the beneficial ways that the media can assist with an investigation. He stated that the media can reach out to communities to inform them of police action and reassure them that a location is safe. Furthermore, media can assist with locating other potential victims of hate crime and can “get the message out” that police are “taking it [the incident] seriously” (Resp. 12). In these ways, media attention can communicate the strength of police performance and the level of attention police have dedicated to successfully solving the case.

Despite the positive effects of media reporting, many other officers stated that the media often pose a serious challenge to the investigative process. Media attention is potentially harmful because, as one officer put it, “they only want to tell a fraction of the story” (Resp. 10). According to some officers, media stories are unfairly critical of police or blow incidents out of proportion. Media stories that scrutinize or ‘second guess’ police action can result in the public perception that police are not taking the crime seriously. In other words, media attention can transform ‘mundane’ crimes into major public spectacles. Incidents that would receive little or no public attention can become high profile cases because, as some officers claim, media outlets are more concerned with increasing readership or viewership than they are about the accuracy of their reporting.

One investigator recounted a previous investigations that received extensive media attention and renewed public concerns about widespread racism in a specific area of the region. The incident involved a schoolyard fight between students enrolled at Sutton District High School in the town of Georgina, in the northern most area of York Region. The fight originally took place on April 8, 2014 between a white and a Black

teen. Neither of the teens involved suffered serious injuries as a result of the conflict, but a number of weeks later a video of the fight surfaced in which bystanders were heard yelling, “pound that nigger.” The conflict and the subsequent video generated massive media and community attention, especially since only a year earlier the same school was forced to ban images of the Confederate flag when students attended with the flag printed on their clothing (Mangione, 2014).

An officer told me that the confrontation had nothing to do with racism or hate but was the result of a drug deal gone wrong. The incident arose when the Black teen attempted to buy drugs from the white teen, who later refused to sell to him. The Black teen believed that the white teen was refusing to sell him drugs because of his race. According to the officer, the white teen refused to sell the drugs because the other boy because was new to the school and he did not know him. As the fight ensued, a number of other white male students gathered and began filming the events with their cell phone cameras, which captured the racist comments by some of the on-lookers. The officer stated that, “of course, people jumped on the bandwagon” and made further claims that numerous people tried to “push the fact that he got beaten up because he was Black” (Resp. 21). The officer continued to recount that:

He [the victim] tried to make it something more than it really was.... He tried to make it into a hate crime and, at the end of the day, the facts are the facts. And the fact is that he didn't want to sell it [drugs] to you and it's nothing personal. (Resp. 21)

This case became ‘political,’ according to the officer, because media and public attention turned an instigator into a victim, and a drug dispute into a bias-motivated conflict. The racial slurs captured by the video footage were not a part of the conflict, the

officer claimed. Although inappropriate, they were the comments of ignorant on-lookers and not of the parties involved. The real victim of this altercation, according to the officer, was the white teen who had been unfairly accused of racism. “So they [the parents of the white teen] were a little upset that the media was involved and they got labelled.” The officer told me that the white student’s family was grateful that police were able to ‘set the record straight’ through the investigation (Resp. 21).

Hate crimes can too easily become ‘political’ when media distort ‘the facts.’ The police perception is that police focus solely on ‘the facts,’ whereas the media build a story with sensational headlines that distort the ‘facts.’ Individuals are made into victims, and storylines of hate and racism are conjured up as media outlets sensationalize the incidents. In the above example, a focus on selling illicit drugs prevents any consideration of how racism could have played a part in the case.

The same officer recounted a similar incident involving a fight at another high school in the same area that also garnered major media and public attention. The incident involved a physical confrontation between a Korean boy and a white student who were involved in a game of dodgeball in their physical education class. During the course of the game, the white student hit the Korean student with the ball and began bragging about his superior performance in the game. In response, the Korean student pushed the white student and accidentally scratched him with his fingernail. The white student responded by shouting “Cut your nails, you Chink,” which led to a physical altercation. The Korean student, who had a martial arts background, hit the white student in the face. As a result, he suffered a concussion and broken nose, and was

hospitalized for a number of days. This exchange led to charges being laid against the Korean student.

In the days following, comments on social media surfaced, stating that the Korean student was only defending himself. Representatives from the Korean community also made their concerns public. The officer noted that the service's Chief of Police received emails from the Korean Consulate and groups as far away as Australia, asking why charges were not laid and wondering what the police were doing about the matter.

Based on social media and news media reports, it was assumed that the Korean student was smaller and weaker than the white student. "Well it turns out the Korean boy is two inches taller than the white guy and it turns out he is almost 15 pounds heavier than the little white guy. He's got a fourth degree black belt in Tae Kwon Do and the white guy doesn't," the officer noted (Resp. 21). According to the officer, social media claims that the Korean student had been a victim of bullying were not corroborated by his past interactions with other students at the school. The officer recounted what was discovered about the student upon further investigation. "When you go and talk to the school about him being harassed or bullied, not one report came in about him being a victim of anything" (Resp. 21). Instead, the school had received complaints about his aggressive behaviour and bragging about his fighting skills and intimidating others.

The case concluded when the Chief of Police, along with the Crown attorney, decided to drop the charges against the Korean student, stating that because of his young age he could not appreciate the consequences of his actions. When police

decided to withdraw charges, the media attention died down because, in the officer's words, "There was no story" (Resp. 21). "We had 100 media up here, the parking lot was full of trucks and satellites," but once the charges were withdrawn, the officer noted:

Within five minutes there was nobody left here because it [wasn't] newsworthy. People want to draw people's attention and to draw people's attention you need some controversy. When the facts come out the media doesn't want to get involved. They like it better when there is more to it. (Resp. 21)

When communities demand action in circumstances where police believe action is unwarranted, or when minor claims of racism are 'overblown' by those seeking to make racism a broader issue, cases become political in the officers' narratives. The possibility that racism could have played a role in these altercations is side stepped by making other considerations, in this case the personal conduct of complainants, the primary issue. Discourses that focus on victim character or past criminal behaviour can be understood, as Yasmin Jiwani (2006) suggests, as "discourses of denial." As Jiwani notes, media representations and discourses of denial serve to delegitimize claims of racism by recasting matters in 'race neutral' or 'colour blind' terms. These narratives attempt to "explain away" racism by refashioning racist expressions as ignorance or a lack of education, by victim blaming, or by attributing racism to the stresses of modern life, rapid social change, or downturns in the economy (Jiwani, 1993, 2006).

Jiwani's (1999) analysis of the media coverage of the 1997 murder of Reena Virk, a 14-year-old British Columbia teen of South Asian descent killed by a group of seven teens, illustrates the way normative explanations of crime can erase race from an analysis of violence. She shows how media outlets disqualified the role of race and the

vulnerability of racialized women in Virk's murder, and instead framed the murder as an example of the 'growing problem' of "girl-on-girl" crime. This was aggravated, according to media accounts, by Virk's inability to "fit in" (p. 182). In their analysis of discourses of race, crime, and policing in Canadian print media, Carol Tator and Frances Henry (2006) note that outright denial, claims of reverse discrimination, discourses of political correctness, and discourses of Otherness have been used to 'delete' race from the larger discussion of crime and criminal justice in Canada (p. 147).

In the above cases, issues of racism are replaced by the 'real' problems experienced by police – namely, increased pressure due to the added attention that claims of racism created. The potential that racism could have shaped these interactions is dismissed and, instead, concerns about fabricated stories of racism surface. Police engage in actions to mitigate the potential consequences for the organization and their own implicit silences around racism. For example, the idea that martial-arts training prevents a person from being a victim of racism alludes to a particular institutional construction of a "victim of hate crime." To avoid being on the 'wrong side of the issue,' police minimize the extent to which race matters in cases, in large part by holding racism up against 'real' criminal behaviour. A focus on drug selling, previous criminal behaviour, or attempts to fight other students displaces concerns about racism, thus making racism secondary to crime.

These cases also show that within police responses to hate crime, racism is not trusted to 'speak for itself,' or to be voiced even by the victims. Racism becomes real when it is corroborated by other factors, including an alleged victim's own past personal behaviour. When hate crime involves 'clear victims' and 'clear offenders,' and where a

criminal offence has clearly been committed, police response is legitimate and necessary. When victims have 'clean hands' and fit the stereotypical image of a vulnerable and faultless victim, hate can be treated as a legitimate issue. When victims have questionable personal backgrounds or display aggressive behaviour, issues of racism may become minor elements in the overall 'facts' of the case or worse, evaporate entirely. Officer accounts of their responses to hate crimes or to incidents where racial bias was an element also reflect the routine ways in which race and racism are delegitimized in mainstream narratives of crime and justice.

How concerns about racism enter into police response and the place they occupy alongside other forms of evidence in the investigative process reveals the precarious position that concerns about race hold in police rationales. In the next section, I examine the approaches police officers utilize to help avoid the potential fallout of hate crime occurrences, specifically, how police respond to ensure that they appear to be taking hate crimes seriously. I show how officers adhere to proper investigative procedures, exhaust all investigative leads, and safeguard victims' feelings not only to bring cases to a successful conclusion, but to protect themselves and the organization from criticism. These approaches are not solely the product of officers who manufacture responses to meet institutional goals. These responses align with formal police mandates and responsibilities, individual professional goals, and with organizational desires to maintain a positive public image. It is precisely because the responses align with institutional demands that they are sustained as durable methods of hate crime response.

RESPONDING TO THE POLITICS OF HATE CRIME

The following discussion is organized into two parts. First, I show how police response to hate crime involves protecting an individual officer's reputation. In the second section, I illustrate how efforts to manage victims' feelings are informed by efforts to avoid criticism. I then examine three methods employed by officers to manage the political stakes involved in hate crime response. I show how following proper investigative procedures, deferring to the direction of superiors, and managing victims' feelings are important strategies to protect individual officers and the organizational reputation. I argue that at the core of these responses there is an effort *not to* address hate or serve victims, but to protect the reputation of the organization and individual officers.

"Covering Your Ass"

High profile hate crimes are potentially dangerous for individual investigators because they are likely to garner increased scrutiny from command staff and the public. Even when cases are not as high profile, the spectre of media attention and of cases reaching the public eye exists. In exceptional circumstances, Police chiefs and deputy chiefs will personally review the investigation progress because of the impending demands from media outlets for an official response. Since a hate crime may not be entirely evident during an initial investigation, officers are encouraged to be careful with even the most mundane of cases because, as one officer states, "you don't want those [hate crimes] to fall through the cracks" (Resp. 21). When hate crimes are missed, ignored, or dismissed, they can reappear as a more serious crime. For example, a

simple graffiti case could evolve into an assault, arson, or criminal harassment. Hate crimes are dangerous, as the same investigator notes, because they can come back and “bite you in the ass” if you are not careful (Resp. 21).

Hate crime investigations may also result in more attention from superiors on the work of investigators. Senior officers often pay greater attention to the efforts of investigators in cases that are particularly sensitive. In the words of one investigator, “Hate crime is a very sensitive issue and they get a lot more attention than a regular crime” (Resp. 33). I asked the same officer if the attention to hate crime investigations was purely external or whether senior officers within the service also pay more attention. She responded, “Yes, yes, more people are paying attention,” but was hesitant to continue his response, saying: “Quite a few people are paying attention that would not normally pay attention, let’s put it that way.” She continued, “Like I said, hate crimes can be a very political topic and if there is pressure from certain political figures, which gets other people involved that wouldn’t be involved” (Resp. 33).

Officers across all three police jurisdictions corroborated this account with statements that they often experienced internal pressure from superiors who wanted immediate answers, even when an investigation was still in progress. Although greater pressure from superiors may result in more detailed and diligent investigations, as one officer notes, increased attention also “puts too much pressure on you to try and come up with answers” (Resp. 21). The trouble, she told me, is that investigations are never straight-forward:

It’s never simple. I wish it was. I wish it was 1, 2, 3 I am done. But it’s never that simple. So sometimes when I go to the chief and say I haven’t gotten there yet, I

haven't found that evidence to support this, and he says, "Well why not?" And I say, "Well, because it's not there." (Resp. 21)

Officers in all three police services made similar comments about the internal pressure they experienced during investigations, which suggests that media and community pressure play a role in police decision making.

The officer referenced earlier also stated that internal pressure from superiors may result in attempts to manage the political stakes for the organization through investigative decisions. Investigators may find themselves in situations where they are forced to make decisions that they would not normally make, or that they disagree with, because senior officers are trying to appease powerful community stakeholders. The officer stated that, "sometimes decisions are made that shouldn't be made," and continued:

Sometimes your hand is forced to do certain things that you wouldn't normally do. And I don't mean anything underhanded or criminal or anything like that.... In the majority of investigations you investigate them fully and you see where the evidence goes, whereas a lot of times with hate crime you can have political influence in the investigation. (Resp. 33)

The officer told me that the political pressure to take action against hate crimes can result in officers laying charges in situations where they may have exercised their discretion not to and perhaps chosen a different course of action.

A YRPS investigator made similar observations. When his service was under media scrutiny over the handling of a hate crime in which the perceived victim was wrongfully charged, he noted that, for what appeared to be political reasons, the chief intervened and changed the direction of the investigation:

It [the case] eventually ended up in the media and for our old chief, as soon as something was in the media that was his cue and he then inserted

himself.... I don't know exactly how the case ended but I think the chief ended up through the courts having the charges withdrawn. (Resp. 7)

When senior leadership far removed from an investigation, in the words of the same officer, "swoops down" and alters the direction of an investigation for what appears to be political reasons, it can lead to deep frustration among frontline officers and detectives.

For police officers, attempting to understand the political stakes of hate crime and to 'cover your ass' occurs in two distinct ways: 1) following proper procedure and allowing the evidence to lead; or 2) following the direction of superiors even when those directions are at odds with proper investigative procedure. Being thorough and adhering to proper investigative procedure allows investigators to defend their actions, especially if and when something goes wrong. Officers may also protect themselves by following directions and respecting the chain of command. In this way, officers can claim that they were following orders if their decisions are ever questioned. Although the performance of investigators is not being assessed or evaluated during investigations, investigative decisions still have ramifications on a detective's service. Thus, decisions can sometimes be driven by considerations not tied to the 'facts' of the case.

Hate crime investigations can present challenges for investigators as the political stakes can negatively impact individual officer's careers or their relationships with supervisors. Hate crime responses are not solely concerned with solving cases; they are also about producing outcomes that address political pitfalls. The flexibility in the way police mobilize resources is not always a reflection of the seriousness of hate crimes. It may be a reflection of the lengths police will go to guard against the negative outcomes for the institution. While adhering to proper procedures and conducting

thorough investigations are held up as markers of police professionalism, they also function in individually and institutionally beneficial ways. In that vein, responding to racism or forms of hate is always second to the survival of the institution itself, and the officers' ability to make objective decisions. Police are willing to change the rules and alter procedures when the rules and procedures do not align with their institutional concerns.

Managing Victims' Feelings

Responding to victims is critical to police in order to avoid the potential political fallout of hate crime. Police care for victims by respecting their feelings through support and validation, and by ensuring that victims have the proper resources to cope with the situation. Officers reassure victims in three main ways: 1) the police service takes hate crime seriously; 2) police understand what victims are going through; and 3) police will do their utmost to ensure a successful outcome to the case. The goal, as one officer states, is to make sure that when the officer leaves the scene victims can say to themselves:

“Ok, I have been provided with everything they have and I have been given the appropriate resources.” Whether it's Victim Services or community contacts to help them, if they need that help [I] make sure that they are aware that there are other tools as well and resources that they can utilize. (Resp. 22)

Referring victims to Victim Services and community-based supports are tangible ways officers can demonstrate police support and care for the emotional wellbeing of those affected by hate.

Maintaining the appearance that the police take hate crimes seriously is vital to uphold public and community confidence in the service. Not only can the public, individual victims, and victimized communities question the investigative process, they may also question police commitments to racial and cultural diversity. For officers, taking hate crimes seriously ensures that victims will continue reporting incidents to police. As one officer stated,

No one really wants to make that call and say, "I think this is what has happened to me," especially when it's a hate crime. People have different emotions and some people don't want to report it because they are worried about retaliation. "This guy is my neighbour I don't want to report it" or "I'm embarrassed because this is something that has happened." And they are also worried about how the officer may or may not respond. (Resp. 22)

Questions about police response and fear of the police are magnified for those for whom English is a second language, for newcomers to the country, and those who have had negative interactions with police (Culotta, 2005). Although officers are aware that hate crime occurs more frequently than official statistics indicate, the problem remains that many communities do not report. Without individuals coming forward and reporting their victimization, police cannot effectively respond to hate crime. "I think the reporting piece is very serious and I'm sure there's a lot of under-reporting," the officer stated, and "with hate crimes I don't think that everyone is reporting each time an offence takes place" (Resp. 22). Many officers told me that addressing hate crimes swiftly and taking hate crimes seriously helps police maintain public safety and fulfill their mandates.

Stressing that hate crimes be taken seriously can also help police avoid criticism that inadequate attention is being paid to hate crime. Officers told me that keeping

victims informed about the progress of cases, and the criminal justice process more generally, functioned to ensure that victims were satisfied with police action. This is especially important, officers note, because police are not in charge of the criminal process once they have turned cases over to the Crown Attorney's Office. In cases where the Crown opts not to advance a case due to limited evidence to support the likelihood of conviction or decide to dispose of the case through plea-bargaining, police communication with victims is essential. It is vital that police explain the process to victims or to communities because, as one officer stated, "The justice system is sometimes a complex process that the community may not understand" (Resp. 2). Confusion can arise when victims expect police to secure a conviction, unaware that police are not the sole decision-makers despite the fact that police are their first point of contact. Explaining the process, according to officers, also means explaining the limitations of police; all police officers can do is conduct a thorough investigation and provide all evidence to the Crown.

One officer recalled a situation where the police advanced a hate crime case but the Crown chose not to pursue it. He explained that he organized a meeting between the community and the Crown attorney so that the Crown attorney could directly explain their decision not to pursue the case. Since the Service had worked hard to build positive relations with the community, police officers wanted to ensure that the community knew that the decision was not theirs. Shifting responsibility to other parts of the criminal justice system, especially the courts, is an effective strategy that is often tethered to longstanding claims that courts are inefficient, soft on crime, and do not protect the interests of victims.

Safeguarding the emotional wellbeing of victims is essential to the police, because victim satisfaction becomes a barometer of police effectiveness. Victims who feel satisfied with the service they receive, and who feel that police have kept them safe, have understood their problems, and have left them feeling protected, become sources for demonstrating good police performance. When victims tell positive stories of their encounters with police, the police are able to claim they provide quality service. The positive feelings of victims are redirected toward police organizations in ways that allow police to claim that they have done a good job. This is what I call *affective policing* strategies. I define affective policing as an intervention method premised on positive interactions with the police that aims to address concerns about crime through victims' feelings. Police officers may be genuinely concerned about the well-being of victims, but affective policing is deployed regardless of an individual officer's personal feelings.

As scholars writing in the field of affect studies and the sociology of emotion note, emotions are not solely biological or psychological in nature (Harding & Pirbram, 2009; Hochschild, 1983; Lupton 1998; Berlant 1999, Love, 2007). Emotions are shaped by social structures, institutions, power relations, and histories (Ahmed, 2004). They reflect the wider social world and act as a means through which the social world is experienced (Harding & Pirbram, 2009). Emotions are not "things we have" in a bodily sense, but can be seen as "accumulations of what we apprehend" through language, gestures, expressions, and sensations within social, cultural, political, and historical contexts (Harding & Pribram, 2009, p. 11-12). Emotions can help to "align subjects with collectives," "act as "claims" about subjects, serve as "attributes" of collectives, and help to "orient" subjects/collectives against other subjects/collectives (Ahmed, 2001, pp. 5-9).

Rather than viewing emotions as individual feelings locked within the psyche, Ahmed (2001) argues that, “emotions are relational: they involve (re)actions or relations of ‘towardness’ or ‘awayness’ in relation to such objects” (p. 8). She contends that “we need to consider how they work, in concrete and particular ways, to mediate the relationship between the psychic and the social” (pp. 348-349). Policing strategies that try to orient victims toward police in positive ways also attempt to recast police as a site of care and compassion. The police aim is to impress upon victims that they are on their side. By doing so, the police attempt to leave victims with the impression that their work has made a meaningful change to their circumstances.

Affective policing strategies realign traditional police foci measured by clearance rates, and re-engineer the police performance matrix to make victim feelings, rather than the incident itself, the object of police intervention. For police, a main objective in their interactions with victims is their own performance, which they gauge by how well victims feel they have been treated. This approach places the responsibility for positive police-community relations onto individual officers – their attitudes, communication methods, and ability to identify with victims. Furthermore, systemic issues such as racial profiling or police violence that may have eroded confidence in police for some communities remain out of sight and unacknowledged.

There are broader implications of this approach for both victims and police. Making victim’s feelings the objective of police response functions to ensure that police are only made responsible for positive interactions with the public, and not necessarily positive outcomes. In this model, *actual* safety, *actual* reductions in hate crime, *actual* protection are substituted for the *feelings* of safety and protection. Affective policing

functions to serve institutional aims; it particularly functions to safeguard institutional reputations by avoiding bad press and sidestepping accusations of institutional racism. In short, police attempt to avoid the political fallout of hate crimes by mitigating victim complaints, regardless of whether police action has been effective in protecting victims or preventing hate crime.

Efforts to take hate crime seriously, 'covering your ass' by following proper investigative procedure or deferring to the directions of superiors, and managing victim feelings are examples of the ways that police protect themselves from potentially negative effects in their responses to hate crimes. At times, this is accomplished through victim assistance and affective policing strategies. In other instances, it involves appearing to respond to community demands by altering the processes. In many ways, these responses channel elements of a customer service model in which victim satisfaction becomes the primary method of evaluating the performance of an organization. This model obscures the importance of racism, prejudice, and criminal behaviour, and their impacts on victims and communities when the institutional reputation takes precedence. Hate crime response, therefore, is not solely about eliminating or addressing hate; it is also about *appearing* to eliminate hate.

THE POLITICS OF THE INVESTIGATIVE PROCESS

While officers view hate crimes as having political implications and attempt to mitigate negative community perception by 'taking hate crime seriously,' 'covering their ass,' or by managing victims feelings, officers also state that the political nature of hate crime can change the usual reporting processes. In this section, I examine officer claims

that investigative openness with communities can affect the investigative process. Here, I examine the tension between the aim of protecting communities and the need to maintain the neutrality and objectivity of the investigative process.

The Politics of Institutional Openness

In an effort to make policing institutions appear more responsive to the communities they serve, police services have asked for public participation in police decision-making processes in the form of community-police initiatives. For example, TPS has developed a community consultative process designed to more effectively maintain public safety through “trust, understanding, shared knowledge and effective community mobilization” (TPS Community Consultative Process, n.d.). The Service’s liaison and advisory committees helped form this approach to identify, prioritize, and assist in problem-solving for local police through proactive community relations.

The service has also established a number of community consultative initiatives designed to serve specific communities within Toronto. According to the TPS website, these committees contribute as “voices on wider policing issues such as training, recruiting, professional standards and community mobilization” and are composed of representatives from community organizations (TPS Community Consultative Process, n.d.). Their mandate includes developing a strategic long-term vision that promotes knowledge building and cultivates education, tolerance, and mutual understanding. Recently, TPS has set up eight committees to consult with the city’s Indigenous, Black, Chinese, French, Gay/Lesbian-Bisexual/Transgender/Transsexual, Muslim, South and West Asian, and Asia Pacific communities (TPS Community Consultative Process,

n.d.). The recommendations of these committees flow directly to the Chief of Police and the Executive Command Branch for implementation in police practice.

The PRPS and the YRPS have established similar structures designed to foster police-community collaboration and knowledge sharing. Some of these initiatives have been put into action through community programs and police events. Sports tournaments, summer picnics, cultural festivals, interactive displays, and tours of police stations have also served as outreach methods. New communication and feedback mechanisms have increased community participation with the police. Police have started to utilize social media platforms like Twitter and Facebook to communicate with the public and have set up specialized e-mail accounts that allow for more direct channels of communication with the public.

Law enforcement organizations claim that this approach brings the police into greater contact with the public, which allows them to better respond to the needs of their diverse communities. According to hate crime officers, there have been consequences to the investigative process in making policing more transparent. As I described in Chapter 3, hate crimes are typically reported through 911 calls. Hate crime reports can also reach the police when community members or victims of hate crime contact the chief of police directly to report, which circumvents traditional police reporting procedures.

One officer told me that when reports bypass the usual reporting structures, it can result in urgent emails on their days off. For some officers, these emails symbolize the importance the organization places on addressing hate crimes. The officer recounted multiple occasions when he was contacted after hours about an incident:

I can recall being on a day off and I'll be getting emails about a mischief.... It's a mischief and I'm like, why am I getting emails on my day off about this particular mischief? What is so important about this mischief? It can't wait until I get back to work? And then you get back to work and you realize, well, it's a hate crime or there's a hate component to it and it becomes very much a hot button issue. (Resp. 7)

Urgent emails notifying officers of hate crimes while they are off duty are not necessarily proportional to the severity of the crime, as the officer above mentions. Instead, certain hate crimes are made a priority because powerful community stakeholders report them to police and/or senior command staff view them as potentially dangerous to the organization. According to the officer, this is a form of preferential treatment that compromises the integrity of the investigative processes. Community concerns are expedited, in effect, moved to the head of the line, which means important steps for the accuracy of investigations can be skipped. Instead of being told to file a report in the traditional way, or to call the Service's non-emergency number, the Chief's office sends cases down to investigators. At times, as one officer notes, this can result in investigators taking on the responsibility of frontline officers:

When it's a mischief that involves a certain community group, and that community group or the leader of that community group or that organization or that religion has ties into the Chief's office, sometimes that first communication isn't even done with the patrol officer to take the report. It's directly from that community group or that religious group straight to the Chief of Police and I see that happens very often. And then things kind of run downhill from there, very quickly bypassing other steps that would be normal.... Sometimes, as the investigators, we are the ones putting the reports on. Well, I shouldn't be the one putting on a report. There should be a frontline officer who was dispatched to that call to make some observations and talk to the person and put on a report. And then I action it as an investigator. (Resp. 7)

Officer frustration is directed both at senior leadership at what they see as the politics that define police- community relations. Some officers believe external pressures should

have no effect on police decision making. External pressure can change the investigative process in ways that make the job of officers more difficult.

Bypassing established reporting processes has, in some instances, become a form of standard practice in hate crime response. Some officers claim that this occurs because of the political stakes for the organization and because institutional openness is treated as a greater priority than proper investigation:

But that's just how this department does things. The Chief is everywhere and I'm sure he lets everyone know that he's open and you can contact him at any time. And I'm not saying that's not the way to do business. This job differs from my job. His job is to make sure that the community feels equal and have equal access to the police, and that's coming right from him. So people will take advantage of that. (Resp. 7)

Institutional openness becomes a problem for officers not because it makes combating hate crime more difficult or because cases cannot be successfully closed, but because openness poses a threat to what officers imagine is a neutral and impartial investigative process. Police systems are imagined as adequate for responding to hate crime.

Furthermore, the integrity of the system is juxtaposed against the feelings of communities in ways that make concerns about victim feelings seem trivial. This concern is also one of proximity. The closer communities get to the organization, the more deeply involved they are in what is seen as a policing process. And the more difficult investigations become, the more troublesome communities are perceived to be by officers.

Writing about the way diversity is mobilized by organizations, Ahmed (2012) argues that commitments to respecting difference are often deployed by organizations as a form of "good will" (p. 142). By respecting diverse people and inviting diverse

communities into the fold, organizations show they are progressive and welcoming to difference. Commitments to respecting difference function as a form of “public relations” that are utilized “in defense of an organization and its reputation” (p. 144). According to the officers I interviewed, the strategy of manipulating the investigative process in order to ‘appease’ communities was designed to avoid accusations of indifference that could negatively impact the organization’s reputation. These moves were not designed to better combat hate or eliminate forms of racial and cultural prejudice. When communities are angry or dissatisfied, policing organizations and individual police officers speak about the hardships they experience, but not about hate crime. Officer accounts paint the organization as a victim of its own ‘good will’ and individual officers as the victims of an organization that has prioritized the wishes of communities over the well-being of its members. In both instances, the institution and individual officers are (re)imagined as injured parties, displacing the potential hardships suffered by communities voicing their complaints.

Encounters between police, the public, and local communities are unpredictable and contested. Police efforts to, as police claim, ‘bring the community in’ by encouraging greater community participation in police decision making produce effects that are not entirely under the control of police. Policing institutions, institutional officers, victims of hate crime, and various community groups experience these effects in ways that (re)shape relationships between police and the public. These encounters, as Ahmed (2000) stresses, are not simply “meetings in the present” between parties. They are grounded in histories and past encounters that produce new encounters, new relations, and new ways of seeing, being, and interacting. Police encounters with the

public in the context of hate crime response are never peaceful, static, or pre-programmed but are instead antagonistic, contradictory, and unstable (Ahmed, 2000). At times, the wishes of local communities or the public conflict with those of police in ways that lead to tension. The anxieties that police officers and policing organizations hold about the place of community in policing reveal historical (and contemporary) tensions around race and racism currently defining modern policing. Many of these tensions – institutional racism, racial profiling, targeted policing, and inadequate policing – have in fact lead to the emergence of new policing techniques and strategies. While police claim that new initiatives have aligned police with community needs, the suspicion and skepticism of many officers to the presence of community in ‘police work’ reflect the ways in which race and racism continue to be flash points in the relationship between police and the public.

The anxiety, and at times hostility, police officers feel toward communities who (according to these officers) inappropriately influence the investigative process can also produce institutional dispositions toward communities. Over the course of my interviews, officers expressed many of the same sentiments about the influence that some communities have over police processes – and the lack of influence of others. They told me that due to these differences in community power, police leadership responded differently to hate crimes depending on which community was affected; the complaints of some communities were given greater priority than others. Encounters with diverse communities thereby construct institutional dispositions that allow police to take the claims of some communities more seriously than the claims of other communities.

The complex political relationship between police, the public, and particular racial and cultural communities, and the encounters between them, produce ways of knowing for police that impact how they come into contact with race and racism, crime, and community. As this chapter illustrates, these points of contact are not solely oriented toward better service of victims of hate crime and victimized communities, but are used to better protect the reputation of the institution.

CONCLUSION

Hate crime response not only involves meeting (or appearing to meet) the needs of victims, it also involves protecting the reputation of the organization and of individual officers. This is accomplished by stressing how seriously officers and the organization treat hate crime. Reassuring victims that police take hate crime seriously and responding in positive and supportive ways allow police to produce positive interactions. While victims may be satisfied with the service received from police, positive encounters with victims of crime, and with victimized communities, help police avoid criticism and potential accusations of institutional racism. Individual police officers guard against the potential political fallout of hate crime investigations by following proper investigative practices or by deferring to the decisions of their superiors.

Efforts to manage what police view as the negative consequences of hate crimes on the organization also result in what officers claim are unjustified changes to the investigative process. Cases sometimes come to investigators through unconventional means – by letters from the Chief’s office or directly from community leaders. As police move into closer contact with communities, officers feel those communities are being

accorded far too much power by the organization. Officers voice these concerns as issues of fairness, investigative integrity, and impartiality, and assume that hate crimes become political because of community interference. Officers fail or refuse to see hate crime as political for police as a result of the organization's troubled relationship involving the mistreatment of racialized communities and their indifference to claims of victimization. These accounts also show that individual officers hold deep anxieties about the place of community in law enforcement processes and the fear that community demands will dictate police decisions.

CHAPTER 6: HATE CRIME AND THE POLITICS OF RACIAL AND CULTURAL DIVERSITY

In Chapter 5, I argued that hate crime response involved safeguarding institutional reputation. I demonstrated that concerns about the ‘objectivity’ and ‘neutrality’ of the investigative process, as well as concerns about the optics of police action, function to displace concerns about hate even as officers investigate reported hate crimes. I also showed how hate crimes can become, in the words of one officer, “political hot potatoes” created by what some officers see as sensational media coverage of particular hate crimes and ‘overblown’ concerns about racism. Police are wary of negative media attention because ‘bad press’ has the potential to threaten the reputation of the organization as an effective crime fighting force and as an organization committed to racial and cultural diversity.

Police are aware that appearing to ‘get it wrong’ or to be ‘indifferent’ to victims of hate crime has the potential to devolve into accusations of institutional racism. Officers overcome these challenges by adhering to what they see as ‘proper investigative procedures,’ by deferring to superiors, and by ensuring that victims and vulnerable communities feel like police are taking hate crime seriously. In the previous chapter, I introduced the concept of “affective policing” to describe strategies employed by police in ensuring positive encounters with victims and communities. I argued that these strategies are not chiefly concerned with victim care but rather are focused on public relations. In appearing to care for victims, police are able to preserve positive relationships with the public even if their actions do not result in increased safety for victims. Responding to community wishes can also have ‘unintended consequences’

according to police officers. Encouraging barrier-free access to police can affect the flow of cases, leading to the perception among some officers that community pressure is driving the investigative process, rather than the merits of the particular case. I concluded this chapter by demonstrating how concerns about the impartiality of the investigative process and fear that communities are getting too close to the investigative process displace concerns about hate itself.

In this chapter, I examine the way 'diversity work' and 'diversity logics' are mobilized and deployed as a form of hate crime response. I show how diversity is a defining framework for hate crime that officers claim provides a set of logics for understanding victims, offenders, and the role of police. Drawing on interview data with hate crime investigators and diversity officers, I show how diversity makes its way into hate crime response. Diversity becomes useful when hate crime is imagined as a problem of negative personal interactions. While diversity is embraced within hate crime response, diversity is also contested by police officers and police services.

DIVERSITY: AN INSTITUTIONAL FRAMEWORK

Diversity has been used to refer to a set of practices and policies designed to increase representation from minority communities and as a description of initiatives designed to make organizations more equitable within institutions (Rowe, 2012; Stout, 2010). In policing, diversity has also been used to describe police units and particular forms of police work. It is used as a descriptor of people, places, and practices outside of the mainstream (Kazarian et al., 2007; Rowe, 2002). Diversity strategies have been linked to community policing approaches that are designed to increase positive

interactions between police and community members through methods that foster accessible and collaborative communication. The role of the police under community policing is to assist local communities in solving their problems (Griffiths, Parent, & Whitelow, 2004). Increasingly, police services are adopting approaches that position them within a network of support services to meet the diverse needs of communities. These have included community based and non-profit organizations that assist with health, employment, and housing service.⁵⁸

Beyond policing, diversity, as Ahmed (2014) argues, has become a “language of institution” linked to systemic progress and institutional health, and a sign of organizational vitality. Diversity has become ubiquitous in policy and mission statements and to the public relations strategies of organizations (Ahmed, 2014; Mackey, 2002; Hage, 2000). Diversity has also become a means by which organizations attempt to (re)present themselves as inclusive and progressive (Ahmed, 2012). Critical race scholars who claim that diversity does little to produce greater equity or who challenge white privilege argue that the framework of diversity aims to manage potential conflicts rather than make lasting transformative change within organizations (Carby, 1999; Mohanty 2003; Puwar 2004; Alexander, 2005). Still, respect for diversity remains a

⁵⁸Furthering Our Communities, Uniting our Services (FOCUS) Rexdale is a recent example of a police/community initiative designed to provide more effective intervention for those in need or in crisis. FOCUS Rexdale, which was initiated in 2014, is described in a 2015 evaluation of the project as a “multi-sectoral community mobilization approach to identifying and mitigating risk.” The initiative brings together police with partnering organizations such as the City of Toronto, community-based organizations, and health, education and social services. The project is organized around four main goals: 1) identify individuals, families, places and groups at elevated risk of victimization or offending; 2) develop immediate, coordinated, and integrated responses to intervene to meet needs that draws on a range of capacities; 3) encourage and support systemic reform and improved social services; and 4) increase knowledge and awareness of social needs and solutions in the Rexdale area. See *Evaluation of the FOCUS Rexdale Pilot Project (2015)*
NThttps://www.usask.ca/cfbsjs/research/pdf/research_reports/EvaluationoftheFOCUSRexdalePilotProject.pdf

central discourse used by police to describe the aims and methods of their policing approaches.

The York Regional Police Service's (YRPS) hate crimes unit is located within the Service's Diversity Equity and Inclusion Bureau (DEIB). The DEIB's mandate is to build bridges and develop community partnerships that promote community safety and ensure that the Service "properly meets the needs of our global community which is enriched by the linguistic, religious and ethno-cultural diversity of community members" (YRPS, n.d.). Organizationally, the Bureau is composed of four sections: Diversity and Cultural Relations, the Hate Crime Unit, Diversity Equity and Inclusion Specialist, and the Service's Chaplaincy program.

The Diversity and Cultural Resources Branch engages in work that involves building relationships with the region's diverse communities through celebration, education, and outreach. This branch organizes annual police-community events such as the Service's Black History Month Celebrations, Asian Heritage Month events, International Day for the Elimination of Racial Discrimination, Houses of Worship Tours, and its Diversity Speaker Series⁵⁹ (York Regional Police, 2016).

The Hate Crime Unit forms the investigative arm of the Bureau and is responsible for overseeing and monitoring the investigation of hate crimes, which are investigated in the Service's five divisional offices spread throughout the region. The unit also hosts quarterly meetings to provide training and to facilitate information sharing between the Service's 21 member hate crime team. This unit also co-ordinates and conducts hate

⁵⁹ From December 2014 to September 2016, I attended three of YRPS's hate crime team meetings, a YRPS sponsored citizenship ceremony, a Black History Month Celebration organized by the Service, and a Houses of Worship Tour.

crime awareness campaigns such as the 2016 “Say No to Hate” advertising campaign on the York Regional Transit system (Grimaldi, 2016). YRP’s Chaplaincy program is also housed under the DEIB. There are eight chaplains who represent the area’s five largest faith communities. They not only meet the spiritual needs of the Service but also act as liaisons between YRPS and its region’s religious communities.

A Diversity Inclusion and Equity Specialist (DEIS), whose role is to promote diversity and eliminate barriers to inclusion within the Service, is also attached to the Bureau. The DEIS promotes diversity through program development, training, and the creation and implementation of self-assessment tools. Internal support networks include volunteer-organized and driven associations that provide YRPS personnel with the ability to network with individuals sharing similar goals.

Although each component of the DEIB holds a different mandate and is charged with different responsibilities, they often collaborate, formally and informally, to pool resources and exchange ideas. Each branch is one node in an integrated approach to maintaining and promoting diversity. Within this institutional set-up, hate crime response and public outreach are viewed as complementary approaches to defending and celebrating diversity. When I spoke to a senior officer in the DEIB, he described the Bureau’s approach to hate crime and diversity work as one anchored in human rights and the practice of two-way communication. Both institutionally and rhetorically, diversity and diversity work sets the stage for hate crime response. The officer described the DEIB approach to diversity and hate crime as follows:

When you look at what we call diversity, where we honour and celebrate and showcase, where we celebrate all of the wonderful attributes of human diversity, we call that diversity. We also say that when we look at hate crime, it’s a violation

of that [(human rights)].... So if you are targeted because of your core identity, because of who you are, something that you have no control over, this is who you are, this is your identity. When people target you criminally, that is a violation of human rights. So we see human rights as a common denominator on both sides. (Resp. 3)

The link between diversity and hate crime response is a not a unique outcome of YRPS's institutional model. Approaches to hate crime that respect diversity and the importance of serving communities are woven into police responses in many services. The *Ontario Police Services Act*, for example, states that policing must be conducted in a manner that is sensitive to the "pluralistic, multiracial and multicultural character of Ontario society" (Police Services Act, 1990). Since racial and cultural diversity is so central to the demographic make-up of all three police jurisdictions, and because it is a principle of policing in Ontario, protecting diversity is seen as key to fulfilling police mandates. According to one officer, responding to hate crime is a core focus of police because police are ultimately responsible for preserving the peace and maintaining a cohesive society. The officer told me that the aim of hate crime was to "disrupt the peace," to "cement dissent," and to "turn people against each other" (Resp. 12).

The diversity approach is also anchored in Canadian multiculturalism. Since multiculturalism is constructed as a national value, policing in a way that upholds diversity works to support the nation's larger commitments to multiculturalism. In Canada, multiculturalism has functioned as both a civic obligation and as a national attribute (Ahmed, 2000; Bannerji, 2000; Leung, 2006). Multiculturalism, and respect for racial and cultural diversity, have not only been incorporated into the language of institutions and the text of public policy, it has become as Ahmed (2000) states, "a way of imaging the nation itself, a way of living in the nation and a way of living with

difference” (p. 95). This narrative not only claims multiculturalism as a national value, but also frames it as the ultimate expression of Canadian citizenship. The passage of the *Canadian Multiculturalism Act 1988* meant that the terms of Canadian multiculturalism were more clearly defined. The Act states that, “multiculturalism is a fundamental characteristic of the Canadian heritage and identity and that it provides an invaluable resource in the shaping of Canada’s future” and, among other things, promotes “understanding and creativity that arise from the interaction between individuals and communities of different origins” (*Canadian Multiculturalism Act*, 1988).

The adoption of multiculturalism also allowed the nation to (re)present itself to a global audience as a ‘progressive,’ ‘cosmopolitan’ state that ‘successfully transitioned’ from a “white settler colony” to a “multi-racial and multi-ethnic society.” Canada was thereby able to promote itself as a stable and attractive place for foreign investment, global commerce, and international trade (Thobani, 2007; Abu Laban & Gabriel, 2002). Canadians were equally recast as sophisticated, tolerant, and friendly global citizens who are welcoming of diverse people, customs, and traditions (Mackey, 2002). Although multiculturalism was advanced as a method of recognizing and displaying Canadian diversity, its origins paradoxically lay in the effort to manage threats posed by diversity to national stability – particularly in addressing tensions between French and English Canada (Hague, 2012). As a solution to the problem of these differences, and as a strategy for managing diversity, Canadian multiculturalism made diversity a universal trait around which Canadians of all backgrounds could rally (Thobani, 2007; Day, 1998; Kermerman, 2005).

Multiculturalism has also helped to establish Canadian identity as distinct from that of the United States (Mackey, 2002). The treatment of racially and culturally diverse people, in particular, has come to be a significant dividing line between Canadian and American cultures. Canada's place as the historical terminus of the Underground Railroad and its reputation as a global leader in international humanitarian and peace-keeping efforts have lent credence to the belief that acts of racial hatred don't happen here. One officer commented on a portion of a training video he was shown at his Service's hate crime meeting.

Now some of the meetings that we go to you see clips of movements and news clippings of stuff that has happened in the Southern States where people say they won't do it, and then they go out and do it. And I say, "Wow. That is so far from our culture." (Resp. 21)

In some other interviews with officers, Canadian values helped explain the success and stability of the Canadian state. The Canadian model allows newcomers to integrate and has thus avoided some of the problems currently facing other nation states. "Maybe the problems in France and in Germany maybe are there because when those communities [immigrant communities] started to come in they were marginalized," a YRPS detective explained.

I think Canada does the best that they can to not marginalize groups of people when they start coming here. It's not perfect. I'm not claiming that this is a utopia. But I think, organizationally, our pre-existing entities within North American society, to say Canadian society, are established and constantly changing. And being educated and realizing that if we don't have these inroads we're all in a lot of danger, (Resp.16)

In this officer's account, the success of multiculturalism secures the safety of Canadian society. While the primary role of the police is law enforcement, effective

acknowledgement must go beyond simply responding to crimes. “This is Canada,” another officer in the same Service stated when discussing the way diversity and hate crime operate. Although hate incidents may not always be criminal in nature, I was told that, “respecting each other is what we’re trying to teach today” and, therefore, police response must work to make mutual respect a reality (Resp. 18).

There is also an important spatial component to this narrative. In conceptualizing Canadian society through a narrative of inclusion, hate and the problems of social integration are relocated, culturally and geo-politically, outside of Canada. Hate is not a ‘home-grown’ problem but rather a problem that migrates to Canada from foreign countries. Officers noted that hate crimes often spike in relation to global tensions. International conflicts can ignite conflict within and between diasporic communities living in Canada. Inter- and intra-religious conflicts, ethnically driven civil strife, and political turmoil travel to Canada because of the nation’s promotion of diversity. Multiculturalism, therefore, involves not only educating people on how to live in harmony with each other, how to explore, cherish, and value difference, but also how to forget conflicts that may have occurred elsewhere. Since police interact with members of the public on a regular basis, they are able to perform and manage this function better than other service providers. Police, in the words of one officer, are uniquely positioned to communicate to communities that “certain differences perhaps should be left behind from the native countries.” Police are able “to promote the Canadian laws and to promote Canadian values” while making it clear that “certain things are not acceptable, certain things will be investigated by the police and prosecuted” (Resp. 31).

Thus, police response to hate crime reflects normative ideas around the nature and values of Canadian society. These notions serve as the basis for understanding hate itself. Police regard hate as something largely out of step with Canadian society and Canadian values. Tolerance and acceptance of diversity are consequently treated as natural and normal parts of Canadian life. Diversity makes its way into hate crime response through the formal police commitment to respect diversity and is bolstered by national narratives that uphold diversity as the source of national stability. In the next section, I examine how officers mobilized diversity as a form of hate crime prevention.

DIVERSITY AS POLICE WORK AND DIVERSITY AS HATE CRIME PREVENTION

Tethering diversity to hate crime response through concerns about protecting human rights, building community trust, and maintaining public safety works to make diversity a type of law enforcement practice. Employing practices that respect diversity functions as a method of effective policing, allowing police the ability to meet the needs of communities and fulfill their mandates of bringing police and communities together.

When I spoke to diversity officers, they told me that their work involved meeting people. These officers conducted a range of activities. They regularly attended Welcome Centres that connect newcomers to community services, delivered information and public awareness presentations, attended community celebrations, and conducted houses of worship tours, all of which are designed to promote understanding of the diverse religious traditions of the region to YRPS officers. Despite the wide range of activities diversity officers perform, diversity work is above all else about sensitivity and understanding, and avoiding missteps that could jeopardize a positive future

relationship. One officer described the importance of positive interactions with the public and conflicts that can arise. “The biggest thing is minding your P’s and Q’s,” the officer noted.

Just because, for one, you don’t want to offend anybody and initially that was my biggest fear. There are so many different religions, so many different people with so many cultural backgrounds and you are always on that fine line of making sure that you’re not offending anyone by saying something because, you know what I mean, it’s a relationship you are trying to build. (Resp. 23)

In the above officer’s narrative, diversity work requires positive interactions because it also involves connecting with communities and forging new relationships. These connections provide opportunities to encounter communities for the first time, or to push positive relationships forward.

Supporting community events with police presence is a tangible sign of police commitment to community engagement. A senior officer in the DEIB stressed that for police to form lasting connections with communities, they need to use “every opportunity” to get to know and understand community concerns.

You will never obviously understand all of the intricacies but it is important to know who the communities are, who are the ones that are impacted, what’s the source of them being impacted negatively by hate crime, what are some of the threats to the community, what are some of the challenges they face, how can we use our services or even enhance our services to work specifically with groups of people, (Resp. 3)

Being sensitive to the traditions of diverse groups and attempting to understand where people are coming from occurs through exposure and interaction. By knowing your community and by initiating contact with communities, police are better able to serve them. The same senior officer remarked about the reputation of the diversity unit within the Service. He told me that some officers described the Bureau’s work as the “the

samosa and sari syndrome” (Resp. 3). Despite the negative view some officers hold of the work the Diversity Unit does, he insisted that these meetings were important for cementing policy/community ties.

But sometimes you need to do those things in order to get to some of the deeper issues. You need to make small talk, you need to attend events, and just as communities support us in the work that we do, so too do we need to reciprocate that support. (Resp. 3)

For officers, engaging diverse communities in sensitive ways becomes a method of community engagement. Police can address longstanding concerns about their interaction with diverse communities as they get to know the communities they serve. Knowledge and interaction make service delivery relevant to communities at the same time that they improve police relations with those communities.

Diversity and hate crime response are also connected through community building initiatives. Hate crime is often framed as a form of criminal behaviour that, while directed at one particular victim, victimizes entire communities. Diversity operates as a forward-looking approach in that it aims to open up lines of communication that can be useful in addressing potential future community issues. Community service in the present makes possible police success in the future. One officer told me that diversity work and police community partnership play a large role in YRPS’s vision of policing.

We serve the community and we need to be a part of the community and we need to engage the community in all areas. That way, when something happens the community feels comfortable and trusts the police in helping them out and investigating crimes. (Resp. 19)

The role of law enforcement in building and protecting diverse communities involves establishing connections and forming positive relations that bring communities and police together. This involves a community-focused mind-set in which the police

meet with community members on their 'turf' as a way of aligning policing with community needs. Through diversity work, which is built on communication, sensitivity, empathy, and understanding, new possibilities are opened up. Policing and the role of the police officer are re-imagined and centred on community empowerment and community service. Another officer told me that the awareness developed from police engagement with diverse communities was important to reform police mindsets, which results in more effective police service.

The police are the community and the community are the police, and the Police [Services] Act says you have to represent the community that you serve and it's mandated. So we are duty bound to do that. So I think that may have morphed into the priority of, well, because we're so diverse and people come with their own biases to this country that we have to break those biases down to say we listen to everyone. You get treated, whether you are male or female, you get treated all the same way with respect and dignity. And we go from there.
(Resp.16)

Based on this officer's narrative, the diversity frame also works as a form of awareness raising, a method of instructing officers about their community and a reminder of the stakes involved in twenty-first century policing. Indifference to community voices can be dangerous for the reputation of police services, but refusing to listen to communities is a lost opportunity for police because those communities can be valuable sources of information and intelligence. Diversity becomes institutionally valuable in the context of solving crime and crime prevention. Diversity prevents potential conflict within society by encouraging mutual understanding and sensitivity to individual and collective traditions. By participating in community events, officers are able to see past differences. While traditions, values, and beliefs may look quite different, diversity reminds us, according to

officers, that we are all the same and that we are all committed to the goal of living peacefully with one another.

Recently, YRPS informally rebranded its diversity officers as 'hate crime prevention officers' to reflect the link between hate crime and diversity. A high-ranking officer in the unit told me that the relationship between diversity and hate crime could be imagined as two sides of a coin. "On one side of the coin are all of the positive attributes that diversity brings," he stated, "and on the flip side of the coin, when you have human rights violated, you have the rapid response of the hate crime unit" (Resp. 3). Diversity and hate crime response are thus seen as complementary practices because each is vital to maintaining social cohesion and respect for the law. Diversity, however, is not solely a mechanism of community building or a method of responding to hate crime. I was told that diversity could also be mobilized as a form of hate crime prevention. Mobilizing diversity as a form of hate crime prevention, however, only occurs when hate crime is imagined as something that diversity can fix. This involves seeing hate in ways that are complementary to diversity work, namely, seeing the problem of hate crime as a problem of individual attitudes, dispositions, and sensibilities, or as a lack of healthy exposure to diverse individuals and communities.

In this formulation, social harmony is a natural product of healthy interactions. It requires an understanding of the hardships and challenges faced by diverse people. One senior officer who had immigrated to Canada recounted her thoughts on why people commit hate crimes. She stated that many people in Canada have never experienced living in a country as a foreigner, and so have never developed a sense of empathy for others in different situations; they "fail to understand how other people feel

when you make a comment” (Resp. 18). In these terms, in the same way that police interactions with communities are ‘reformed’ through increased officer sensitivity, so too can individuals if they simply put themselves in someone else’s shoes. Here, diversity becomes a response to ignorance and intolerance when mobilized as a form of education. Neighbour disputes, acrimonious work relations, road rage, graffiti, vandalism – all crimes that police officers see to varying degrees on a regular basis – can be addressed through increased diversity. Diversity functions as hate crime response and prevention because it is seen as a framework for promoting mutual understanding. In the context of police response, officers who are able to put themselves in the “shoes of victims” understand their concerns and sympathize with them, and are able to more effectively serve victims and solve crimes.

Diversity frameworks are self-referential in the narratives of officers who claim that diversity is important to hate crime response. It serves as a reminder of the outcome if diversity fails. When diversity fails, hate grows. And hate is what lies at the root of intra- and inter-community conflict. Diversity not only provides a set of logics for understanding hate crime, and a method of preventing hate, it furnishes police with a vocabulary through which to talk about the problem of hate, often anchored in discourse of Canadian multiculturalism.

DIVERSITY CONTESTED

Police as Victims of Community

At the same time that diversity is employed as a method of hate crime prevention, it can also become the ‘source of the problem.’ In my interviews officers

alluded to the fact that ‘too much diversity’ could lead to friction and community conflict, the result of which can be hate crime. In some officer narratives, concerns about multiculturalism and Canadian tolerance leading to hate crime featured more prominently than the actions of organized hate groups.

Concerns about the effects of multiculturalism on Canadian society were explained by reference to the racial, cultural, and ethnic landscapes of the Greater Toronto Area. Ethnically homogenous areas, referred to by some as “ethnic enclaves,” have emerged throughout the GTA as a result of immigration patterns, proximity to social and cultural supports, affordability of homes, job opportunities, and the forced relocation of communities due city planning efforts. Many of these areas, such as Toronto’s Chinatown, Greektown, and Little Italy, have been rebranded as distinct cultural centres in an effort to promote commerce, boost business, and enhance the city’s tourist economy. In the Greater Toronto Area, large Jewish, Chinese, Italian, and Eastern European communities reside in distinct areas across the region. Their presence is quite visible, with multi-lingual storefront signs and cultural and religious centres dotting the landscape. One officer spoke about the character of these communities and the problematic outcome of living in insular communities.

They live in a very condensed area. Once you get north of 16th Ave. there is not a lot of Chinese community north of that, if any. So it’s a very tight group. There’s the Italian communities in Vaughn. There’s a Jewish community in Thornhill, and again, very tight personally and geographically. They all live in these areas, the Russian community as well. (Resp. 10)

The problem, according to this officer, is that these communities refuse to interact and have developed insular mindsets, thereby failing to develop the necessary

skills required to integrate into Canadian life. She told me that people did not leave their communities and that caused problems with integration.

There are people who have been here 30 years and they can't speak English and they don't know what is outside of their own borders.... So that's one of the downsides I see to multiculturalism. Many Chinese will only deal with other Chinese and that's when they buy their cars or when they get their groceries or when they do anything, it's only with other Chinese. Italians, it's very much the same thing. Russians, Russian grocery stores. Jews, Jewish grocery stores. And so on and so on. (Resp.10)

The assumption here is that with more integration on the part of diverse people and newly arrived immigrants, hate crime can be reduced. Integration is a remedy because hate results from a lack of positive exposure to others. The absence of positive interaction only increases the likelihood of hate crime. Shopping at mainstream stores, attending diverse schools, and interacting on a daily basis in healthy ways with a range of communities are means for avoiding social friction.

Interestingly, patterns of white settlement did not receive the same level of scrutiny or critique in the officer's account, despite the fact that he grew up in what she described as an overwhelmingly white community north of the GTA, where racism and anti-Semitism were common. According to this officer, the lack of diversity in some areas was attributable to the refusal of diverse people to 'spread diversity out.' White spaces wouldn't be white spaces if non-white people left their ethnic enclaves and integrated into 'Canadian society.' She explained to me that she lived in a very white community that had no "Black people" and "one Asian guy" who operated a local convenience store.

In [location omitted], I think, excluding the policeman that just moved up there, I think we have three or four families and [location omitted] is a very large place.

So I just think that's the downside to the multicultural way that we have things set up where everyone lives in these little boxes and no one knows what the other side is doing and we have outsiders looking in and insider's looking out. And you see it in Brampton, these old South Asian guys at the park and there is no interaction, there's never any interaction it seems and that's too bad. (Resp. 10)

Concerns about increases in hate crime due to the failure of some communities to 'integrate' into Canadian life distort the empirical reality of hate crime offences. The reality is that many of the very communities whose social isolation exacerbates community conflict are the ones most victimized by hate crime (See Chapter 3). Concern about the activities of white supremacist groups, which originally gave rise to anti-hate laws, disappears as concerns about diverse communities surface.⁶⁰ In this narrative, the terror of racial violence experienced by racialized communities is seemingly forgotten, and replaced by a conception of hate crime as inter-ethnic conflict.

In the officer narratives, the problem of hate is reconfigured as a problem of cultural difference and of failed social integration. Police narratives are similar to discourses in wider circulation that use cultural difference as a prism through which to view current social issues. Discourses of cultural difference have reconfigured contemporary discussions about security in the post-911 world (Razack, 2008), the rights of non-Western women (Jiwani, 2011), and crime and justice in Canada (Tator & Henry, 2006; Chan & Chunn, 2014). As Sherene Razack (2008) shows in her analysis of legal and political responses to Muslims during the 'war on terror,' notions of cultural

⁶⁰ In the mid-1990s when hate crime emerged as a greater concern of law enforcement, police attention was focused on protecting minority communities from white supremacist and ultra nationalist groups such as the Heritage Front, Ku Klux Klan, the Aryan Resistance Movement, and the Western Guard. Policy was intended to increase levels of acceptance of visible minority communities and advance Canadian multiculturalism (Rosen, 1994; Pitman, Russell, & Burbach, 1993).

incompatibility with Western values constructed Muslims as “uncivilized” and “barbaric,” which made permissible, justifiable, and excusable forms of surveillance and containment. As Alana Lentin (2014) illustrates in contemporary debates about the “failure of multiculturalism” in Europe, criticisms of multiculturalism are increasingly couched in cultural terms (p.1268). She notes that, in the European sphere, multiculturalism has been treated as the cause of a “whole swathe of socio-political problems affecting European countries” (p. 1273). “From crime, to terrorism, to urban segregation,” broader social issues are interpreted as the result of “excessive tolerance and benevolence towards disloyal, unassimilable, culturally different others” (p. 1273). Here, the threat to social stability is imagined as a threat from, as Lentin states, “the unintegrated subjects of multicultural tolerance” (p. 1273).

Hate crime also becomes a site of tension when officers feel that accommodating minorities has gone too far and that majority communities are left out of the protections that hate crime laws provide. One officer recounted a conversation with a member of the public regarding the ‘selective’ prosecution of hate crime. She told me that she struggled to respond to claims that hate crime provisions offered greater protections to minority communities than to white people.

We will often hear things like, “Why don’t you investigate it when a Black guy says this to me? How come it’s not a hate crime? Well, I read the paper that five Black guys beat up a white guy.” And often I don’t have an answer for that.
(Resp. 10)

The same officer states in a later portion of our interview that concerns about the optics of police response affect individual officer decision making. The officer told me that

police officers are hesitant to declare certain acts as hate crimes for fear of being called racist.

Frankly, a lot of policemen would be afraid to say that they think that something was hate motivated by a specified group against a majority [group] because of fear of being called racist themselves, do you know what I mean? So I think we afford some communities who commit acts of hatred against other communities [protection] but for the sake of political correctness [...] never call it out. (Resp. 8)

In this account, we are reminded that that 'white people are victims as well,' and that white people can become victims when diversity goes too far. In this narrative, the protection of minorities is pitted against equality rights of white people in ways that position white majorities as the silent casualties of state commitments to diversity. However, police also become victims of diversity when diversity goes too far.

Criticisms of police action have intensified in the last number of years. The ongoing protest action and media attention around police shootings of unarmed Black men have placed police interactions with the public, and with racial and ethnic communities in particular, in the spotlight. The Black Lives Matter protest movement in the United States and in Canada has pressured law enforcement and government for structural change. Many within the law enforcement community have treated these demands as personal attacks against the police. In the words of one officer, the current political climate around policing has police "walking on eggshells" because officers are not being supported by the very communities they have dedicated their lives to protect (Resp. 10). Officers claim they are being unjustifiably accused of racism. Unfair media attention and unfair criticism from activists have made this problem worse, according to one YRPS officer. "The media has portrayed it [as] these big bad white officers have

done this because he's Black or because he's Native" (Resp. 10). Instead, I was told that genuine efforts to safeguard officer safety are being misconstrued and overblown.

You're facing a knife or a gun or a hammer, those are bad days. No one starts their shift, no one sleeps all night and starts off their shift at five [AM] and says, "Okay, who can I shoot today?" They just want to do their job and clock out and go home. (Resp. 10)

The officer went on to state that for the majority of officers, their actions are guided by genuine desires to serve the public.

No matter what the news shows us of police officers, 99 percent of us go to work in the morning and don't want to shoot anybody and want to get the kitten out of the tree and want to put the rapist away. And we really don't base what we're doing on the person's colour, or on their religion, or on their sex work, or their sexual orientation. (Resp. 10)

Here, the officer evaluates and defends police action based on officer intentions, the importance of taking necessary precautions, and the inherent dangers of police work.

The officer depicts deadly police encounters with diverse communities as a natural outcome of crime patterns and of criminal behaviour. While negative police encounters are unfortunate, they are, at times, unavoidable. Police, therefore, are not responsible for the outcomes of those encounters. This narrative makes possible a re-telling of the story of police encounters that has been the focus of much media attention. Concerns about targeted policing, racial profiling, and racial discrimination are dismissed and, instead, police action is viewed simply as a reflection of "where the crime is happening" (Resp. 8). "We don't choose who is living in that community, we do not choose who calls us for help," an officer told me as he reflected on the turmoil engulfing many American police forces. "The calls for service," he went on, "are right in the areas of the same community who are protesting us" (Resp. 8). Here, protest action designed to

raise awareness about police interactions with members of the public and to demand greater accountability are recast as obstructions to legitimate police work. Since police are assumed to have 'good' intentions and are committed to doing their job equitably and fairly their presence, no matter the number of negative encounters, is a positive one.

According to this narrative, obstruction to police work by communities or by activist groups is counter-productive for communities themselves because it only works to make communities that already struggle with issues of crime more unsafe. The same officer recalled a statement made by a fellow officer who commented about the death toll from violent crime in major American cities.

Somebody brought up a really good point to me and if I sat for 1000 years I never would have thought of this. Proof that Black lives matter are when the police targeted specific criminal organizations and the murder rate in the violent crime rate dropped. Because when the police were engaged, when the police were targeting criminals, the Black lives were saved because the murder rate was so low. (Resp. 8)

In the above statement, the crime fighting actions of police that targeted "criminal organizations" and lowered crime rates are cited to reframe debates about police action. According to this officer, a more appropriate way of understanding police action is through reductions in overall crime rates, which, we are led to believe, is a result of police crime fighting efforts. Even if police action has resulted in the deaths of Black people, this narrative suggests the overall effect of police presence in Black communities is a positive one. However, these statements are paradoxical when police action is viewed in context; police save Black lives through many of the same actions that also end Black lives.

I was told that because of protest action the confidence of police officers has been shaken and that officers are withdrawing from high crime areas. “Now that everyone is backing away,” an officer stressed, “the murder rate is starting to soar typically in a lot of minority communities and we are being accused of Black lives not mattering and that is very difficult for a police officer to take” (Resp. 8). The ‘unjustified’ concerns about police action by communities have not resulted in greater safety but have actually given rise to higher crime rates, according to this officer. In effect, communities have become casualties of their own action. Officers suggested that (some) communities must understand that they are faced with two choices: they can understand the realities of police work and embrace police presence in their communities, or they can be left to the criminal elements that compromise community safety. Either way, positive police-community relations and the power to build bridges between residents and law enforcement are the responsibility of the community – in essence, the police will be there if the community so desires.

Community ‘resistance’ is not only articulated by officers as frustration, it is also discussed as a safety threat. On July 7th 2016, five Dallas police officers were shot and killed by Micah Xavier Johnson, an Afghan War veteran who was reportedly angry over police shootings of unarmed Black men (Karimi, Shoichet, & Ellis, 2016). The shooting took place after a peaceful protest demonstrating against the killings of Alton Sterling in Baton Rouge, Louisiana, and Philando Castile in Falcon Heights, Minnesota, which was live-streamed to Facebook. Some within the law enforcement community blamed the death of the Dallas officers on what they saw as the incendiary and divisive rhetoric of the Black Lives Matter movement (Weigel, 2016). The same officer spoke about his

frustration with the killing of the Dallas officers and told me that events like this only further destabilize police-community relations.

It's maddening for us, as I said, because you watch five police officers get gunned down in Dallas. And what boggles the mind is how the world doesn't see that that would do nothing but again ostracize the police from communities they are trying to protect. And if they weren't starting to get preconceived notions previously, they are now. (Resp. 8)

This officer views communities as agents who choose to alienate themselves from police and, as a result, officers are developing their own biases toward the community. While the violence of law enforcement is viewed as atypical, community 'resistance' is having profound effects – effects that communities alone are believed to be responsible for. Due to the tense relationship between police and Black communities in the United States, the officer told me that violent encounters were likely to increase.

So now I'm not going to be surprised and see those types of shootings increase because the same things that they are protesting they are perpetuating by killing police officers. (Resp. 8)

Resistance to diversity on the part of police becomes a 'natural product' of community decisions to 'alienate' the police in this account. While police work hard to perform their duties professionally, this account stresses that police are now victims of their own well-meaning efforts to maintain public safety.

Police victimization becomes a prism through which some officers interpret their own personal experiences and interactions with the public. These officers come to see and interpret their own conflicts with communities in relation to the plight of officers south of the border. Officer frustration and anger are not solely related to protecting policing institutions or defending officers. When predominantly white officers speak out against the unfair treatment stemming from protest action, which is emerging from

predominantly Black communities and directed mainly against white officers, criticisms operate as a defence of whiteness in and of itself. In the narrative of the above officer, violence that occurs during some police encounters is rare, isolated, and exceptional, in much the same way that the violence of *white* police officers is imagined as rare and atypical. Implicit in the protest action of the Black Lives Matter Movement is a critique of white supremacy and the way that white advantage, along with Black marginalization, produces and sustains the deaths of Black bodies at the hands of police. While officers criticized protest action as ‘overblown’ and ‘unnecessary,’ concerns about systemic racism in the United States (which originally gave rise to the protest action) remained unexamined and unacknowledged in some officer narratives. This is not simply a defence of police action, but an indirect defence of *white male police officers*, who have been most often implicated in these actions.

Writing about the emergence of ‘post-racial’ discourses in the European context, Lentin (2014) argues that race-neutral discourses that attempt to universalize the experience of racial oppression function as “racism under a different guise” (p. 1404). “Anti-white” sentiments reconfigured as “anti-police” sentiments effectively neutralize claims that police power is wielded disproportionately against some bodies over others. This enforces the notion that racism can now be reversed. We are asked to view (problematic) police interactions as disconnected individual moments. Through these narratives, we are led to believe that (white) police officers are not the problem. Instead, legitimate concerns about public safety and the safety of those who maintain it (police officers) are the only issues that should remain in view.

The Black Lives Matter protest movement and officer concerns about ‘negative’ media attention on police in the United States serve as a tangible reminder for some officers of the very real danger of diversity when diversity is perceived to have gone too far. In offering up these accounts, officers’ defense of the actions of largely white police officers in the United States function not only as a defence of policing institutions but indirectly as a defence of whiteness. Here, the historical and contemporary deployment of police power as violence and as an oppressive mechanism of racial control in the U.S. and Canada is reconfigured as modern phenomena produced (in the view of some officers) by overblown concerns of institutional racism.

Diversity Contested from Within

Diversity can also be undermined by the decisions of senior management within the organization. When I spoke with officers in YRPS’s DEIB they told me about a recent change in the location of the Bureau. In 2015, YRPS’s DEIB was relocated to a wing of a building in the south end of the region. The service obtained the space from the municipality that continues to use the other sections of the building for its own operations. According to some officers, the decision to move police service operations into surplus space was made, at least in part, to show that the Service was committed to making good use of municipal resources.

Prior to the move, the DEIB was located at YRPS’s new police headquarters right next to the Executive Services Branch, which houses the office of the Chief of Police. When the Bureau was located at headquarters, it had easy access to other key police units, such as Corporate Communications, and to crime analysts who provide vital

intelligence. Some diversity officers felt that being located at police headquarters gave the DEIB credibility, visibility, and greater influence over matters within the organization. According to officers within the DEIB, senior officers were exposed to the unit in formal and informal ways, and its location next to the Chief's office showed community leaders that the unit was legitimate and that their concerns would be taken seriously. One officer experienced with YRPS's DEIB recalled an event organized for leaders of the region's Muslim community who were impressed with the Bureau's proximity to the Chief. "When we had them at headquarters we gave them a tour," the officer notes, "they were blown away."

When they all thought we worked there they thought, "Hmm, this is not just some quasi come to dinner [thing]. These guys are actually here to do work for us" ... I remember a few of those people saying, "You guys work here? Wow." They were just blown away by that. (Resp.5)

When the community event took place, guests were not aware that the DEIB had already moved to another location and were in fact no longer located at headquarters. "We lied [to the leaders they had invited] at the time. I'm sure that if we had brought them here we would have looked not as legitimate, right," said the officer, reflecting back on the in community event (Resp. 5).

I was told that the DEIB wasn't the first police unit to be relocated to the new location. The recruiting unit had initially been placed there but was moved back to headquarters after they complained about the facility. They stated that the location was horrible and that the building had communication problems, and after two weeks were returned to headquarters. Despite the vocal objections of some officers within the diversity unit, the unit remains in its new location.

This move has many implications for the DEIB and for diversity work. Diversity work and diversity units have long lacked credibility as being legitimate. Their police work, in the view of many officers, is somehow lesser than because it does not involve the traditional police role of crime fighting or law enforcement. In the words of one officer, new recruits sign-up to do “police work,” and not “diversity work” (Resp. 18). Because diversity work is not viewed as essential to law enforcement in the same way that homicide investigation is, diversity relies on senior leadership and the organization to make it legitimate. Part of the DEIB’s effort in gaining legitimacy involved its original move to headquarters and an effort to informally rebrand its diversity officers as hate crime prevention officers. The same officer commented on how he believes the relocation has affected the way the Bureau is viewed within the Service.

I think internally we lost a lot of credibility. In the police culture, if you’re important you are at headquarters, or you’re at a district level investigative unit. But it’s almost, it is a joke being investigative and being in a non-police facility. It is a joke. I think internally we lost all credibility. (Resp. 5)

The relocation of the diversity unit provides an interesting window through which to consider the place of diversity itself within YRPS. Diversity owns space when diversity is perceived to be institutionally valuable. This is not to say that diversity and diversity work is wholly dismissed by the organization; rather, diversity’s place within the organization (in multiple senses of the word) is precarious. Of the nine sworn officers and one civilian who work in the DEIB, all but one identifies as non-white. In this sense, the DEIB is unique in that 90% of those who work within the Bureau are non-white within an organization in which only 17% of its members identify as people of colour (Marcoux et al., 2016). This fact was not lost of members of the DEIB when the unit was

relocated. With the DEIB's departure from the police headquarters, the floor that they shared with other units was left populated almost entirely by white officers. Diversity had literally moved out with the diversity unit in order to make 'responsible use of the municipality's resources.'

I was told by one officer that the Service's commitment to diversity may not be as strong as its public image suggests. The outward practices of the diversity unit may be viewed as quite progressive, while the internal supports that help facilitate diversity practices are not as robust. The same officer who spoke about the perception of the Bureau within the Service also commented on the disjuncture between the public perception of the Bureau and internal supports. "I think our perception to the community and the public is very good but internally we don't act by it" (Resp. 5). This position was confirmed by another of the DEIB's personnel who noted that many other officers within the Service still hold a "traditional attitude," when speaking of her experiences in attempting to collaborate with other police units on diversity-related projects.

It's a very patriarchal institution. That is very sad.... I don't know how many years or how long it will take for that to change but right now at the front line, the ground level, there is diversity there. But if you then start to go up in ranks there is definitely not so much. Why is that? There could be a number of factors but no one wants to admit to it. (Resp. 4)

While the Service prides itself on a diversity-led approach to policing, the initiatives of its diversity unit, and its engagement with diverse communities, internally diversity faces obstacles. For those who conduct the Service's diversity work, the institutional barriers they face are quite apparent.

The challenges not only affect the perception of the unit, but perhaps its long-term viability, since attracting officers to join the diversity unit can be difficult. Diversity can attract strong candidates if candidates believe they can enhance their own professional credentials. The same officer spoke about how the relocation of the Bureau might affect recruiting within the unit. "I think they are going to have a hell of the time filling my position," he told me, "because not everybody wants to work at a location where you don't have access to other police officers" (Resp. 5). In a previous round of hiring in 2010, the officer told me that the Hate Crime Unit struggled to find interested candidates for a vacancy left by the departure of one of the Service's centralized hate crime investigators. The unit received one application. At that time, the unit was located in the back of a collision-reporting centre attached to a mall and not in an official police building. "When it was at headquarters, eight people put in [applications]," the officer recalled. "Now that it's here I would be very curious to see if anyone would even come here and given the stigma around diversity, that's another thing" (Resp. 5).

The officer confessed that the unit's proximity to the Executive Command Team, in addition to her previous community experience, gave her confidence that the move to DEIB would be an advantageous one. Had the unit remained in its previous location at the collision-reporting centre, he would have reconsidered his decision to move.

It was only when I found out that, wow, finally those guys went to headquarters and I did a secondment in hate crime and it blew me away because you had the top ranking ECT [Executive Command Team] and other superintendents and inspectors approaching me and [name omitted] with concerns and with reports for advice. And I thought, wow, which units do you get that? There [are] so many different people of different ranks seeking your advice. It just looked good, it looked really good. You are really the Chief's right hand because that's the way, that's how it is on the chart, right. And when I put in [applied] 8 people put in for this position. And I have gone back and asked those candidates if they knew they

were going to be working out of this location if they would've put in. All of them said "no." (Resp. 5)

In the officer's account, decisions to apply to, or accept, new positions are made in part by the professional opportunities that a new position would provide. According to the officer, her career opportunities have been hampered by the changes made to the Bureau. The officer's own career prospects have, in his words, been "killed" by the unit's relocation because there is no internal interaction with anyone other than her own unit. "You don't even have access to the public," the officer told me, "and you can't even get them on your side because they can't even see you." Speaking of where he will go next, the officer stated,

Right now, I don't have any exposure to any other unit where I can even think of even putting in next because I don't see them. When people don't know you, when you're out of sight, you are forgotten. So I don't know what I'm going to do next. I don't know.... If I could go back I wouldn't have put in, that's how upset I am. (Resp. 5)

Failure to attract or retain quality candidates may have an especially detrimental effect on the DEIB because some of its most senior officers are nearing retirement and the unit will have to consider succession planning.

When I set out to interview members of the Diversity Unit, officers directed me to particular individuals and told me that I could not learn about diversity without speaking to them. These senior officers, I was told, had built the unit from the ground up. When I asked him when he first started working in diversity, he stood up, walked to a cabinet located at the side of the room, and took out a small notebook. "Even though I've been working in the unit now for the past [number omitted] years," the officer told me, "in actual fact my work in diversity started back in June of 1999 when I did my first

presentation to newcomers” (Resp. 34). On the top of the notebook entry was written the date June 7, 1999. The presentation was to a class of Chinese newcomers conducted in partnership with the Catholic Community Services of York Region about policing in Canada. Since then, the officer has developed numerous community contacts and has become a pillar in the unit.

During my interview, this officer showed me the 2,443 community contacts he has stored in his mobile phone. He described these contacts not as the Service’s but as his own personal community contacts. He had personally developed these connections and explained, they were not be easily transferable to other officers. In conversations with diversity officers of the DEIB, I asked what would happen when the senior officers retired. Many had no answer because the diversity unit had been built by the labour of individual officers, not the Service as a whole.

If the accounts of officers I spoke with in the DEIB are accurate, diversity work within the Service is delivered by individual officers rather than by the Service as a whole. This demonstrates how the presence of a diversity unit can present the impression that diversity is embraced by the entire organization. The performance of diversity work by diversity officers may allow others within the Service to avoid responsibility for fostering and cultivating diversity or for safeguarding the very health of the diversity unit. In so doing, organizational commitments to diversity are achieved through the individual labour of specific officers. As Ahmed (2012) notes of diversity and equity units in institutions of higher education in the UK and Australia, “having an equity unit can allow the refusal of a more collective sense of responsibility.” “If the unit does diversity,” she suggests, “then it might follow that others within the organization do not

have to do it” (p. 136). Leaving the work of diversity to particular officers who, because of personal commitments to doing diversity work, are able to make successful contacts in the name of the Service contributes to the illusion that the organization embraces diversity.

Being located in a building that is not designed for police work also affects hate crime officers’ ability to conduct their investigations. As an investigative unit, hate crime officers require resources and easy access to the expertise of other units. Since the building does not have a “property room,” for example, investigators cannot secure evidence as they would if they were located at a district station. As one officer stated, “If we were at headquarters everything can be locked at headquarters, all of the evidence” (Resp. 5).

Despite the fact that contact with the public is built into the design of the hate crimes unit, members of the public cannot attend this location because there is no screening mechanisms at the building, since it is not an official police building. Meetings with the public or official interviews of suspects, victims, or witnesses also cannot take place at their current location. Some officers would have to conduct interviews at a district station equipped with the proper facilities. These concerns were reflected in an officer account of the impact the relocation would have on the unit’s relationship with the public: “Unfortunately, our force has really sent out the wrong message by sending their outreach or hate crime investigative team to a location where they can’t even have the public access” (Resp. 5). The officer’s concerns were not limited to the public outreach component of the DEIB’s mandate, but also their ability to conduct hate crime investigations. As she noted, “We don’t have a safe spot for our files. We can’t leave out

any sensitive materials related to any investigation or a call” (Resp.5). Despite the fact that the hate crime officers conduct investigations, the resources required to do proper investigations are not available like they were when the unit was housed at headquarters.

The relocation of YRPS’s DEIB to a site that is not accessible to the public and that hampers the ability of investigators to investigate hate crimes ultimately functions in counterproductive ways. As the service attempts to promote diversity, inclusion, and equity, and combat hate, some of the decisions made by senior leadership about the DEIB detract from those goals. The relocation of the DEIB also highlights the precarious and tenuous ways in which diversity is integrated into organizations and into organizational practices. Diversity work is not limited to the outward practices of diversity officers or the internal practice of transforming organizational processes; it also involves countering and *encountering* resistance. Officers of the DEIB resisted the relocation of their unit. They explained to me that superiors informed them that the move was final and that their personal views would not change the decision. Their resistance, they told me, caused friction with senior management and led to internal conflicts within the unit.

In moments where diversity practitioners stand up for diversity they can easily be perceived as the “problem the organization faces” (Ahmed, 2012). In raising concerns about how the organization prioritizes diversity, officers expose not only institutional failures but also reveal what the organizations value most when organizational priorities conflict.

CONCLUSION

In this chapter, I examined how hate crime response involves invoking, embracing, contesting, and rejecting racial and cultural diversity. Diversity is a core framework for hate crime response. Respect for racial and cultural diversity becomes a method through which police convey the importance of combating hate crime and the dangers hate crime poses to Canadian society. By collaborating with community members, connecting with communities, and building new relationships that allow for two-way communication, police claim to better support those most vulnerable to hate crime. The adoption of diversity as a central framework for hate crime response has the effect of configuring hate as a problem of individual sensibilities and negative interactions. Diversity works to remedy these problems, according to police, by exposing individuals to the customs, traditions, and the cultures of others. Police services reflect their embracement of diversity through commitments to diverse communities and to 'diversity work,' but also through new structures such as diversity units, which become the place where diversity lives and is used to address 'diversity-related problems.'

While police embrace diversity as a method of hate crime prevention, diversity is also a contested ideology by police services and by officers engaged in hate crime response. 'Examples' of police victimization at the hands of diverse communities transform diversity and diverse communities into a threat to police. Commitments to diversity are also contested by the decisions of senior leadership – leadership who can, at any point, decide that diversity is expendable. Diversity can easily be relocated (literally and figuratively) when the priorities of the organization change. For diversity

officers, the experience of doing diversity work within their service is akin to working up hill and against the true priorities of the organization.

CONCLUSION: RE-EXAMINING THE HATE CRIME PARADIGM

Procedures designed to respond to hate crimes are relatively new to the policing landscape in Canada. In the 1990s, increased attention was given to the way law enforcement agencies respond to hate crimes. Police procedures designed to respond to hate crime developed around two central foci: 1) traditional policing concerns involving proper investigative techniques, evidence collection, and documentation; and 2) emerging concerns regarding victim care, community consultation, and respect for racial and cultural diversity.

While victim care, community consultation, and respect for racial and cultural diversity feature prominently in hate crime policy, there are other factors that influence police action. As this dissertation has illustrated, hate crime response involves strategies that not only allow police to (claim to) support communities but also to serve their own professional and organizational interests. As I have demonstrated, rather than combating bias, prejudice, and hate, or rather than challenging the structural foundations of racism, concerns about hate remain secondary to those focused on preserving the neutrality of the investigative process, keeping-the-peace, and protecting the reputation of the institution.

In the first section of this concluding chapter, I revisit the central claims made in this dissertation and outline the contributions this work makes to the larger body of critical race theory and the existing literature on hate crime. I begin by demonstrating how police decision making stabilizes institutional knowledge about hate crime and illustrate how officer decisions materialize in the responses of police. In the second section, I highlight the work of race and racism in the policing of hate crime and

demonstrate how police response functions as a form of racial governance. Finally, I move to discuss the implications of my research for existing approaches to police and policing. I close by identifying areas for further research and consider the wider policy implications of this work.

RE-EXAMINING HATE CRIME RESPONSE IN THE GREATER TORONTO AREA

Throughout this dissertation, I have argued that hate crime is not always self-evident or instantly recognizable to police. Instead, police policy, police decision-making, and police responses function to stabilize this inherently unstable crime category. Police action is not external to what police record as hate crime. This dissertation follows the tradition of socio-legal scholars who argue that law is a social and political process that is not exclusively defined by official policy, but must be examined in the real world where policing takes place (Sarat, 2004; Merry, 1990; Ewick & Silby, 1998). As the body of literature on hate crime and policing shows, multiple factors internal and external to policing organizations, such as policy definitions, institutional mandates, occupational culture, personal perceptions, institutional resources, and public participation, all shape police responses to hate crime (Bell, 2002; Martin, 1996; Hall, 2012; Hammer & Berk, 1996).

At every stage in the investigative process, police officers make decisions that significantly affect how hate crimes are handled, even though many officers claim to have very little control over a case's progression. Decisions about what constitutes good quality evidence, what investigative leads to follow, or how to speak to victims, offenders, witnesses, and local communities, all affect the direction of investigations. As

I demonstrated in Chapter 4, police often respond to hate crimes in one of three ways: 1) by making arrests and laying charges; 2) by attempting to mediate matters; and 3) by attempting to educate parties. While police claim these responses assist in upholding the law and maintaining public safety by preventing non-criminal disputes from becoming criminal matters, these responses are really premised on 'keeping-the-peace.' In this way, police responses to hate crimes, and to non-criminal hate incidents, mirror traditional policing aims and approaches already in use by police in the routine course of their work.

I also demonstrated that hate crime response is concerned with protecting the reputation of law enforcement organizations and of individual police officers. For police, hate crimes are not mundane criminal matters; they are intensely political. I illustrated how police officers and police services attempt to manage the potential political fallout of hate crime cases by following proper investigative procedures, by following directives from superiors (even when those directions are at odds with proper procedure), and by employing responses that appeal to the feelings of victims. I showed how police efforts to care for victims (whether genuine or not) help police services guard against criticisms and accusations of institutional racism.

In the final chapter of this dissertation, I examined the way respect for racial and cultural diversity is incorporated into the framework of hate crime, but also resisted and contested by officers and police services. Respect for racial and cultural diversity is both a discourse through which police convey the importance of combating hate crime and a method of gauging the effectiveness of police efforts. Through police-community collaboration, and by building individual relationships with community members and

victims of hate crime, police claim they are able to respond to hate crime more effectively. While respect for racial and cultural diversity is a particularly important discourse for framing police action, diversity is also contested. As I illustrated, the recent criticism and protest action directed toward many police forces in the United States is used by some officers to prove that communities in the GTA can pose a threat to police safety. I also showed how institutional priorities can undermine commitments to diversity.

Collectively, these chapters present a picture of hate crime response that diverges from state and law enforcement discourses and that stresses the importance of protecting vulnerable communities and upholding racial and cultural diversity. These chapters further show how hate crime response emerges as a result of the interplay between institutional mandates, police policy, past officer experience, and normative ideas about race and racism. In doing so, this study shows how disparate factors such as professional advancement, officer workloads, the inability to locate suspects, or the chain-of-command produce police action. This work also shows that policing institutions do not always work harmoniously. Institutions are defined by various interests and points of view, by competing agendas, by different goals, and by tension between actors positioned at different places within the police hierarchy. Understanding the nature of policing, and the context within which police officer decisions are made, is necessary for understanding the behaviours of the organization.

This dissertation represents the first empirical study on policing and hate crime in the Canadian context and thus contributes to the small but growing body of scholarship on hate crime in Canada (Perry, 2010; Lunny, 2015). Police response to hate crime has

been primarily explored through empirical studies of U.S. and U.K. police forces (Bell, 2012; Hall, 2012; Noland & Akiyama, 1995; Martins, 1996; Boyd, Hammer & Berk, 1996). This dissertation makes important contributions to the fields of hate crime studies, critical race theory, and policing studies that challenge existing frameworks and both align with and contribute to existing scholarship in the area. Studies of policing and hate crime analyze police decision-making (Bell, 2002; Lipsky, 1980) and organizational and cultural context (Hall, 2012), and examine hate crime comparatively in order to uncover differences in enforcement practices (Hall, 2012; Boyd, Hammer & Berk, 1996). These studies have largely utilized ethnographic approaches (Bell, 2002) or have relied on police case files to reveal specific local practices of law enforcement organizations (Bell, 2002; Hall, 2012; Martins, 1996).

While the present study is informed by the insights of these previous empirical studies, this research diverges from existing theories of policing and hate crime that prioritize policing strategies rather than the frameworks that make hate crime intelligible to both officers and policing organizations. This study, therefore, moves beyond police practice to consider what law enforcement action might reveal about the production of personal, organizational, and professional identities. In the specific context of this work, I show how police responses to hate crime expose the ways in which the politics of race comes to define, inhabit, and structure police processes. Unlike previous studies that provide descriptive accounts of police action in isolation from the way police work shores up social and political categories (Bell, 2002; Hall, 2012), this work contends that policing practices reaffirm broader social relations. This work refuses to treat race as an “independent variable” that can be analyzed separately from broader institutional

practices. Instead, it treats race as a *feature of* institutional practices that shapes the very ways in which police operate.

This work makes an important contribution to critical race theorizing of police practices. Canadian scholarship on policing and race has scrutinized overtly discriminatory policing practices with an aim to reveal the racialized nature of policing in Canada (Maynard, 2017; Comack, 2012; Chan & Chunn, 2014). Importantly, Canadian scholarship has examined the relationship between Indigenous communities, Black communities, and communities of colour in particular with an aim to empirically demonstrate the ways in which policing practices maintain a racial and colonial social order (Comack, 2012). This dissertation draws on the framework of *racialized policing* to examine instances of discriminatory police action and extends this analysis to practices believed to be progressive (Comack, 2012). By placing discriminatory police practices within the same analytic frame as progressive police initiatives, this dissertation advances critical race approaches to policing that reveal the broader ways in which race permeates criminal justice. In doing so, this work contributes to ongoing debates in the existing policing scholarship about the role of police in maintaining social order. As policing scholars note, modern police forces developed in the nineteenth century in response to concerns about public order. In nineteenth century England, police forces emerged in response to a rapidly growing urban 'under-class' and the rise of private property regimes that were maintained through coercive means (Silver, 2005). In settler states like Canada and Australia, police forces maintained colonial orders and were present to facilitate the expansion of settler states (Strange & Loo, 1996; Brogden, 2005). Racial, political, and economic factors have thus been central to the type of order

police maintain. This dissertation contributes to this line of inquiry, both empirically and theoretically, through the framework of racial governance employed within this work.

HATE CRIME AND RACIAL GOVERNANCE

A central preoccupation of this dissertation has been to trace the ways in which race shaped both police practice and institutional knowledge about hate crime. Following critical race theorists, I argue that race continues to be a socially and politically important category, contrary to claims that suggest that race and racism are anachronisms in modern liberal societies. I suggest that hate crime functions as a form of racial governance. By drawing on the theoretical and conceptual insights of socio-legal scholars and critical race theorists, I showed how race is integral to the establishment of modern states, and how race and racism continue to inform the discursive and material worlds within which social life occurs. In this dissertation, I demonstrate that the politics of race directly inform how police understand hate crime, diversity, and community participation. I show how racism can be obscured even as police claim to respond to it. These chapters illustrate how attention to racist expressions such as hate crime can be easily obscured when positioned against factors deemed more important. In the analysis, I showed how concerns about ‘preserving the neutrality and objectivity of the investigative processes,’ concerns about the ‘negative effects of multiculturalism’ on Canadian society, a focus on the actions and attitudes of individual offenders, and concerns about ‘formal equality’ – namely, that minorities receive preferential treatment – prevent racism from coming into view. What surfaced in officer accounts was not an overarching concern about hate crime, but rather the many

factors that affect the working conditions of individual officers and the reputation of police services.

The framework of racial governance has been important to this dissertation as it stresses that hate crimes (and responses to it) cannot be viewed as isolated individual incidents. Similarly, the failure to 'see' race is not due to a lack of education for individual officers. Hate crime is connected to larger structures of racism and racial violence that have organized (and continue to organize) social worlds. The relationality and historicity of racism is implicit in this framework, that is, an understanding of the way racial expressions and discourses about race and racism emerge, circulate, are re-energized, and transformed across space and time. The 'blindness' of officers and institutions to racism is not a new phenomenon, nor is it particular to law enforcement organizations. I suggest that what accounts for institutional failures to 'see' race is a larger common sense about race and racism that pervades all areas of Canadian society. As I have shown, racism as ignorance, as pathology, as miscommunication, and as emotional outbursts serve as frames that prevent racism from being seen as a social and political structure. In offering a critique of individualized conceptions of racism, the framework of racial governance also provides a critique of strategies that address racism by shifting individual sensibilities rather than social and institutional structures. It is popularly believed that progressive social policy will finally lead to the demise of social injustice and to the end of racism. This dissertation suggests, instead, that racism can live alongside, and is at times advanced by, progressive policies. In revealing the way institutional processes (re)produce racial effects, I also show that

examining individual officer attitudes toward race, racism, and hate crime alone are inadequate for understanding institutional behaviour.

The disappearance of race at the very moment when it should be most visible raises important questions about what happens when institutions set about confronting racism in the name of protecting racial and cultural diversity. The preceding chapters illustrated that institutional commitments to promote diversity are precarious and can easily go unfulfilled. These questions are all the more important given the contemporary context defining policing in many areas of Ontario. Specifically, as police respond to hate crime, they continue to engage in practices of discrimination that target many of the very communities affected by these crimes. While hate crime scholars view police as important partners in the fight against hate, the present analysis suggests that scholars should examine the role of police as first responders to hate crime, as well as the efficacy of anti-hate measures altogether. The criminal prosecution of hate crimes requires police to make initial determinations about bias motivation and to collect evidence necessary to secure criminal convictions. Police are therefore the 'gate-keepers' of the criminal justice process, without whom criminal sanctions are not possible.

LIMITATIONS AND AREAS FOR FURTHER RESEARCH

While this dissertation provided an account of the way police services and police officers define, conceptualize, and ultimately respond to hate crime, there are many areas relevant to hate crime response that this dissertation could not address. Due to limitations in time and access, I could only utilize accounts of on-the-ground police

response from police officer narratives. While these narratives provide a rich source of data and a solid place from which to analyze police action, I was not able to view police response as it happened. This would have required me to be imbedded in an investigative unit or to conduct ride-alongs with police officers. Because I was not able to view police response as it occurred, my analysis was limited to the way that officers spoke about how they responded. While I have little doubt that officer accounts reflected events as they saw them, I had no way to gather alternative perspectives. Relying on police accounts also presents another challenge in that police officers are institutional actors, and therefore may be reluctant to speak openly about matters affecting policing or their own action.

Another limitation of this research is that victims of hate crime and community perspectives were not included in this study. Due to the parameters of this study, collecting victim and community perspectives would have exceeded the scope of this project. The implication of this absence is that police accounts are foregrounded in this dissertation. The inclusion of victim and community perspectives would have provided a lens through which to analyze the effect of police decisions on those directly involved. While this dissertation examines the conceptions, logics, and rationales for police response, these preoccupations do not reflect the primary concerns for victims of hate crime but rather those of the researcher. Because the concerns of victims did not explicitly shape the lines of inquiry pursued in this study, it is possible that what concerns victims of hate crime most are not reflected in this dissertation. Taking this approach would have built on existing scholarship (Chakraborti, 2019; 2014) examining

the experiences of victims of hate crime, thereby providing an alternative account from that of police.

In addition to the absence of victim and community perspectives, this dissertation does not include the perspectives of other institutional actors, such as attorneys or judges involved in the court process. Since police decisions inform how other actors prosecute hate crimes, these perspectives could potentially reveal how demands of other state actors affect police decisions and thus reveal rationales for police action not examined in this dissertation. The addition of these perspectives would have also shown whether others actors within the criminal justice system hold views about hate crime similar to those held by police. Criminal justice officials are not the only institutional actors who have a role to play in responding to hate crime. Over the course of my research, police told me that depending on where an incident took place, police were not always the first to respond to hate crime. At times, school officials, transit security, or private security were the first to respond to hate crimes. Research that explores how 'non-state police', or entities that perform security roles, define, conceptualize, and respond to hate crime would reveal how they work alongside municipal police and would provide a unique perspective into the way that ideas about hate crime circulate between law enforcement institutions. As Adam Crawford (2003) notes, social, political, economic, and technological changes have re-defined the role, work, and structure of contemporary policing. State police are now situated within a network of organizations with police-like functions. Increasingly, policing is being conducted by municipal agents, private security personnel, private security firms, and the public through informal networks that secure local neighbourhoods and

communities, and through technology such as surveillance cameras, alarm systems, recording devices, visual signs warning potential wrongdoers, or environmental designs which mitigate criminal occurrences. In this context, policing has become an increasingly cooperative and collaborative effort. Research examining non-state policing entities would be particularly timely since security operations in many places such as schools, universities, housing communities, transit systems, or malls are performed by private security or constables who are not members of municipal, provincial or federal police services. These limitations open up areas for further research on how criminal justice, law enforcement organizations, and non-criminal justice and law enforcement organizations respond to hate crime and whether those responses meet the needs of those most affected.

In an effort to maintain the confidentiality of my research participants, I decided change gender pronouns in some sections where excerpts from interviews were used. This choice prevented me from engaging in a detailed analysis of the ways in which gender shapes the way officers inhabit police services. While I maintained that this dissertation seeks to examine institutional processes rather than individual officer sensibilities, I recognize that officer identity and an officer's biography can be relevant to the way they conceptualize hate crime and to the spaces they occupy within institutions. My desire to protect officers identity also reflects my awareness that the discovery of respondents by their police service could potentially have negative consequences on their professional careers.

In this dissertation, I have not made recommendations to improve police response to hate crime. Some may see this as a limitation of the research. The absence

of recommendations is deliberate since, as this dissertation demonstrates, police response to hate crime does not emerge exclusively through police policy. Policy changes designed to make police more responsive to vulnerable communities, to improve support to victims, or to promote more thorough investigations do not necessarily shift structures of racial and colonial control. The persistence of racial profiling and racial discrimination in policing, despite calls for institutional transformation and the creation of policies designed to promote diversity, reflects how policy changes can be ineffective in the face of deeply entrenched racism. Without challenging these structures, changes in policy will have very little effect on ending the expressions of racial violence that hate crime exposes.

Despite these limitations however, the value of police responses to hate crimes for victims of hate crime and victimized communities is potentially very meaningful. While this dissertation has offered some critiques of the imperfect and at times problematic way police responses to hate crimes materialize, for victims the police validation of their experiences is meaningful. This dissertation should in no way diminish the work of police officers or the value and need for police to be engaged in combating hate crime. While police intervention may be imperfect, when situated alongside other equity initiatives, they may prove to be important elements in a larger shift toward eliminating forms of structural violence.

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R v. Andrews, [1990] 3 S.C.R. 870

APPENDIX A

Interview Questions: Hate Crime Investigators

Identifying Information

Name of Police Service: _____

Current Rank: _____

Years of service: _____

Length of time in current role: _____

Interview Questions

1. Describe what happens when a suspected hate crime is reported?
2. Describe your roles and responsibilities in investigating hate crime? What does an investigation entail?
3. What resources (personnel, equipment, expertise, and materials) do you draw on when hate crimes are suspected? How do these resources assist with investigation and enforcement?
4. What kinds of hate/bias crimes do you see most?
5. Could you recall an incident where you would consider bias motivation to be clear and one where motivation was less clear? In your experience, what factors are key in determining whether an incident is confirmed as a hate crime?
6. How is investigating a suspected hate crime different from other crimes?
7. Have officers ever misidentified occurrences as hate crimes or failed to record hate crimes as such?
8. Why do you think hate crime has become a focus of policing?
9. How does enforcing hate crime fit into the larger mandate of your police service?
10. How does consideration of community perceptions, community wishes, and community feedback impact how you respond to hate crimes?
11. What would you say is the single most important thing to remember when responding to hate crime from the perspective of the community, a frontline officer and an investigator?
12. What, in your opinion is the greatest challenge posed by hate crime/ the greatest challenge involved in responding to hate crime?
13. Have your experiences changed your approach to hate crime?
14. Are there other comments you would like to share?

APPENDIX B

Interview Questions: Hate Crime Instructor

Interview Questions

1. What hate crime or other related trainings are run at OPC? How are they formatted and how often do they take place?
2. What are the aims and objectives of those different courses and presentations in recruit training?
3. Where informs the content for courses?
4. Do you invite guest speakers to present during courses or conferences?
5. Do you incorporate community voices, visuals and videos in course content or conferences?
6. How are officers evaluated?
7. When did hate crime training become a mandatory part of training?
8. How have you changed or modified the course over the years you have taught it?
9. How do the recruits absorb the information presented during training?
10. Describe the training that is delivered to hate crime investigators?
11. How do you present the complexity of hate crime during trainings?
12. What if anything would you change about how hate crime training is conducted?

APPENDIX C



Informed Consent Form

Study Title: Constructing Hate Crime: An Exploration of Police Practices and Hate Crime Investigation in the Greater Toronto Area

Researcher: Tim Bryan, PhD Candidate

Supervisor: Dr. Carmela Murdocca

Purpose of the Research

The purpose of this research project is to examine police responses to racially and religiously motivated hate crimes in the Greater Toronto Area. In particular, I am interested in the way hate crime is conceptualized, defined, and institutionalized in GTA municipal police services and the role that discretion plays in the decisions made by police. These interviews will assist me with completing my analysis of documentary material and map-out the relations between police service and unit specific mandates (specifically crime prevention, law enforcement, and public order maintenance), community policing strategies (police-community partnership, community consultation and police-community engagement), and internal police dynamics (officer training, allocation of resources, inter-agency cooperation and information sharing) which influence police interventions in suspected hate crime occurrences. This research is being undertaken as a dissertation project in partial fulfillment of the requirements of the PhD degree in Socio-Legal Studies at York University. In addition to being reported in the dissertation, the data I collect for this study will also likely be reported in conference presentations as well as publications.

Scope of your participation

As an Interview participant, you will be asked about a) the institutional structures and institutional procedures which govern how suspected hate crime occurrences flow through your police services and the many institutional actors who inform that process; b) the

actual on-the-ground practices and routines employed in response to suspected hate crimes; c) previous experiences with investigating and responding to hate crimes and d) the role of police networks in assisting with training, investigation, victim assistance or community engagement. I will not be seeking specific information on current, on-going cases or operations. The interview will be semi-structured and will last approximately 1 to 1.5 hours in duration. Questions will also be tailored to your particular area of expertise. I do not foresee any risks from your participation in this research. There are no incentives for your participation.

Participation

Your participation in the research is completely voluntary and you can choose to stop the interview or withdraw your participation at any time for any reason. Your decision to stop participating, or to refuse to answer particular questions, will not affect your relationship with the researcher, York University or any other individuals or group associated with this project. Should you choose to withdraw from participation any associated data/information will be destroyed wherever possible.

Confidentiality

Confidentiality will be provided to the fullest extent possible. Your name will not appear in any report or publication of the research. Further, because of the interest in understanding the relationships among various components of the enforcement of hate crime provisions, I will ask for your consent to attribute your responses to your occupational position in addition to your affiliated organization (for example, as a York Regional Police Crime Analyst). Interviews will be recorded. Your personal information will be removed from any transcripts of interviews. Audio recordings and the resulting transcripts – including any backup files - as well as any relevant email correspondence relating to the content of the interview (such as follow-up questions or clarifications) will be kept confidential and secured in a locked cabinet in my home office and/or password-protected file(s) on my personal computer for the duration of the research and for a period of 7 years after completion of my dissertation for further research related purposes. Only I will have access to these files – any identifying information will be removed from recordings provided to transcribers. After this period, all files will be archived and stored in my home office and on digital media (such as CDs or external hard drives).

Questions

If you have any questions at any time about the research in general or specifically about your participation, feel free to contact me at XXX-XXX-XXXX or by email at XXXXXXXX. You can also contact the Socio-legal Studies Graduate Program at 416-736-2100 ext. 22689

This research has been reviewed and approved by the Human Participants Review Subcommittee, York University's Ethics Review Board and conforms to the standards of the

Canadian Tri-Council Research Ethics guidelines. If you have any questions about this process, or about your rights as a participant in the study, you may contact the Senior Manager and Policy Advisor for the Office of Research Ethics, 5th Floor, York Research Tower, York University, telephone 416-736-5914 or email or @yorku.ca.

Consent:

I _____, consent to participate in this research project conducted by Tim Bryan as an interview participant and give my permission to be identified as a member of my organization in the research. I have understood the nature of this project and wish to participate. I am not waiving any of my legal rights by signing this form. My signature below indicates my consent.

Participant

Date

I consent to participate in the research project conducted and give my permission to have my comments attribute my occupational position title. I am aware that by consenting to have my comments attributed to my position title, there is a risk that I may be identified (please check box).

Tim Bryan, Principal Investigator.

Date