

RESEARCH

"It's not Really Hate Crime" – Reframing Hate Crime as not Police Business" – Police Narratives of Resistance and Denial

Timothy Bryan¹ and Lorretta Trickett²¹ Dalhousie University, CA² Nottingham Trent University, GB

Corresponding author: Timothy Bryan (t.bryan@dal.ca)

Within a global pandemic and increased questioning of police utility and legitimacy around racism and violence against women and girls (VAWG), this article examines the gap between police policy and practices on hate crime. Based on research with police forces in Canada and the UK, it demonstrates how police officers view hate crime through a policing rather than victim-centred mandate. Without reframing hate crime as a public and community safety issue, hate crime policies and procedures designed to 'take hate crime seriously' are unlikely to do just that. Real 'commitment' is needed to tackle hate crime as part of the police mandate and role – otherwise hate crime policies remain a largely tick-box exercise.

Introduction

In the United Kingdom and Canada, new questions are being asked about how police fulfill their mandate to ensure public safety and realize commitments to fair, equitable and bias free policing. The simultaneous crises that have dominated 2020 – the public health crisis cause by the COVID19 pandemic; the crisis of police violence against Black and other communities of color; and the crisis of domestic and sexual violence against women – have highlighted the racial and gendered inequalities that define police practice.

Anti-hate crime policies have long been touted as important measures to improve police response to racialized communities and female victims of abuse. This article engages a cross national examination of police response to racially motivated hate crime in Toronto Canada, and misogyny hate crime policing in Nottingham UK. While in both jurisdictions police claim incidents involving hate are 'taken seriously' and investigated according to police hate crime policy, their practices are often incongruous. Despite police commitments to protect vulnerable communities, hate crimes are often reframed by police in ways that either trivialize their effects on communities or in ways that reframe forms of gender-based harassment outside of the definition of hate crime, which ultimately place the responsibility for responding to expressions of hate outside of the remit of police.

In this article we show *how* police reframe reported incidents of hate crime as either not being hate crimes at all, or as matters outside of their remit. Race-based hate crimes are part of the settled understanding in the hate crime law and policy domain at the Canadian sites. But, sex-based hate crimes are still at the edge of hate crime domain expansion in the UK. Despite their acceptance within the hate crime domain in Canada, however, police agencies remain resistant to race-based hate crime labelling. In the UK, where the hate crime domain is still expanding, police agencies appear even more resistant to sex-based hate crime labelling. The results will show that even multicultural jurisdictions with stated policy goals to combat hate crimes exhibit resistance to the concept of hate crime in practice. The resistance seems universal, and is amplified where the hate crime policy domain is undergoing an expansion.

Few cross-national studies of police responses to racist and sexist violence are represented in the current literature (Mawby 1990; Heidensohn & Brown 2000). Despite the dearth of cross-national research however, comparative studies remain important for raising vital issues about law, order and the achievement of change in criminal justice policies at a critical juncture around the politics of race and sex. This article, therefore, contributes to the limited but significant body of literature in this area.

In section one we explain the methodology and data set that form the basis of the article. In section two we explain the theoretical framework informing the analysis. This brings together feminist and critical race theory with existing scholarship on policing and hate crime to assess how gender and race often shape policing. In section three we examine how police policies to promote community engagement in Toronto are interpreted through a policing focused lens limiting their effectiveness. In section four, we examine police resistance to viewing street harassment towards women within the framework of hate crime. We conclude by arguing that the only way to achieve meaningful change in police practice, is for police to tackle institutional forms of racism and sexism.

Methodology, data and empirical contexts

The datasets used for this analysis were collected through qualitative interviews and focus groups conducted with the Nottingham Police in 2015 – 2018, as well as interviews with officers with the Toronto Police Service, Peel Regional Police Service and York Regional Police Service, the three largest police jurisdictions in the Greater Toronto Area (GTA), between 2015–2017. Whilst these data sets were collected independently interview methodologies contained multiple points of similarity.

The hate crime research with police officers took the form of interviews with 34 police officers of different ranks including response officers, beat managers and Police Community Support Officers (PCSOs) with Nottingham Police and 34 interviews with hate crime investigators, diversity officers and senior command staff in the jurisdictions around Toronto. The interview schedules were designed to enable officers the freedom to talk at length and in their own words on the topic of hate crime and policing and were flexible enough to capture emerging themes and issues around education, training, community outreach, victim assistance processes and actual experiences of dealing with hate crimes.

Focus group research was used with police officers in a research evaluation of the Misogyny Hate Crime policing policy. An important point to note here is that focus group research may have meant officers were perhaps less likely to provide an individualized viewpoint and be more inclined to take a group view that was reminiscent of police culture. Albeit the focus groups generated less nuanced views than individual interviews might have done; they provide valuable insight into the framing of new policy initiatives within a group policing situation providing a lens on the context of police culture.

Another important reason Nottingham and the Greater Toronto Area provide a good source of comparison, is due to the demographic similarities shared between the two jurisdictions. Nottingham located in the East Midlands of England is the 9th largest urban area in the United Kingdom and an area with increasing racial and cultural diversity. According to the 2011 Census, 34.6% of the City's population are from Black and Minority Ethnic (BAME) groups, which are defined as everyone who is not White British demonstrating an increase from 19.0% in 2001. In addition to being the most populous metropolitan center in Canada, the Greater Toronto Area 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 of 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 of 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).

There are three important issues to note before considering the police data. The first is that generally hate crime is seriously under-reported both in the UK and Canada. The second is that hate crime victims that have reported tend to be less satisfied than non-hate crime victims with police responses (Home Office, 2019–20). This can partly be attributed to a lack of trust on behalf of BAME communities in policing (Bowling & Phillips, 2003; Phillips & Bowling, 2012) – meaning that it is particularly important to get hate crime right. The third issue relates to violence and abuse of women and girls, much of which is ignored in practice and in law. There are numerous research studies, for example, on 'secondary victimisation' through poor experiences of criminal justice where women have reported rape (Kelly, Lovett & Regan 2015; Hohl, K. and Stanko, E.A., 2015) or domestic violence (Centre for Women's Justice 2020) for instance in England and Wales. Many common place public forms of harassment and abuse against women and girls including street harassment are rarely reported; examples include assaults, public order and stalking offences (Vera-Gray 2016).

Indeed, this neglect of public harassment of women and girls on the basis of gender or sex was instrumental in the introduction of the Misogyny Hate Crime policy of Nottinghamshire police. Neither gender or sex are currently included as a prohibited discriminatory motive triggering enhanced criminal penalties under sections 28–32 of the Crime and Disorder Act 1998 and sections 145 and 146 of the Criminal Justice Act 2003 in England and Wales. In contrast, sex is a prohibited discriminatory motive triggering enhanced criminal penalties in Canada under section 718.2(a)(i) of the Canadian Criminal Code. Section 718.2(a)(i) enhances sentences for crime motivated by bias, prejudice and hate, along with Sections 318 and

319 of the Canadian Criminal Code that criminalize the willful promotion of hatred, incitement of hatred and advocating genocide, which represent core pieces of anti-hate crime legislation in Canada.¹

For recording purposes only some forces in England and Wales have chosen to record crimes or incidents as 'hate crime' where a person believes they have been targeted due to a characteristic outside of the legally recognized hate crime categories including subculture or gender. The Nottingham Misogyny policy has therefore enabled a permissible recording practice through interpretation of hate crime recording guidance but given that sex/gender are not currently recognized characteristics under hate crime legislation other police forces in England and Wales have not been obliged to implement it. This has meant that despite some forces taking up the policy, until now, the majority have been able to resist recording offences motivated by hostility towards someone's sex or gender as hate crimes.

The authors suggest that if hateful activity falls under the purview of public policing, then police officers need to adopt a more victim-oriented approach in their responses to hate incidents. This requires the framing of criminal justice responses to hate crime within a victim and public safety lens, drawing on notions of policing with and for communities in order to reconfigure the service and community aspects of a public policing role.

Literature and Theoretical Framework

Methods of police response are an important dimension of effective police service to hate crime victims. Over a number of decades community policing in particular has been utilized to both improve police response and strengthen police-community relations. As the literature points out, victims of hate crime fail to report incidents to police if they do not have confidence that law enforcement will take complaints seriously or if they do not believe police view hate crime as a priority. Wentz & Schlimgen (2012) find that police response time to urgent calls, police's knowledge of the local community issues, and the police's effectiveness of providing a safe community can influence public perceptions of the effectiveness of police action. Willingness of the public to engage with police also hinges on the extent to which the priorities of the public are reflected in the priorities of the police. When police fail to prioritize matters that are a central concern of the public, the public is less likely to see the police as legitimate and consequently less likely to cooperate in community policing initiatives (Metcalf et al., 2016; Stein & Griffith, 2017; Wooden & Rogers, 2014).

Importantly, police attitudes, norms and values alone are not sufficient to build and sustain an effective community policing model. Abstract concepts must be turned into practical, enforceable orders (Skogan, 2008). Without organizational reform that prioritizes police-community engagement, community policing is often relegated to the periphery of policing's technical core, as a "spice that flavors the main course of traditional police patrol" (Mastrofski & Willis, 2010: 85). For example, police need to have tools to measure and monitor the implementation of community policing or otherwise they might revert to more traditional policing approaches, resulting in ineffective community policing (Deljkić & Lučić-Ćatić, 2011; Skogan, 2008).

While community-based policing approaches have been instituted in many police forces in the UK and Canada, there continues to be significant concern about police contact with racialized communities. In Canada for example, Black communities are more likely to die during encounters with police; more likely to be the subject of street checks; and more likely to be arrested and charged than their white counterparts (Ontario Human Rights Commission, 2017; 2020a; 2020b). In Toronto specifically, encounters that saw Black people killed by police account for 36.5 percent of total fatalities, despite the fact that Black people make up just 8.3 per cent of the city's population (Dunn, 2018).

In England and Wales, examples of challenges to policing have focused on racial discrimination in stop and search and failure to provide equal treatment to BAME victims of crime (Bowling and Phillips, 2003; Phillips and Bowling 2012). The racist murder of teenager Stephen Lawrence in particular, raised the problem of biased policing to national attention and led to the Macpherson Report in 1999, that attributed the serious police failings in investigating and prosecuting the suspects involved in Lawrence's murder to 'institutional racism'. Despite implementation of the majority of the recommendations by Macpherson, the policing of ethnic minority groups remains controversial and distrust of the police remains high.

Research also suggests that that police response to hate crime is similarly affected by organizational cultures that often fail to recognize hate crime (Elizabeth A. Boyd, et al., 1996; Jenness & Grattet, 2001; Bell, 2002; Martin, 1995). Hate crime legislation provides increased sentences in order to reflect the greater harm to the individual and wider communities (Iganski 2001; 2009) posed by targeted crimes based on hostility to someone's race or arguably sex/gender. In reality however, there is a huge attrition rate with hate crimes due to under-reporting, under-recording and under-prosecution meaning that increased sentences are rarely imposed. Moreover, despite the policy of police having to record hate crimes based on the victim's perception following a recommendation from the Stephen Lawrence inquiry; in practice police officers will often reconfigure a crime or incident as 'not really hate crime'. This demonstrates therefore a wider problem with police failure to understand the impact of racism and misogyny both on individual victims and communities. As scholars on racist

¹ Section 718.2(a)(i) enhances sentences for crime motivated by hate, bias or prejudice based on the following: "race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or gender identity or expression, or on any other similar factor".

and sexist violence have argued examples of racist and misogynistic violence have to be understood within their 'full experiential context' as part of a continuum of violence and misogyny against which victims live their lives. As Bowling puts it:

The key point is that the experience of violent victimization is not reducible to an isolated incident or even a collection of incidents. Victimization and racialization – the process by which a victim becomes a form of this crime as a cumulative component of various encounters with racism – some of which may be physically violent, some lying only at the fringes of what people would define to be violent or aggressive. Some of these experiences are subtle... at the other end of this continuum is the more easily remembered instances when racism is coupled with physical aggression or violence.' (p. 230)

Such examples leave a lasting impression on victims and fuel their fear of crime – although some racist and misogynistic incidents therefore fall short of very serious violence this should not detract from a very pervasive sense of threat for members of ethnic minority groups and women. Street harassment, criminal damage and other examples play a significant part in creating a sense of menace for both individual victims and the communities from which they are drawn. The dismissive approach to hate crime labelling can result in an inability of police to recognize the broad range of actions that fall within the ambit of hate crime and thus adopt a perspective that excludes all but paradigm cases from hate crime law in practice.

Analysis of race hate crime

In many jurisdictions in Canada, respect for racial and cultural diversity forms part of the framework of policing. In Ontario, Canada's most populous province, the Ontario Police Services Act requires policing to be conducted in a manner that is sensitive to the "pluralistic, multiracial and multicultural character of Ontario society" (Police Services Act, 1990). In an effort to make policing institutions more responsive to the communities they serve, police organizations have asked for public participation in police decision-making processes in the form of community-police initiatives. For example, the Toronto Police Service 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 Peel Regional Police Service and the York Regional Police Service 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.

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. 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 recounted 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 in themselves 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 interviewed in Canada, These moves were not designed to better combat hate or eliminate forms of racial and cultural prejudice but to avoid potential negative reactions from local communities or media. 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 led 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 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 section 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.

Analysis of Misogyny Hate Crime

In England and Wales there are currently five categories of hate crime under law including race, religion, sexuality, disability and transgender (CPS 2020). The availability of aggravated sentences and uplift tariffs under the Criminal Justice Act 2003 s145 and s146 is meant to reflect their increased impact on direct victims and communities (Iganski 2001). In the 43 police forces of England and Wales there is national commitment to 'take hate crime seriously' (HM 2014). This is achieved through enhanced policies and procedures including that police officers are obliged to record both hate crimes and incidents based on victim perception as recommended in the Macpherson report into the racist murder of Stephen Lawrence (Macpherson 1999, Recommendation 12).

Nottinghamshire police provide detailed information on how to report a hate crime including calling 999 for an emergency, 101 for non-emergencies. Victims are advised that a risk assessment will be completed with them to find out how this and any previous problems are affecting them and their lifestyle. Additional support is provided through True Vision an on-line reporting system if victims are not comfortable talking to someone directly; the Pegasus scheme is also available to support those who may find the reporting of crime particularly difficult due to a learning disability for example. All crime victims are offered referral to an external Victim Support Service and are provided with a copy of the Victim's Code informing them what to expect from the police service (Nottingham Police, Hate Crime Service 2020). The fact that the recording of hate crime is victim focused and often requires the completion of risk assessment means that recording a crime or incident as hate crime arguably involves more work for police (Trickett and Hamilton 2016).

Nottinghamshire Police extended its definition of hate crime to include 'misogyny' in April 2016. Previously, Nottingham Citizens 'No place for Hate' survey found women who were publicly harassed and abused 'because they were women' believed it was hate crime (Legg & Citizens 2019). Clearly there were parallels with existing categories of hate crime given the prejudicial targeting of women due to their gender and wider impacts on other females. Feminist campaigners have argued that public harassment of women and girls is the cornerstone of a misogynistic culture which also informs prevalence of rape and domestic violence (Bates 2014; Mullany & Trickett 2018; 2020). In recent years, the significance of 'rape culture' has been highlighted by the MeToo movement in its exposure of hidden sexual abuse. As stated earlier, the Nottinghamshire misogyny policy was an attempt to acknowledge the negative impact of 'street' harassment on women's fear and restriction of movement by encouraging the reporting of public order offences, battery, sexual assault, stalking and harassment. The policy aimed to give women confidence that they would be taken seriously by the police.

Nottinghamshire Police's misogyny hate crime policy did not change the law, but instead encouraged the police to record offences and incidents against women through this lens; 174 cases were reported in the first two years; several other forces implemented a variant of the policy. In 2017–2018, Mullany and Trickett undertook a research evaluation of the policy change between 2016 – 2018 (see Mullany and Trickett (2018, 2020). The research included an online survey with the general public, interviews with female victims, focus groups with female and male members of the public and focus groups with police. Results indicated that 93.7% of survey respondents had experienced or witnessed those crimes and incidents included under the misogyny hate crime label; 54.3% had experienced sexually explicit language in public spaces, 51.8% had experienced threatening, aggressive or intimidating behaviour and 48.9% unwanted sexual advances. Women described such behaviour as 'intrusions' making them feel threatened, unsafe, and at risk from potential sexual attack. Consequently, they remained vigilant, restricting their behaviour during the day and night avoiding use of public spaces and transport (Stanko 1995; Pain 1997), this emphasizes the need to contextualize women's experiences of crime and threat within a gendered stratified society (Gordon & Riger, 1991). Women were supportive of the policy and stated that its existence made them feel safer and more likely to report (Mullany and Trickett, 2018). In 2018, the Law Commission was tasked by the UK government to carry out a review of hate crime including consideration of whether 'misogyny' or 'gender' should be incorporated as a new hate crime category.

Turning to police perceptions, a key finding of the misogyny evaluation using focus group interviews with officers was the overall resistance of police officers to the introduction of the policy. This resistance and re-framing of both crimes, incidents

and the policing role echoed findings from Trickett and Hamilton's 2016 research on hate crime in England and Wales more generally – particularly race hate. The misogyny policy provides a public example of resistance and cynicism expressed by police towards organizational change, particularly within a climate of austerity – but in doing so it enables us to examine police attitudes and discursive strategies that are employed to negate the experiences of the public.

The police response largely aligned and reinforced much of the national media interest in the Misogyny Policy which had served to trivialize it through a continued emphasis on the criminalizing of 'wolf-whistling'. In the following extract a police officer explains the media focus which trivialized the intention behind the policy:

I think that the reporting of comments that don't constitute a criminal offence wasn't necessarily thought of beforehand and then the media got hand of it and blew it out of all proportion and started calling it a campaign against wolf whistling...essentially watered down what it was all about and what it was brought in for

Notwithstanding this comment, whilst trivializing practices were acknowledged by some police officers in relation to the media (Evans, 2018), the majority of the male and female officers also used it themselves:

I struggle with it in all honesty. I just think if someone wolf whistles you when you walk past a building site, "So what? Really?" If someone came up to me in a gym and said "you look good in your lycra" I'd take it – "thanks!"

Overall, the research results suggested that the police largely viewed the new policy through a policing lens in terms of what it meant for them in terms of increased workload and having to respond to criminal incidents rather than real crime leading to them dismissing the policy and labelling it as a "waste of time." In the main they did not frame it through a victim, community policy or public safety lens which enabled them to reframe their obligations to the public by denying the utility of the policy and placing the range of behaviours that it covered outside of the policing remit.

The claim that the policy is an unnecessary drain on police resources, was also taken up by Chief Female Police officers who refused to support the nationalization of the policy at the National Police Chief Council's meeting and in the national media (Quinn, 2018). This thwarting of the proposed national roll-out was eventually overturned by the announcement of the Prime Minister that all police forces in England and Wales would be required to implement a version of the policy in the autumn of 2021.

In terms of front-line officers there were four aspects of discursive strategies used to dismiss the policy. The first was that the policy was 'unwarranted' as it would place an additional burden on police during a time of limited resources by increasing their workload. Despite officers expressing that they thought they would be inundated with calls – it actually transpired that in reality this had not occurred and the police had noticed little impact on their workload overall:

I think suddenly it was thought we'd get all these phone calls, but there's not been I've not seen a great deal of extra incidents

Through constructing 'hate crime' through the lens of police workload officers stipulated that the use of 'hate crime' was an unhelpful term here which simply generates more work for the police as they have to provide an 'enhanced service' which includes completing of risk assessments (Mullany & Trickett 2018).

The next discursive strategy was to deny the need for the policy because 'if' there was an underlying offence then that would already be covered under existing laws such as sexual assault, battery or public order offences and the police would already be dealing with these:

....a lot of its covered under existing legislation under the Harassment Act, under the Public Order Act... and its sort of like...is it (harassment) a step below that...and it is really because it's a non-crime incident, but a lot of the things that get reported to us would be dealt with anyway under the Harassment part of the Public Order Act for things that have been said to people on the street that could also have a misogyny element to it...

Despite this, there was contradictory evidence as when the police were questioned about whether they had to deal with many public order, battery or harassment cases against women they suggested that they had not dealt with many of them before which correlates with research on women who have experienced these offences but not reported them to police (Bates 2014; Vera-Grey 2016).

The third strategy here was to suggest that many of the behaviours called in under the policy would not really be crimes but rather "incidents" which would not have been recorded before but previously filtered out. The following statements from different officers are indicative of this theme:

It's an incident as opposed to a crime; the policy covers incidents not just crimes so it's the person's perception

... all the talk in the press releases was of hate crimes and they were saying all these things were crimes and they are not, they are an incident.

If they constituted a Public Order offence, if someone caused harassment or distress there was a sexual offence or an offence against the person then they would be recorded as a crime investigated as such, and the qualifier 'hate crime misogyny' would be added but the others are hate incidents, before the policy they would be screened out by call takers.

This meant that the police viewed the policy as largely a 'net-widening' and thus largely futile exercise:

Who are we benefitting to keep labelling crime and incidents and never prosecuting anyone? Because on the streets at the moment you feel - we're going through the motions, we crime everything.

Officers were highly resistant to the policy for including such behaviours under a hate crime lens as that would require them to record incidents as well as crimes which would involve additional workload. Indeed, officer's resistance to the hate crime category being applied here for misogyny echoed their resistance to recording hate incidents more generally which officers sometimes felt was a 'catch-all' phrase involving 'net-widening'.

I just wonder if it's a society issue, because, you know, as police, we've done diversity to death, so I'd like to think as an organization and as individual officers we get it, and wider society don't...and that's apparent from all the stuff that's come out recently with, you know, the film industry, and other organizations, and wider society are all way behind where we are as an organization with a lot of these issues, so when suddenly we're given another box to tick, ...

This led to police officers depicting the policy as another example of 'over-recording', and as such that it was simply a 'paper exercise' that required another 'box' to be ticked:

There's no point continuing it unless it leads to a prosecution...if you deal with a job that's got a race element to it, it's racially aggravated. So what's the point in having something if it's not to change what's going to happen on that offence...most of the ones we deal with is a crime with maybe that element on it – but does it make any difference? To the victim it might be because you're accepting the fact that what they're telling you is because they feel it's because of their gender. But if it's racially motivated, homophobic or whatever they add some extra punishment, this isn't – it's a paper exercise.

A related issue is that the policy creates a false sense of expectation – raising the idea that people will be found and prosecuted and then they are not. However, in the interviews with female victims and women in the public focus groups, it is notable that conviction was not the key thing motivating women to report – instead it is the fact that they are being taken seriously that matters. The women who had reported were acutely aware that conviction was unlikely as they did not know their perpetrators and evidence of public encounters was often difficult to obtain. Instead, it was the ability to report and be taken seriously that was crucially important to them.

A further discursive trend was expressing the view that hate crime should be perceived more narrowly as it was often used for behaviours that were not really about 'hate'. The narrow definition of hate meant that officers could deny the application of the label to abuse of women:

But yeah it was a bit of a shock and the pre-warning of it, and it was like we've always dealt with jobs – if a woman was abused down the street we would, there's that thing does it need to be a hate crime I don't know, is it a hate crime?

The police here were making a distinction between racial, religious and homophobic offences which they felt were to do with 'hate' or at least 'dislike' and the misogyny policy which they felt was not really to do with hatred of women but to do with ignorance:

I think hate is a very strong word...I think at the time there was quite a few eyebrows raised in the police and in the wider community if you like maybe you're using a sledge hammer to crack a nut...to label an idiot or a bloke wolf whistling a woman walking down the street who he finds attractive, he didn't see anything wrong with it, she may or may not see anything wrong with it, to label that as a hate crime everyone was a bit 'whoa come on!'. I think to class it as a hate crime is problematic.

Having said this, the understanding of the police was in line with the understanding of some members of the general public and some of the national press coverage (Brown, 2018) which is connected to a narrow understanding of 'hate' and 'hostility':

I think the problem is misogyny traditionally is called women hating and there's – to start with the word hate and permeated through it. It's not – I don't see it as a hate crime.

Notwithstanding the distinctions made between examples of misogyny and race or religious hate crime, there were frequently examples in the Nottinghamshire police research on hate crime of the police similarly limiting the application of 'hate crime' to racist incidents suggesting instead that they were simply disputes, fall-outs between neighbours or arguments with taxi drivers over fares where racist language had been used in the 'heat of the moment':

.... the definition of a hate crime is hatred towards a protected characteristic, so for instance two people in a car park they get out and start arguing, one person turns round to another and says a hateful word, to me that's not necessarily a hate crime, to me that's an argument about a parking space and they've just picked up on the first characteristic they've seen, so it could have been big nose, big ears what have you.

What is key here is that prejudicial targeting, discriminatory attitudes and power dynamics are unacknowledged and the perception-based recording base of hate crimes is undermined.

Finally, officers suggested that many of the activities under the misogyny policy (and racist incidents) were a societal issue and not for the police to solve but for educational means rather than through the police as the following quotes from officers indicate:

I think...the response on social media when Notts Police put it out there...a lot of people weren't overly pleased with it to be honest... I think its an educational issue more than anything.

A lot of it's disrespect, but it's alright teaching us about it, but where's the education going out to the wider community to raise that awareness? The way it's been publicized gets people backs up – the example of the wolf whistling thing – like they said 'sledgehammer to crack a nut' but you know to tackle it and educate people to treat people like they'd expect to be treated themselves, it's not hitting them with a stick, it's changing people perceptions...if you feed them not beat them you get a better result.

If someone is making a comment towards a woman, is that a hatred of a woman or is it an inappropriate way of approaching a human being...it's not motivated by hate it's motivated by 'that person's got antiquated ideas of what a woman looks like and I'm going to show my appreciation of it totally inappropriately'.

The recourse to framing hate crimes and incidents into normative frameworks that seem to deconstruct them as criminal events is not simply limited to the front-line but can be seen at the highest levels of leadership. An example is provided by the resistance to nationalizing the Nottinghamshire Police policy of Misogyny Hate Crime. This overall resistance was couched within the context of austerity and diversification of precious resources from 'real' crimes namely burglary and violence which were part of core policing rather than focusing on reports of misogyny which should not be criminalized stated by Senior Female Police Leaders (Quinn, 2018) as not being 'the job of the police.'

These examples demonstrate how normative policing frameworks permeate the rank and file of police forces suggesting that tackling hate crime requires a more radical response than simply introduction of new policies or 'transformational leadership' to effect meaningful and lasting cultural change.

Conclusion: Re-framing hate crime response

Our research indicates that the application of hate crime laws and policies can be circumvented through dismissive labelling practices. Police (re)interpretation of hate crimes at times trump victim accounts resulting in the theoretical underpinnings of hate crime legislation and policies being thwarted. In England and Wales operationalization includes 'victim-centred' recording practices (following the MacPherson inquiry into the racist murder of Stephen Lawrence) and enhanced sentences to reflect the increased impact on victims and communities of targeted hostility based on personal characteristics. Yet in practice, despite such laws and policies, reconfigurations by police officers may undermine the quality of service that victims actually receive.

Our examples of officers viewing hate crime through a 'policing-lens' rather than a 'victim-centred' lens demonstrate a failure to understand how hate crime is actually experienced by individuals; as well as its potential for greater impact on communities. Researchers have argued that examples of racist and sexist abuse involve a continuum of experiences with 'minor' examples of 'harassment' at one end and more extreme examples such as murder at the other (Bowling 1999; Kelly

1987). Police practices that focus only on discrete incidents serve to minimize their impact by divorcing perpetrator actions and victim experiences from their context. In this way, the statements of police officers that 'it's not really hate crime' or 'it's not really crime' fail to reflect the experiential nature of racist and sexist violence including the wider societal and cultural background of racism and sexism against which BAME victims and/or women live their lives and which inform their 'fears' of victimization.

Whilst these reframing policing narratives deny victim experience – they can also help to explain the very high rates of attrition in hate crime cases. As previously explained, hate crime legislation is premised on the availability of increased sentences to reflect their prejudicial and targeted nature upon individuals and wider communities but in practice it is rarely used (Iganski 2001; 2009) with data showing low rates of prosecutions and use of sentences.

An important implication of police reframing strategies is that these frames normalize indifference to acts of discrimination, violence, and harassment experienced by women and BAME communities within law enforcement. Police inaction and outright resistance to combating hate crime also has the effect of sending a message to perpetrators that their behavior is acceptable. Where police do adhere to proper procedure and comply with enhanced hate crime measures, these actions may be driven by a concern about the optics of proper response rather than a genuine commitment to victims. Without this commitment, following policy becomes a 'tick-box' exercise that gives the appearance of servicing victims even if following those procedures does not result in greater public safety.

At a moment where members of society are calling for major changes to policing and where many are in need of police protection from domestic violence, race-based violence and the actions of organized hate groups, the practices of police – not simply their commitments – are especially important. Recognizing the significance of responding to hate crime, the effects of hate crime on victims, and the problem of normalizing that behavior in society is key. Meaningful change around racism and misogyny requires more than tinkering with training and 'being seen' to follow policies but is about recognizing and combating institutional blindness to racism and sexism. BAME community and women's groups will need to remain vigilant to the operationalism of existing and new hate crime laws and categories.

Competing Interests

The authors have no competing interests to declare.

References

- Ahmed, S.** (2012). *On Being Included: Racism and Diversity in Institutional Life*. Durham: Duke University Press. DOI: <https://doi.org/10.2307/j.ctv1131d2g>
- Bowling, B., & Phillips, C.** (2003). *Racist victimization in England and Wales* (pp. 154–170). Cambridge University Press. DOI: <https://doi.org/10.1017/CBO9780511499456.011>
- Centre for Women's Justice.** (2020). <https://www.centreforwomensjustice.org.uk/new-blog-1/2020/11/10/covid-19-and-surge-in-domestic-abuse-in-uk>
- CPS, Hate Crime.** (2020). <https://www.cps.gov.uk/crime-info/hate-crime>
- Criminal Justice Act.** (2003). s145 & s146.
- Deljkic, I., & Lucic-Catic, M.** (2011). Implementing community policing in Bosnia and Herzegovina. *Police Practice and Research: Intra-Agency and Inter-Agency Cooperation in International Police Work*, 12(2), 172–184. DOI: <https://doi.org/10.1080/15614263.2010.512141>
- Dunn, T.** (2018). "In deadly encounters with Toronto police, more than a third of victims are Black". *CBC News*. <https://www.cbc.ca/news/canada/toronto/police-deaths-Blacks-data-1.4599215>
- Evans, M.** (2018). Is Wolf Whistling a Hate Crime? Debate riles up 'snowflakes' and Piers Morgan. *The Metro*, 11th July, 9.25 a.m.
- Gordon, M. T., & Riger, S.** (1991). *The female fear: The social cost of rape*. University of Illinois Press.
- Quinn, B.** (2018). Met Police Chief backs calls to focus on violent crime not misogyny. *The Guardian*, 2 Nov, 10:48.
- Heidensohn, F., & Brown, J.** (2000). *Gender and policing: Comparative perspectives*. Palgrave Macmillan.
- Hohl, K., & Stanko, E. A.** (2015). Complaints of rape and the criminal justice system: Fresh evidence on the attrition problem in England and Wales. *European journal of criminology*, 12(3), 324–341. DOI: <https://doi.org/10.1177/1477370815571949>
- Home Office.** (2020). Domestic abuse during the Coronavirus (Covid 19) pandemic. England and Wales, Nov 2020.
- Iganski, P.** (2001). Hate crimes hurt more. *American behavioral scientist*, 45(4), 626–638. DOI: <https://doi.org/10.1177/0002764201045004006>
- Kelly, L.** (1987). The continuum of sexual violence. In *Women, violence and social control* (pp. 46–60). Palgrave Macmillan, London. DOI: https://doi.org/10.1007/978-1-349-18592-4_4
- Legg, S., & Citizens, N.** (2019). 'No place for hate': community-led research and the geographies of Nottingham citizens' hate crime commission. *Social & Cultural Geography*, 1–23. DOI: <https://doi.org/10.1080/14649365.2019.1697460>

- Mawby, R. I.** 1990. *Comparative policing issues: The British and American system in international perspective*. Unwin Hyman.
- Mullany, L., & Trickett, L.** (2018). *Misogyny Hate Crime Evaluation, Nottinghamshire Police*. Nottingham: Women's Centre. <https://www.nottinghamwomenscentre.com/misogyny-evaluation-report>
- Mullany, L., & Trickett, L.** 2020. The Language of 'Misogyny Hate Crime': Politics, Policy and Policing. In *Professional Communication* (pp. 249–272). Palgrave Macmillan, Cham. DOI: https://doi.org/10.1007/978-3-030-41668-3_13
- Ontario Human Rights Commission.** (2017). *Under Suspicion: Research and consultation report on racial profiling in Ontario*.
- Ontario Human Rights Commission.** (2020a). *Racial Disparity in Arrests and Charges: An analysis of arrest and charge data from the Toronto Police Service*.
- Ontario Human Rights Commission.** (2020b). Use of force by the Toronto Police Service: Final report.
- Pain, R. H.** (1997). Social geographies of women's fear of crime. *Transactions of the Institute of British geographers*, 231–244.
- Phillips, C., & Bowling, B.** (2012). Ethnicities, racism, crime and criminal justice. *The Oxford handbook of criminology*, 370–397. DOI: <https://doi.org/10.1093/he/9780199590278.003.0013>
- Police Services Act, R.S.O.** (1990).
- Brown, B.** (2018). Wolf-whistling a hate crime? What an insult to the real victims of abuse. *The Daily Mail*, 15 July 2016, 5:29.
- Toronto Police Service.** (n.d.). Community Consultative Process. Retrieved from <http://www.torontopolice.on.ca/community/ccp.php>
- Trickett, L., & Hamilton, P.** (2016). Hate crime training of police officers in Nottingham: a critical review.
- Stanko, E. A.** (1995). Women, crime, and fear. *The Annals of the American Academy of Political and Social Science*, 539(1), 46–58. DOI: <https://doi.org/10.1177/0002716295539001004>
- Skogan, W.** (2008). Why reforms fail. *Policing and Society*, 18(1), 23–34. DOI: <https://doi.org/10.1080/10439460701718534>
- Vera-Gray, F.** (2016, September). Men's stranger intrusions: Rethinking street harassment. In *Women's Studies International Forum*, 58, 9–17. Pergamon. DOI: <https://doi.org/10.1016/j.wsif.2016.04.001>
- Willis, J., Mastrofski, S., & Kochel, T.** (2010). The co-implementation of Compstat and community policing. *Journal of Criminal Justice*, 38(5), 969–980. DOI: <https://doi.org/10.1016/j.jcrimjus.2010.06.01474>

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