

executive summary

In December 2005, the Attorney General and Minister of Community Safety and Correctional Services appointed the Hate Crimes Community Working Group (the “Working Group”), consisting of 10 members with expertise in countering and preventing hate crime, and a strong understanding of current services for victims of hate crime and hate incidents. The Working Group’s mandate was to advise the government on an overall strategy to address individual and community-based victimization, and related issues arising from hate crimes. In addition, the Working Group was asked to make related recommendations on how the Government might address the unique scope and impact of community-based hate crimes. In light of the rising level of hate crime and hate incidents in Ontario, the Working Group has concluded that hate, and the needs of those who are impacted by it, must be given the highest priority by the Ontario Government.

To supplement its own expertise, the Working Group commissioned a literature review and sought information on initiatives and practices in other jurisdictions. The Working Group also held regional community meetings, distributed an electronic questionnaire to stakeholders, and conducted several focus groups and discussion sessions with a variety of community organizations and individuals. Several victims were interviewed to add further insight into the victim impact of hate crimes. The Working Group also met with key Ontario government staff, members of police services, academics, leaders of institutions and agencies, and community-based lawyers with experience in this area. It is important to stress that the Working Group heard from hate crime victims and representatives of Aboriginal, racialized, religious, Lesbian/Gay/Bisexual/Transgendered/(Two-Spirited)/Intersexed (LGBTI) and other marginalized communities in Ontario who are most susceptible to the victimization that results from hatred or prejudice. The above research, conducted from January to July, 2006, resulted in input from over 600 community members and stakeholders.

This Report of the Hate Crimes Community Working Group, entitled *Strategy, Recommendations and Priorities for Action*, presents a blueprint for expanding and enhancing services to victims of hate crimes and hate incidents, as well as priorities for preventing hate crime victimization. A supplementary volume to the Report, entitled *Background Documentation and Resources*, contains an overview of data (from the research tools described above), along with a list of community-based organizations and resources. It is intended as a tool for government, police and victim service providers.

Vision and Guiding Principles

The Working Group’s proposed strategy is designed to achieve its vision of **a province that is proactive, inclusive, innovative and effective in its response to hate crimes and hate incidents and in its support for victims of hate**. For this reason, the focus of this strategy must go beyond the limited

number of hate crime offences captured in the *Criminal Code*. The Working Group understands that hate crime and related hate incidents result from attitudes and practices of prejudice and marginalization that have deep roots in Canadian history. These attitudes and practices persist today, often with the acquiescence of society and governments. The experience of Aboriginal peoples in Canada provides a disturbing example of the effects of historically based bigotry. Aboriginal history shows that when such prejudicial attitudes are left unattended, they inevitably serve to create and excuse pervasive hate incidents and even hate crime.

Early in their deliberations the Working Group identified nine guiding principles that must inform the overall strategy in addressing hate crime and hate incidents:

- it must be **victim-centred**, attentive to the victims' perspective;
- it must have a **systemic focus**, identifying individual acts of hate and the structures, attitudes and arrangements that facilitate and excuse them;
- it must **acknowledge and accommodate difference**, recognizing that different vulnerable communities experience and react differently to similar hate incidents and have different financial and organizational capacity to support victimized members;
- it must focus on **all sectors** that affect the lives of vulnerable communities, not just the justice system;
- it must **proceed holistically**, linking, integrating and harmonizing the contributions of the justice, human rights, education, health and social services sectors;
- it must **identify problems** and **specify measurable outcomes** that will constitute their solution;
- it must build on sound, trustworthy **evidence and research**, being attentive to community and institutional experience, promising practices that are used elsewhere, victims' voices and cultural and traditional knowledge;
- it must **ensure sustainable long-term commitment** recognizing the importance of permanent, reliable community service structures, and institutional memory; and
- it must be continually **transparent and accountable**, ensuring ongoing, effective oversight and evaluation mechanisms.

Themes and Recommendations

On the basis of the extensive research, outreach efforts to key stakeholders, and input of victimized individuals and communities, the Working Group identified eight thematic areas in need of specific attention and recommendations:

1. **Definitions.** The Working Group recommends adopting standard definitions of “hate incident” and “hate crime”, which will be used province wide. A common definition and shared understanding of these phenomena and their context will ensure that there is a consistent standard against which to measure responses and services to victims of hate activity. The Working Group’s proposed definition of “hate crime” broadens, in modest but important ways, definitions already in use by the Canadian Centre for Justice Statistics, Ontario’s *Policing Standards Manual* and the sentencing provisions of the *Criminal Code*. Adoption of the proposed definitions, together with the recommendations that urge mandatory, standardized statistical records of hate crimes and incidents, will create, for the first time, a trustworthy baseline against which to gauge trends in reported hate crimes and incidents across the province. This is an important first step in any effort to measure the effectiveness of hate crime reduction measures.

2. **Aboriginal Peoples.** From the outset, the Working Group recognized and stressed the unique position of Aboriginal Peoples in Canada. Therefore, it recommends a dedicated strategy, designed with the cooperation and collaboration of Aboriginal groups, to address their specific circumstances. The position of Aboriginal peoples in Canada and Ontario is unique historically, constitutionally, culturally and sociologically. The recommended strategy must address the predicament of Aboriginal peoples, respect and pay special attention to their special constitutional rights, their forms of internal order and authority, and their traditional sense of autonomy.

3. **Communities.** The Working Group’s strategy aims to: facilitate cooperation among community groups to deal with and prevent hate crimes and incidents; incorporate vulnerable communities into the standard procedures through which governments and the justice system deal with hate-related matters; and make certain that such communities have sufficient resources to enable and sustain their ongoing participation. A successful strategy for reducing and effectively responding to hate incidents will require active participation from those communities most susceptible to such incidents. Government officials and front-line workers will continue to have much to learn from the experience, expertise and perspectives within these communities; equally important, these communities will continue to have much to learn from each other.

4. **Education and Training.** No long-term hate-crime reduction strategy can succeed without a substantial educational component. All service providers (police officers, Crown prosecutors, front-line victim services workers, correctional officers and supervisors) must be trained to appreciate the special impact of hate incidents on victims and their communities, and to understand the specific services and supports each victimized community requires. The public education system must dissolve systemic barriers that condone discrimination; students must come to understand, recognize and reject all manifestations of hate and learn how to prevent and respond to hate incidents in schools. The Working Group’s strategy addresses each of these imperatives. The role of the education system - elementary, secondary and post-secondary - is essential, as is the effective education and training of all professionals involved in investigating and prosecuting hate crimes and/or providing victim services.

5. **Victim Services.** The Working Group recommends that the services available to victims of hate crime and hate incidents (particularly victims from vulnerable communities) must be substantially enhanced and expanded to address

community-specific needs. The Working Group urges: broadening the eligibility requirements of various victim services to increase access; expanding the range of integrated services provided to hate crime victims; coordinating new and existing victim services; simplifying the process for community grant applications; ensuring service provision to individual victims with special needs or in remote locations; and tailoring victim services to address the unique situations of different susceptible communities. The victim services provided by front line community-based and community-driven agencies must be recognized and supported.

6. **Justice System.** Regardless of the legal distinction made between hate crime and hate incidents, all victims deserve and require effective and accessible administrative and civil remedies. The Working Group's recommendations address a wide range of concerns arising from within the justice system: consideration of *Criminal Code* amendments that more effectively and consistently take hate motivation into account; mandated standards for identifying and recording hate-motivated criminal occurrences; consistent minimum policing standards and ongoing police training requirements for dealing with and investigating reported hate crime; strengthened procedures for dealing with public complaints about police, especially those involving allegations of discrimination; increased efforts to eliminate racism in Ontario's correctional institutions; amendments to Bill 107 (*Human Rights Code Amendment Act, 2006*) to ensure the Ontario Human Rights Commission more effectively achieves its stated objectives; amendments to the *Victims' Bill of Rights* and the criminal injuries compensation scheme to ensure that both are of greater use to all victims of hate crime; measures to ensure affordable access to the courts for hate incident victims who choose to bring civil suits; and special measures, including a reinvigorated Aboriginal Justice Strategy, to address particular needs of Aboriginal peoples within the justice system, including recognizing and responding to hate crimes and hate incidents.

7. **Public Awareness and Social Marketing.** The Working Group believes that a primary goal of its strategy must be to transform the awareness and attitudes of the general public with regards to hate crimes and hate incidents. The social marketing task has two objectives: to ensure that there is widespread awareness about individual legal rights, and the remedies and services available to victims; and, more broadly, to make prejudice and hate behaviour socially unacceptable. The Working Group recommends creating a pivotal role for the Ontario Human Rights Commission, in cooperation with vulnerable communities and with the full support of the provincial government, to implement both objectives. The Commission's mandate must address concerns about media coverage of hate incidents and of marginalized communities.

8. **Implementation and Accountability.** To ensure the effectiveness of the proposed strategy, there must be a commitment to timely implementation, including measurable outcomes and mechanisms for accountability. The Working Group therefore recommends the creation of three distinct but related bodies to ensure effective implementation of the recommendations in this report, and the provision of sufficient and sustainable funding to support the work:

- an **Interministerial Committee**, comprising high-level representatives from key ministries and from the Ontario Human Rights Commission and the Office of Victims of Crime, to coordinate, with the assistance of staff, the phased implementation of the Working Group's strategy;

- an arm's length **Hate Crimes Governance Committee** comprised of representatives from vulnerable and victimized communities and from the broader private sector with demonstrated experience and expertise in working with these communities, and with expertise in hate issues and in justice and education matters. It will include key government officials and will perform several related functions, including monitoring and evaluating implementation of this report, advising the government, on an ongoing basis, about hate-related law reform proposals, grants from the Victims' Justice Fund, and facilitating the creation and effective operation of:
- a **Community Hate Crimes Network**, comprised only of representatives of community groups. This Network, which will be community-based and community-driven, will coordinate and integrate community-based responses to hate activity, manage public awareness and information efforts, and have meaningful input to, and involvement with, the Interministerial Committee and the Hate Crimes Governance Committee described above.

Priorities for Action

The Hate Crimes Community Working Group recommends that the Government give immediate priority to:

- ensure that sufficient funding is in place to support the initiatives recommended in this strategy;
- allocate the \$1.35 million in earmarked Victims' Justice Fund monies to the Hate Crimes Governance Committee for use as transfer payment funds to support appropriate community-based services for hate crime victims;
- charge the Office for Victims of Crime (OVC) with interim responsibility for coordinating implementation of this strategy (pending establishment of the Interministerial Committee), and enhancing the capacity of the OVC for this purpose, and on an ongoing basis, to ensure the OVC membership includes community hate crimes expertise;
- amend the Victim/Witness Assistance Programs Policies and Procedures Manual to specify that all hate crime victims, even victims of property crimes, qualify as priority clients;
- create the Interministerial Committee and the Hate Crimes Governance Committee, with protocols for cooperation and consultation between them;
- allocate sufficient funds over two years to creating, staffing and beginning the work of the Hate Crimes Governance Committee;
- make best efforts to ensure that only personal characteristics that attract the protection of Section 15 of the *Charter of Rights* qualify as "similar factors" when courts, pursuant to Section 718.2(a)(i) of the *Criminal Code*, increase offenders' sentences on account of hate motivation;

- increase efforts to address and eliminate systemic racism in the Ontario correctional service and in provincial correctional institutions; and
- reaffirm publicly the Government's commitment to, and vision for, the Aboriginal Justice Strategy.

For a complete summary of all recommendations followed by the 4-phased Implementation Plan, please see page 71.

"When I tell the story, everyone says that I should have reported it. But to who? What effect would it have had? I just wanted to forget about it...I didn't know the right person to go to. The police are overworked and don't have time – I didn't think it was a 'heinous crime'. And what if I got the wrong police constable? I don't want to add to my pain and victimization. I'd rather put up with it. I'd rather protect myself. And I don't want to risk having it be trivialized."

African Canadian Woman, Victim of racist graffiti, Toronto

"I am almost less angry at the individuals who committed these acts, because they are ignorant and will never change because of what they have been taught in their lives. I am angrier and more frustrated with the police and the witnesses who could have helped, but did not."

South Asian Male, Victim of racial harassment and assault, Toronto