

strategy and recommendations

Vision

A province that is proactive, inclusive, innovative and effective in its response to hate and hate crimes, and in its support for victims of hate.

To achieve our vision that will enhance victim services, response to and prevention of hate crime and hate incidents in Ontario, the Hate Crimes Community Working Group, in fulfillment of its mandate, and based on what we have gleaned from our research, recommends the implementation of a strategy that addresses the following critical components:

1. Definitions
2. Aboriginal Peoples
3. Communities
4. Education and Training
5. Victim Services
6. Justice System
7. Public Awareness and Social Marketing
8. Implementation and Accountability

1. Definitions

Goal: Establish a shared conceptual foundation for hate incidents and hate crimes across government and in communities.

The Working Group concluded that hate is a complex problem touching a range of issues and concerns. Given this complexity, it decided that a clear understanding of hate incidents and hate crimes (i.e. acts of hate) must be developed and that a consensus, based on this understanding, must be built across government and in communities.

Objective:

The definitions of hate incidents and hate crimes are contextualized and cognizant of the marginalization and disadvantage of victimized communities.

A clear understanding of hate crimes and hate incidents requires recognition of the systemic dimension of hate. The Working Group concluded that acts of hate are not aberrant, isolated occurrences. They do not take place within a vacuum, but occur in environments where bias, prejudice, bigotry and contempt are pervasive and deeply embedded, and are continually in evidence in everyday life for too many Ontarians. Racism, homophobia, sexism and other similar ideologies or mindsets are pervasive in society, and provide the underpinning for and facilitate acts of hate. These acts, in turn, further entrench the ideologies from which they emerge.

Acts of hate are not confined to the discrete actions of specific people. Hate is manifested within organizational structures as well as through the thoughts and behaviours of individuals and groups. Institutions and corporations can, for instance, perpetrate hate through engrained practices of entitlement, superiority and domination. They do not just condone victimization; they participate in it and benefit from it. And states can explicitly target and systematically persecute particular communities or populations. The Holocaust during the Second World War is a case in point. In the view of the Working Group, this aspect of hate must be acknowledged.

In the view of the Working Group, acts of hate occur within specific contexts. Certainly, hate has an historical context. It is rooted in, and perpetuates, inequalities and discrimination in our past. Examples of such historical roots include the colonization and dispossession of Aboriginal peoples, the enslavement of men, women and children of African descent, the organized, state-endorsed discrimination of racialized 'foreigners' (e.g. Chinese, East Indian and Jewish immigrants or would-be immigrants), and the oppressive treatment and institutionalization of persons with disabilities.

The Working Group concluded that the contemporary context is also important. For instance, Muslims are attacked and a Hindu temple is destroyed by arsonists in the aftermath of the 9/11 terrorist attack; the LGBTI community is demonized as debate escalates about same-sex marriage; assaults of African Canadian men by police occur within the context of racial profiling; and a Jewish cemetery is desecrated, swastikas deface a synagogue, and two Jewish schools are firebombed as the situation in the Middle East intensifies.

In the Working Group's view, understanding and attending to context is crucial. The Working Group believes that acts of hate occurring today find referents in the past - for instance, assaults of African Canadian men who have been racially profiled find their roots in the anti-Black stereotyping and social controls that characterized slavery. It also believes that the contemporary context will inform, if not actually lay the foundation for, acts of hate in the future.

In developing an understanding of hate incidents and hate crimes, the Working Group also reached several conclusions regarding impact. The consequences of acts of hate are profound and far-reaching, especially considering the vulnerability of victims and communities, and their relative powerlessness in seeking recourse. Acts of hate stigmatize and marginalize already stigmatized and marginalized individuals and groups.

Moreover, the Working Group concluded that the intersection of multiple oppressions in an act of hate exacerbates the impact. For instance, a woman with a physical disability who was specifically targeted for sexual assault (i.e. gendered violence) because persons with disabilities are negatively stereotyped as powerless and defenseless, may feel doubly violated after the assault has occurred. Factors such as immigrant status and scape-goating during economic downturns operate in similar ways. Finally, the intersection between poverty and lack of economic opportunity on the one hand and race, ethnicity or religion on the other, necessarily affects the impact of hate.

Objective:

Common definitions of hate incidents and hate crimes are adopted by government, police services and communities.

The Working Group concluded that formal definitions of hate incidents and hate crime should be developed to convey its understanding of hate and to ensure a common stance. It is important to take a broad perspective with respect to definitions because many acts of hate, although intimidating and injurious, may not constitute hate crimes under the framework provided by the *Criminal Code of Canada*. The Working Group wants to ensure an inclusive, victim-focused approach that addresses the realities of hate and assists in the provision of victim services. We also want to ensure a comprehensive, equitable and effective

response. Consequently, the proposed definitions encompass all hate-related events. A standardized definition will facilitate information sharing, reporting, documentation, comparative analysis, and measurement of the effectiveness of interventions, and will enhance effective police/community relations through better understanding, recognition and naming of hate and hate crime.

Recommendations:

1.1. The Working Group recommends that:

- the Ontario Government adopt standard definitions of 'hate incident' and 'hate crime' for all public purposes in the province, including victim services, criminal justice, statistical classification, public education, policy and program development, and program/project funding allocations; and
- the Ontario government urge the federal government to adopt these same definitions for all public purposes nationwide.

1.2. The Working Group further recommends that:

- the Ontario government propose and adopt the following definitions for these purposes:
 - 'hate incident' means any act or omission, whether criminal or not, that expresses bias, prejudice, bigotry or contempt toward a vulnerable or disadvantaged community or its members. A 'vulnerable or disadvantaged community' is any group or community identified as such on the basis of characteristics protected by the *Criminal Code of Canada*, the *Canadian Human Rights Act*, the

Ontario Human Rights Code, or Section 15(1) of the *Canadian Charter of Rights and Freedoms [Charter]*.¹

- 'hate crime' means any criminal offence committed against a person or property that is motivated, in whole or in part, by bias or prejudice based on real or perceived race, ancestry, national or ethnic origin, language, colour, religion, gender, age, mental or physical disability, sexual orientation or any other similar factor, whether that of a victim or that of associates with whom a victim is closely affiliated. 'Any other similar factor', as specified in the *Criminal Code*, is to be interpreted, for this purpose, in a manner similar to 'analogous grounds' in Section 15(1) of the *Charter*.²

2. Aboriginal Peoples

Goal: Recognize and respect the unique historical, constitutional and current position of Aboriginal peoples.

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The Working Group has chosen to devote a component of this strategy exclusively to Aboriginal peoples in order to address the unique position that their communities occupy in Canada. The Working Group honours the historical fact that Aboriginal peoples were the first peoples to occupy present-day Ontario. It recognizes and respects the deep spiritual and cultural ties that bind them to the land. It believes that their communities are rich and diverse in terms of their histories, cultures and languages.

Aboriginal peoples hold a unique legal and constitutional position in Canada. They believe - and the Working Group respects their belief - that this position originates in natural law (since they are indigenous to the land). It received early formal recognition in the *Royal Proclamation of 1763* and then in numerous treaties that, from an Aboriginal perspective, embody traditional relational values of peace, harmony and respect, govern the sharing of the land, and are binding, in legal and spiritual terms, in perpetuity. Aboriginal and treaty rights were affirmed in the *Constitution Act, 1982*.

The Working Group was made painfully aware during its discussions, through presentations from Aboriginal community representatives and as a result of the community meeting held in Kenora, that First Nations, Métis and Inuit peoples have long been subjected to hate crimes, and are today disproportionately victimized by hate. Obvious examples include the brutal sexual assault and murder of Aboriginal

¹ Discrimination under section 15(1) of the *Charter* is prohibited on the basis of the "enumerated grounds" of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability, and on grounds analogous to those that are enumerated. An analogous ground recognizes a group that is vulnerable to discrimination and that has been subjected to historical disadvantage and negative stereotyping, based on immutable characteristics (that is, characteristics that are difficult to change or would be unreasonable to expect an individual, to change).

² See previous note.

women and girls. However, incidents such as unprovoked attacks on Aboriginal fishermen exercising treaty-based harvesting rights and 'protective' measures such as the apprehension and adoption 'out' of Aboriginal children can also, in the Working Group's view, evidence hate. And all of these incidents and measures occur within an environment of constant disrespect and ill treatment, and persistent prejudice and discrimination.

Objective:

A distinct and targeted approach is taken to understanding and addressing Aboriginal victimization.

The Working Group concluded that the current position of Aboriginal peoples in Ontario has a bearing on their encounters with hate. Aboriginal peoples occupy markedly different historical and political realities than other residents in the province because they are colonized peoples. The notion and the experience of hate and hate crime are rooted in a different dynamic for them given the treatment they have endured (and continue to endure) and given that hate is often directed at undermining their legitimacy as peoples. The Working Group understands

that Canadian law has provided few remedies for actions that profoundly transgress Aboriginal peoples' understanding of our relationships as brothers and sisters, and nations within a nation. Comprehending this, the Working Group concluded, is key to understanding the impact of hate and hate crime on Aboriginal peoples and to redressing the situation.

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As was described in the Background and corroborated in the Findings, since hate is so normalized (to the point that it is 'like the air we breathe') and since it is so debilitating for Aboriginal peoples, the Working Group concluded that urgent action is required. It believes that hate must be acknowledged publicly as an enormous problem, and that hate crimes and hate incidents should be reported and addressed appropriately.

Objective:

Urgent attention is given to Aboriginal victims of hate incidents and hate crimes.

The Working Group understands that Aboriginal peoples believe that 'criminalization' should not be the sole strategy for dealing with these sorts of issues. It recognizes and respects that Aboriginal peoples favour a holistic approach to victim supports, and a response that attends to both victims and perpetrators in order to restore balance. In addressing hate victimization (both individuals and communities), a holistic approach necessarily encompasses health, mental health, education and child and family services, in addition to conventional police

intervention and court-based services. To a greater degree than in non-Aboriginal settings, the emphasis in Aboriginal communities should be on linking victim assistance into community development efforts. A holistic approach would also address perpetrators of hate crimes in a manner that is more constructive than solely criminal sanctions.

Recommendations:

The Working Group recommends that:

- 2.1. The Ontario Government undertake a distinct Aboriginal Strategy to end hate crimes and hate incidents directed towards Aboriginal Peoples and their communities. The Strategy should meet the following criteria.

- The Strategy is designed, developed and implemented in collaboration with Aboriginal Peoples and communities across Ontario.
- Appropriate linkages are established between this strategy and the Aboriginal Justice Strategy which is directed toward improving and strengthening the Canadian justice system's response to Aboriginal peoples, and examining opportunities to support the development and delivery of Aboriginal traditional and community-based approaches to justice.
- Funding for the strategy is long-term and consistent, and includes sufficient resources for substantive work with schools and in classrooms.
- The strategy includes a strong public education component about the origins and effects of hate crimes and hate incidents, as well as collaborative initiatives that bring Aboriginal peoples into dialogue with other communities to deepen understanding of the unique histories and rights of Aboriginal peoples in Canada.

3. Communities

Goal: Empower and integrate communities into all systems and services relating to hate crime.

The Working Group's strength as a group, lies in its shared ability to understand and address with sensitivity the lived experiences and perspectives of many of Ontario's diverse communities. This attribute has been a key component in members' ability to listen with empathy and unflagging interest to the presentations made and personal stories told by the broad variety of community-based representatives in several settings across Ontario.

Working Group members also have day-to-day, personal experience of varying degrees and forms of systemic racism and hatred that their communities continually experience. They are able to recognize how such systemic bias often results in bigotry and hate directed towards ethno-cultural and religious communities, gays and the disabled, and the manner in which communities and groups that are seen to be "different" or "other" experience hate crimes and hate incidents.

The Working Group was also reminded by participants that many racialized communities continually suffer extreme disadvantage because they lack the required expertise, resources and institutional infrastructure to exercise fully their civic rights and responsibilities. This is especially true for Aboriginal peoples, the African Canadian community and other racialized communities. Furthermore, there are no mechanisms for vulnerable communities to participate in decision-making with governments and public institutions as civil society representatives for the purposes of democratic accountability.

Based on these experiences and the information and data collected since January 2006, the Working Group holds the strong view that community-based organizations in Ontario possess unique experience and expertise to work effectively within their respective communities, as well as to monitor and hold accountable public sector

institutions and policies that impact them. It is, therefore, imperative that community organizations are considered integral to the overall strategy aimed at the elimination of hate crime and hate incidents in Ontario.

Objective:

Victimized communities have the capacity to deal with hate and hate crime by having access to sustainable funding and support for services, programs, and initiatives.

The Working Group fully appreciates that the funding needs for critical work in communities is an ongoing problem, particularly access to sustainable funding. It believes that there must be specific funding for community groups to build requisite institutional structures that allow them to comprehensively assist victims of hate crimes and hate incidents to navigate and negotiate effectively through the justice system and prosecution processes. Such support is particularly important because community-based organizations are the first stop for the majority of victims seeking refuge and help, as well as for governments seeking information on community needs and issues. The recommendation for sustainable funding to communities stands out as an urgent priority.

The Working Group fully understands that systemic barriers can have devastating impacts on the day to day realities of people living in vulnerable communities, and that such communities must be empowered to participate in seeking solutions. The Working Group recognizes that community-based organizations through their leadership have developed particular insights and expertise in this area based on their own lived experience and that they must be included as essential and equitable partners in the development of sustainable solutions to redress hate crimes and hate incidents.

Objective:

Vulnerable communities are adequately and meaningfully represented in institutions and partnerships.

The Working Group recognizes that community organizations would be strengthened through collaborations and networking. The Working Group believes that it is essential that respectful, collaborative and meaningful partnerships are developed across the sectors and that structures are created and supported for communities to bring their experience to the table.

The Working Group recognizes that in order to erase historical, structural and attitudinal causes of hate and hate crime, vulnerable and marginalized communities who are the primary targets, must have the institutional and financial capacity to act. This means both the ability to intervene effectively in individual cases of victimization and also to engage equitably with governments, policy makers and public institutions that deal with hate and hate crime.

Objective:

Opportunities exist and are strengthened for networks, community partnerships, coalitions and capacity building.

The Working Group believes that support for collaborative partnerships between and among community based groups and organizations would be beneficial for building linkages among the broad diversity of community groups and organizations. Such steps will significantly contribute to reducing unnecessary duplication of efforts. The Working Group concludes

that development of inter-community relationships is crucial in the larger fight against systemic racism, hate crimes and hate incidents throughout Ontario. It encourages the government to take deliberate steps to assist and support cross-community collaboration that will meet both the common and specific needs of communities and the goals and overall socially beneficial interests they share with the Ontario Government.

Recommendations:

The Working Group recommends:

- 3.1. The Ministry of the Attorney General and the Ministry of Community Safety and Correctional Services provide sufficient funding and additional resources to community organizations throughout the province to:
 - create necessary institutional supports within communities;
 - strengthen relationships between community organizations;
 - collect and publish their own statistics of hate related incidents in their communities, and support community-based research initiatives;
 - assist and support victims of hate crimes and incidents through the justice system; and
 - create distribution channels so community organizations can disseminate the research and products they have produced.
- 3.2. In collaboration with community-based organizations, the Ministry of the Attorney General and the Ministry of Community Safety and Correctional Services create and strengthen networks for:
 - sharing information, research and best practices between community organizations and government.
 - understanding the scope of hate activity and incorporating community research and data collection, statistics, and resource materials when creating similar products.

4. Education and Training

Goal: Implement effective education and training to address and prevent hate and hate crime victimization.

The Working Group believes that our schools, colleges and universities must be encouraged and supported to continuously build and maintain strong, sustainable partnerships among themselves and with the Ontario Government in the overall strategy to address hate crimes and hate incidents. The Working Group understands that hate is not intrinsic to human beings; it is a learned behaviour which can be

unlearned. Educational institutions play key roles in shaping the ideas and attitudes of our children and youth who come from such a huge diversity of ethno-racial, socio-economic and geographically differentiated communities. They are central to the development of Ontario's moral climate.

The Working Group concluded that educational institutions are not immune from intolerance and violence. Across the province, children and youth are significantly implicated in hate incidents and hate crimes as both victims and perpetrators. Teachers, administrators and support personnel also convey and are the targets of hate. Hate activity, whether it takes the form of slurs, graffiti, intimidation, bullying, harassment or assault, is continuously evident in classrooms and on school grounds. As well, hate groups work within school environments to recruit young people to their ranks.

The Working Group is particularly concerned about the plight of children from the African Canadian community, especially with respect to disciplinary measures imposed under the 'Safe Schools' provision of the *Education Act* that targets racialized children and youth. The situation of First Nations, Métis and Inuit children is a cause for deep disquiet. Tolerance of homophobia, which has a drastic effect on LGBTI youth, is also a serious concern. LGBTI youth are at higher risk of substance abuse and for dropping out of school. The Working Group is distressed that there is today in the school system "the systemic belief that 'badness' comes in colour, poverty and behaviour problems" - to quote one of the presenters. It concluded that strides that were made in the past to ensure that the Ministry of Education played a strong leadership role in promoting anti-racism policy and practice have been negated. Policy frameworks are being disregarded, institutional support for implementation of policies has been eliminated, and structures have been dismantled.

The Working Group believes that Ontario's schools, colleges and universities must be actively engaged in preventing and reducing hate crimes and hate incidents. The Ministry of Education has a responsibility to provide guidance to school boards in curricula directions and instructional practice to ensure that Ontario's students are instilled with an appreciation and respect for each other's differences. The Ministry must also ensure that the norms and values of Ontario's educational system focus on empathy, critical thinking, and conflict resolution skills. As well, anti-racism and anti-hate policies and practices must be rigorously enforced through monitoring, and requiring strict adherence to, codes of conduct for administrators, teachers, students and parents. In sum, the Ministry, in partnership with school boards and schools, must ensure the creation of an organizational culture and climate where prejudice and hate-motivated behaviour are not tolerated.

In the Working Group's view, it is important that the Ministry's commitment to equitable, supportive and safe environments for all students and staff include a determination to eradicate hate crimes and hate incidents of every kind.

Objective:

Curricula and training development includes community and victim perspectives, and incorporates anti-racism and anti-oppression content.

Attention to curricula is the essential first step in achieving this end. Although some advances have been made, much more needs to be done. To ensure that students learn about and value the various communities (and their diverse histories, cultures and perspectives) that comprise our society, Ontario's educational institutions

must integrate an anti-racism and anti-oppression focus in curricula and course content. And even this is not enough. Explicit study of intolerance, prejudice and bigotry – including their impacts and consequences – and of hate and hate crime must be incorporated into curricula, and students must be taught how to identify racism, antisemitism, homophobia, sexism, and so on.

Objective:

Hate incidents in educational institutions (e.g., schools, community colleges, universities) are reported, investigated and remedied.

Two elements are essential in curriculum development to ensure that students fully comprehend hate crimes and hate incidents. First, the perspectives of the communities targeted and affected by hate must be taken into account, and these communities must have a meaningful role in curricula development. This 'empowering' of communities is, in and of itself, an anti-hate measure. Secondly, history and context must be

stressed. Children and youth cannot understand and resist hate unless they are aware of the strong prejudices, inequitable relationships and violent events in our past that underpin and, because they have not been dismantled or redressed, help perpetuate hate today. In addition, they must be aware of, and have the ability to analyze, the contexts in which hate crimes and hate incidents occur. The Working Group concluded that, in addition to attending to curricula, schools, colleges and universities must respond appropriately to hate crimes and hate incidents when they occur. Administrators, teachers and counsellors must react promptly and effectively at the first sign of bias, and they must involve students, as well as parents and members of the community, in finding solutions to underlying tensions. If subtle patterns of prejudice and bigotry are not defused, they can escalate into overt expressions and behaviours. Policies and processes must be in place for facilitating formal reporting, investigation and resolution.

In the Working Group's view, all staff in educational institutions, including teachers, administrators, counsellors and security personnel, must be competent to address hate crimes and hate incidents. This competence takes several forms. In addition to having ready access to and familiarity with pertinent policies and processes as well as awareness of available resources and expertise, staff must be knowledgeable about the sources of hate and its various manifestations; they must be able to identify crimes and incidents; and they must have some facility with appropriate conflict resolution strategies and methods. Formal training must be provided to ensure this competence.

Objective:

Professionals who deal with victims (e.g. teachers, police, victim service providers) have a critical perspective, understanding and analysis of the issue.

The Working Group also concluded that formal training is a significant issue far beyond the education system. There are problems with cultural sensitivity and cultural competence among victim service providers, police officers, prosecutors, judges, corrections officers and officials, and other personnel in the justice system. The demographics of the province are such that victims of hate crimes and hate incidents reflect a huge multicultural, multi-racial and socio-economic diversity. This can be challenging at times.

Officials within the justice and victim service systems must receive sufficient training to equip them to meet this challenge. In the Working Group's view, formal training is also required to instill a critical perspective, understanding and analysis of hate, to ensure a rigorous, effective approach, and to improve relationships with communities

targeted and affected by hate. The Working Group believes that training modules that have recently been produced and disseminated are inappropriate and inadequate. Part of the problem was lack of community consultation. Community members must have a meaningful role in designing training materials and delivering training.

Recommendations:

The Working Group recommends that:

- 4.1. The Ministry of Education enhance funding to ensure that school boards can deliver effective ESL and other programs (e.g. African Heritage Programs) attentive to the needs of children from vulnerable communities.
- 4.2. The Ministry of Education, in consultation with Aboriginal, racialized, religious, LGBTI and other vulnerable communities, develop and enhance curricula for all levels of the elementary and secondary education system in Ontario that:
 - address issues of difference and the several possible forms of overt and systemic discrimination;
 - illuminate the history, causes and consequences of marginalization and stigmatization that vulnerable groups have faced and continue to face in Ontario and in Canada;
 - give students and staff authentic opportunities to learn about diverse histories, cultures and perspectives; and
 - provide students with the knowledge, skills, resources and tools necessary to recognize and confront hate, including hate-related bullying.
- 4.3. The Minister of Education introduce legislation to amend and modify its application of the 'Safe Schools' provisions of the *Education Act* in line with proposals made in the Ontario Human Rights Commission's report *Paying the Price: the Human Cost of Racial Profiling*, the report of the *Toronto District School Board's Safe and Compassionate Schools Task Force* and the Safe Schools Action Team's report *Safe Schools Policy and Practice: An Agenda for Action*.
- 4.4. The Ministry of Education and the Ministry of Community and Social Services, in cooperation with appropriate professional associations and licensing bodies, amend requirements such that:
 - successful completion of mandatory courses on the history, causes and consequences of hate and bias-motivated behaviour are a requirement for qualification as a teacher, school principal or counsellor or social worker; and
 - accredited teachers, school principals and counsellors demonstrate ongoing competence with this subject matter at regular intervals to maintain satisfactory performance ratings.
- 4.5. The Ministry of Education reaffirm the Ontario government's commitment to Policy/Program Memorandum No. 119 (*Development and Implementation of*

- School Board Policies on Antiracism and Ethnocultural Equity," July 1993) and use to the full extent its authority under Section 8(1)29.1 of the Education Act to ensure that school boards comply with and enforce it.*
- 4.6. All school boards, colleges and universities in Ontario ensure, on an ongoing basis, that their policies and procedures are sensitive and resistant to the risks of stigmatizing or marginalizing vulnerable communities, and that the Ministries of Education and of Training, Colleges and Universities make best efforts to ensure that this takes place.
- 4.7. The Ministries of Education and of Training, Colleges and Universities, require all Ontario schools, colleges and universities to keep and report annually statistics about hate incident reports and about what action is taken in response to them.
- 4.8. The Ministry of Education amend its Code of Conduct for schools to make it explicit that hate propaganda and other forms of hate or bias-motivated conduct are unacceptable in Ontario schools, and seriously consider designating such behaviour as cause, province-wide, for suspension or expulsion, provided that the above-mentioned recommendations are implemented.
- 4.9. The Ministry of Education:
- ensure the production, and dissemination to students, school staff and parents or guardians, of information on victimization and ways of recognizing hate and bias-related incidents;
 - ensure that educational institutions at all levels have processes and protocols in place
 - for early preventive intervention in response to discriminatory attitudes and beliefs, and
 - for receiving and responding to reports of hate and bias-related incidents, that students, staff, parents/guardians and communities are aware of and conversant with these processes and protocols, and that incidents are reported, investigated and effectively dealt with;
 - develop guidelines to ensure that school teachers', counsellors' and principals' performance reviews reflect any involvement they may have had in hate incidents;
 - support and coordinate the establishment, in schools, colleges and universities, of designated support services of children and youth who are victims of hate-related bullying; and
 - support and coordinate the efforts of school boards, colleges and universities to prevent and counter hate promoters' attempts to recruit children and youth.
- 4.10. The Ministries of Education and of Training, Colleges and Universities:
- develop meaningful partnerships with communities vulnerable to hate;
 - involve them as fully as possible in all efforts to address the issue; and

- make best efforts to ensure that all Ontario school boards, colleges and universities do the same.
- 4.11. The Ministries of the Attorney General and of Community Safety and Correctional Services work with the municipal police service boards and the Ontario Chiefs of Police to ensure:
- the development, in collaboration with representatives from communities vulnerable to hate, of comprehensive programs for training in diversity and in hate incident recognition and response;
 - the provision of such training, on a regular basis, to
 - all police officers, provincial corrections officers, provincial Crown prosecutors, and their supervisory staffs and
 - all front-line victim service providers employed by the provincial government or by provincially-funded community agencies; and
 - that demonstration of ongoing competence in these matters be, for all these individuals, a part of his or her annual performance review.
- 4.12. The Ministry of Education, work with, as appropriate, school boards, institutions involved in educating system professionals (e.g. teachers, counsellors), and accreditation bodies, to design and deliver, in collaboration with community members ongoing training (i.e. at all stages of their careers) on anti-racism/anti-oppression practice and, more specifically, on recognizing and reporting hate and bias-related incidents and diversity training for teachers, counsellors and administrative staff to better equip them to support victims and witnesses of hate and bias-related incidents, and link performance plans/appraisals to successful completion of this training.
- 4.13. Given the important role of the judiciary in matters related to offences related to hate crime, this report be forwarded for review to the Offices of the Chief Justices of each level of court in Ontario and to the National Judicial Institute so that it may inform consideration of judicial education in this area.

5. Victim Services

Goal: Enhance and expand services to victims of hate crimes and hate incidents.

Prior to the establishment of the Working Group, some members were unaware of the important work of the Ontario Victim Services Secretariat (OVSS) and two associated agencies - the Office for Victims of Crime (OVC) and the Criminal Injuries Compensation Board (CICB). Now armed with a deeper understanding, the Working Group believes that these bodies have the strong potential to facilitate implementation of the Ontario Government's overall strategy to address individual and community-based victimization and related issues arising from hate crimes.

The Working Group concluded, however, that there are a number of problems in current service delivery. The OVSS falls seriously short in two key areas. First, it was clear to the Working Group that many community-based organizations, groups and vulnerable communities are simply unaware that there are services available to victims of hate crimes through the OVSS. Secondly, the services provided by the OVSS are inadequate to meet the specific needs of communities and victims in regard to hate crimes and hate incidents, particularly those of Aboriginal peoples, LGBTI, and other marginalized, racialized and vulnerable communities.

Objective:

The role of community-based services for victims of hate crimes and hate incidents is recognized as necessary and these services are given sustainable support.

The Working Group concluded that programs and services currently available to meet the needs of victims exclude a vast number of victims and victimized communities. The Working Group's mandate required it to be specifically concerned about the gaps in service provision to victims of hate, and it is very much aware that this gap is mainly filled by community-based organizations. In the Working Group's view, there are several characteristics that make community-based organizations a more viable option and first point of refuge for victims seeking support. They tend to be accessible and are knowledgeable of the victim's and community's needs. They provide culturally appropriate and sensitive response, and have the expertise to tailor services to meet needs. Finally, their independence makes them less intimidating than government-affiliated bodies.

It was clear to the Working Group that Ontario's victim-based communities have different capacities to respond to needs within their respective communities. Some Ontario communities are well resourced with sustainable local and international networks. Their leaders and members often have strong, trusting relationships with governments and in the private and not-for-profit sectors. Such communities set an example in their capacity to respond effectively to the complex demands of political, social, technological and economic change with regard to hate crimes and hate incidents.

At the same time, however, the Working Group remains acutely aware that there are many marginalized communities in Ontario that simply do not have the infrastructure, resources or networks to provide support and assistance to take a stand against hate crimes and hate incidents that are perpetrated in their communities. While such communities, and the organizations that represent them, bring particular expertise in providing crucial support, they are continually under-funded, with many struggling to provide much needed services on precarious budgets.

The Working Group concluded that community-based organizations need recognition of the expertise they hold, and must be accepted as invaluable partners in collaborative responses against hate activities in Ontario. In addition, they require sustainable funding. Predictable and ongoing funding is critical for the development of long-term programs to address the needs of victims and vulnerable communities.

In the Working Group's view, government programs and initiatives established to meet needs of victims and victim communities have proved inadequate, in particular for Aboriginal peoples, the LGBTI community, and racialized and other marginalized

Objective:

Government programs and initiatives serve victims of hate and hate crime in a way that is accessible, flexible, comprehensive, victim centred and sensitive to the needs of diverse communities

communities. To meet the diverse needs of victims of hate across Ontario communities, service provision must be accessible, flexible, comprehensive, sensitive and, above all, victim-centred. There are a number of key steps the government must take to address needs in multi-racial, multi-cultural and multi-faith communities.

First, in the Working Group's view, the government must undertake initiatives to ensure that all communities in Ontario are fully aware of and understand the services it provides. Equally important, it must take steps to ensure that victim services are accessible to all, particularly in Northern Ontario and in communities outside of urban centres. It must ensure that its service delivery is culturally sensitive and meets the range of linguistic needs beyond English and French, and that service delivery personnel are culturally competent. The Working Group concluded that programs and services should be tailored to appropriately address the unique needs of each community and that the parameters of these services must be expanded to attend to different types of victimization. A 'one size fits all' approach cannot offer effective services to the diverse population of Ontario.

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Objective:

Victimized communities are able to respond to their evolving needs.

The Working Group is mindful of the fact that over time the needs of all communities can - and do - change and different communities in Ontario have differing levels of capacity to respond to evolving needs. In the current globalized context, incidents in far-off places can have a devastating impact on the lives of people in Ontario communities. The recent experiences and needs of the Arab and Muslim communities here in Canada whose everyday

circumstances have changed so dramatically since 9/11 provide worrying examples of these evolving pressures and demands. The Working Group is also concerned about the racial profiling and pathologizing of specific communities, such as the African Canadian community. At the same time, it is aware that such communities do have the necessary expertise and other social capital to bring to the struggle against hate crimes and hate incidents in Ontario.

The Working Group believes that services for victims (individuals as well as communities) must be developed in collaboration with the communities that are racialized and marginalized. The goal of this collaboration must be to strengthen their organizational capacity to respond to evolving needs and to the systemic impacts of hate crimes and hate incidents that result from the intersection of more than one oppression. Collaborations across communities, between government and communities, and across different sectors can offer appropriate responses to such shifting context and needs.

Recommendations:

The Working Group recommends that:

- 5.1. The Ministry of the Attorney General (MAG) and the Ministry of Community Safety and Correctional Services (MCSCS), make a fundamental shift in its funding of community-based victim services, moving away from short-term, project-based funding to a commitment of long-term sustainable funding to allow community groups to build programs and internal capacity.

- 5.2. The Ministry of the Attorney General and the Ministry of Community Safety and Correctional Services, significantly simplify the grant application process for funding of community-based services, to make it far less time and resource intensive to complete. Onerous processes should no longer discourage resource-limited community-groups from applying for grants.
- 5.3. The Ministry of the Attorney General ensure that all victim services personnel in government-funded programs or initiatives involving the provision of direct services to victims of crime, receive comprehensive training on hate crimes and hate crime victimization. This training must include competence in cultural norms of diverse communities and cross-cultural communication skills. The content of the training materials is to be developed in consultation with community groups.
- 5.4. The Ministry of the Attorney General, through the Ontario Victim Services Secretariat, ensure that particular attention is paid to establishing, in consultation with Aboriginal communities, targeted services designed for and directed by First Nations, Métis and Inuit Peoples.
- 5.5. The Ministry of the Attorney General, through the Ontario Victim Services Secretariat, provide tailored, individualized services that recognize the individual identity and respond to the personal needs and concerns, values and preferences, and economic and social realities of victims. To do so, the Ministry must create services for specific communities, victims, and age groups.
- 5.6. The Ministry of the Attorney General, through the Ontario Victim Services Secretariat, pilot a range of innovative initiatives and interventions for different communities targeted and affected by hate, or on the basis of specific types of victimization, in order to develop long term diverse strategies and approaches.
- 5.7. The Ministry of the Attorney General, through the Ontario Victim Services Secretariat, expand the parameters of service provision to attend to the diversity of victims and types of victimization and to provide sustained support throughout the ‘victimization experience.’ Services offered should include: crisis response; counselling and advocacy; supports for participation in justice; human rights and education system processes; victim-offender mediation and reconciliation processes and victim compensation.
- 5.8. The Ministry of the Attorney General, through the Ontario Victim Services Secretariat, enhance government-funded community-based services to increase their sensitivities in responding to all victims of crime, whether or not they choose to report to the police.
- 5.9. The Ministry of the Attorney General, through the Ontario Victim Services Secretariat, design and implement different service delivery methods and use alternative formats to reduce and eliminate barriers to access, such as language and cultural differences, illiteracy, physical disabilities and limitations, poverty and geographic location. One possible option that should be explored is the use of technology-based services for victims in rural areas.

- 5.10. The Ministry of the Attorney General devise appropriate means to involve victims, both individuals and communities, in the design and development of services. Among other things, such involvement could involve identifying new and emerging issues and challenges and considering options of the kinds of supports to be provided.
- 5.11. That Ministry of the Attorney General, through the Ontario Victim Services Secretariat, amend the Victim/Witness Assistance Program Policies and Procedures Manual to specify that all victims of hate crimes must be treated as priority clients, including victims of property based hate crimes.
- 5.12. The Ministry of the Attorney General, through the Ontario Victim Services Secretariat, coordinate victim services to strengthen linkages and networks between service bodies to facilitate suitable and timely referrals in situations wherever there is a service gap or the needs of a victim(s) are beyond the capacity, scope or service mandate of an agency or organization.
- 5.13. The Ministry of the Attorney General, through the Ontario Victim Services Secretariat, undertake to recruit, retain and promote a diverse body of victim service staff. Diversity refers to the different ethnocultural, racialized, religious and LGBTI community that are targeted/affected by hate. All staff members will be trained to ensure they have appropriate language and cultural competencies.
- 5.14. The Attorney General introduce legislation to amend the *Victims' Bill of Rights*:
 - To create a legal basis for defining communities and their institutions as eligible for support using monies from the Victims' Justice Fund (s.1).
 - To provide that the Victims' Justice Fund could be used to support prevention initiatives (s.5(4)).

Strategy and Recommendations

6. Justice System

Goal: Secure effective responses and remedies in the justice system.

The Working Group believes that the legal system is a fundamental and essential pillar of any societal response to hate activity. Society has both a moral and legal obligation to ensure that victims of hate crimes and hate incidents are given justice. Victims of hate activity must have access to justice, be protected by the law, and be entitled to appropriate redress. Hate crimes must be punished.

Objective:

Statute and common law provide effective responses to and remedies for victims of hate and hate crime.

The effectiveness of our legal system depends on the adequacy of the substantive law and the processes that attach consequences to hate crimes and incidents and that provide victims with appropriate remedies.

Criminal Law

The Working Group recognizes that legislative changes to the criminal law are a federal responsibility. However, it is within the purview of the Ontario Government to examine the impact of the law and make recommendations to its federal counterpart.

Apart from hate propaganda and hate- or bias-motivated attacks on religious property offences, a hate motivated crime is not a specific offence under the *Criminal Code*. The hate aspect of hate motivated offences affects the outcome of a trial only at the sentencing phase of a trial as an aggravating factor under Section 718.2(a)(i), that is after an accused has been found guilty of an offence under the *Code*. The Working Group is concerned that the absence of a specific hate crime offence undermines the symbolic need to acknowledge the severity of hate motivated crimes. In addition because a hate motivated conviction on its face does not reflect hate, it also undermines transparency and the effective monitoring of hate crimes.

The Working Group thinks that changes adopted in other jurisdictions such as the enactment of distinct classes of criminal offences “aggravated by prejudice” - should be considered in Canada.

The Working Group considers it important that greater weight be given when sentencing offenders to the presence of hatred or prejudice motivation such as an appropriate and clearly specified increase in the length of a sentence.

Human Rights

The human rights regime is a critical forum of civil recourse for victims of hate incidents and other discrimination. The Working Group in adopting a victim-centred approach believes that an effective human rights system requires a strong and well resourced investigative and enforcement body, and meaningful and effective support, representation, access to justice and remedies for victims of hate and discrimination. Given the serious nature of hate incidents, victims of hate need similar levels of institutional support and protection in the human rights system as in the criminal justice system.

We are concerned that, Bill 107, the *Human Rights Code Amendment Act, 2006*, proposes a scheme with a weaker enforcement body that will leave complainants less protected than in the current system. Individual complainants will be deprived of the benefit of the statutory powers of investigation the Ontario Human Rights Commission currently has to investigate their complaints. Already vulnerable complainants who have been victimized by hate cannot and should not be expected to be able to deploy the same resources in investigating their claims that the Commission, under the present system, could.

In addition, the Bill does not guarantee universally accessible legal advice, support, and representation to complainants. Complainants will be deprived of the right to a publicly funded Commission lawyer to prosecute their complaints at a Tribunal.

The Victims' Bill of Rights, 1995

The Working Group notes that provisions in the *Victims' Bill of Rights, 1995*, which imposes civil liability for certain crimes do not include hate crime nor take into account the emotional distress that results from hate crime. The Working Group views this as regrettable, especially because we know that there is distinctive additional emotional distress that typically results from a hate motivated crime.

Criminal Injuries Compensation

The Working Group is concerned that hate crimes such as the hate propaganda offences in the *Criminal Code*, will not qualify as "crimes of violence", under the *Compensation for Victims of Crime Act*. Victims of all hate crimes should be eligible for compensation.

Objective:	An effective justice response to hate incidents requires a proper understanding and recognition at all levels of the justice system of the nature of hate incidents and the severe and profound effect they have on victims and communities, and the timely provision of remedies or punishment.
Justice system response to hate and hate crime is receptive, sensitive, informed and effective.	

The sensitivity within the justice system – of judges, decision-makers, police, Crown prosecutors and other counsel - to the realities of individuals and communities that suffer hate is fundamental. This requires an understanding of the historical disadvantage and stigmatization of communities vulnerable to hate, and the ongoing systemic social consequences of racism, homophobia, religious intolerance, and other forms of hate on those communities.

Policing

While there have been efforts by some Ontario police services to develop and enhance their capacity to respond to hate crimes and incidents, the Working Group concludes that responses have not been uniform nor adequate to protect and meet the needs of the victims of hate and their communities. Much more is required to be done to ensure a consistent and appropriate standard throughout the province of competence and sensitivity in dealing with complaints of hate incidents. The reporting of hate crimes must be encouraged and victims must be protected and when they report.

The Working Group is concerned with reports from community members of inadequate and insensitive investigation of hate crimes by the police; their lack of understanding of the nature and impact of hate crimes, racism, homophobia, religious intolerance and other types of discrimination; and their failure to consult and communicate with the communities impacted by hate crimes.

The Working Group has concluded that there must be additional ongoing training for justice system professionals and that existing protocols and procedures, such as outlined in the Policing Standards Manual, be strictly adhered to, in order to increase sensitivity to the needs of victims of hate crimes.

The provisions of the Policing Standards Manual must be implemented province-wide, and dedicated hate crimes units created, to ensure that hate crimes are addressed effectively, in a manner consistent to the needs of victims.

The Working Group is also concerned with the structure and function of Hate Crimes Units in some police services where a single unit of officers is responsible for hate crime and “extremism,” and where units are exclusively equipped with intelligence and not investigative functions. We are concerned that communities that are vulnerable to hate incidents are often the same communities that are subject to surveillance on suspicion of extremism. Since September 11, 2001, Muslim and Arab-Canadian communities have attracted great scrutiny and suspicion from security and enforcement officials as being involved in terrorist activity. At the same time, hate crimes against these communities also increased. In these circumstances, assigning the same officers to address hate crime *and* extremism raises great difficulties with the ability to address their needs as victims.

First Nations Police

The Working Group notes the importance of First Nations Constables to Aboriginal communities and the role they play with respect to hate complaints. However, there is little provision for their training in general or with respect to dealing with hate crime allegations, and no provision for civilian oversight of these officers. Special efforts must be taken to ensure that First Nations police receive training comparable to that offered to other police forces.

Police and Crown Protocols

The Working Group feels that work must also be undertaken to ensure that protocols are developed between police and Crown prosecutors to ensure that crimes that may have been motivated by hate are clearly and consistently flagged as such, and appropriately prosecuted.

The Working Group recognizes, as have our Courts and Commissions, that systemic racism and discrimination exist within the Canadian justice system. Many communities consistently raised concerns about their experiences of biased policing, including differential treatment in police investigations of hate crime complaints on the grounds of their race, colour, ancestry, religion, national or ethnic origin or sexual orientation. Aboriginal, African Canadian, South Asian, Arab and Muslim communities spoke to their experiences of racial profiling and other types of mistreatment by the police.

Objective:

The justice system operates in a manner free from individual and systemic bias and discrimination.

The Working Group is severely troubled by the frequency and persistence of these allegations. Everyone, including victims of hate incidents, is entitled to receive police services without discrimination. It is incumbent the police, the Crown and correctional services to recognize the existence of systemic discrimination in our justice system, to address it with effective measures to ensure that all services are provided bias free.

Aboriginal Justice

The Working Group is extremely concerned about the fact that Aboriginal people continue to face criminal charges, and to suffer incidents of hatred, bias and bigotry, with disproportionate frequency. The Working Group urges the Ontario Government to address the plight of the Aboriginal peoples with special attention.

The Working Group knows that in early 2004, the Attorney General announced an Aboriginal Justice Strategy. This is understood to be a consultative process intended initially to address the overrepresentation of Aboriginal peoples in the criminal justice system, but also to help develop ways of learning from, and showing more respect for, traditional and evolving Aboriginal legal arrangements within mainstream society. However, further work must be done to show real commitment to create a justice system that works for Aboriginal peoples.

Correctional Services

The Working Group feels that greater efforts must be made to address racial discrimination and hate incidents that take place in Ontario correctional institutions, especially as these impact on African Canadians and Aboriginal communities.

Private Security

Northern Ontario communities and communities in Toronto spoke of serious concerns with abusive treatment by private security guards, in shopping malls, colleges and elsewhere – that private security personnel often single out for attention, and treat Aboriginals, African Canadian and South Asian youth and Muslims more roughly and with less courtesy.

The Working Group supports the proclamation and implementation of the *Private Security and Investigative Services Act, 2005*. However, we note that regulations must be created to ensure that the new scheme is comprehensive, including the establishment of a Code of Conduct, which should prohibit licenced private security guards from engaging in hate incidents. Once this is in place, victims of hate incidents could file a complaint on the grounds that a private security guard has breached the code.

Objective:

Justice system accountability is ensured through independent, transparent, and effective oversight mechanisms.

The provision of independent, transparent, and accessible mechanisms for dealing with complaints about the provision of services in the justice system is necessary to ensure the effectiveness, even-handedness and responsiveness of the criminal justice system in dealing with hate complaints.

Complaints Processes

The lack of an independent, accountable and transparent public police complaints system in Ontario contributes to the fear and distrust of these and other vulnerable communities. Many communities have long-held concerns about the transparency and the fairness of a process in which the police themselves are the ones

investigating their own colleagues. The Working Group views Bill 103, the *Independent Police Review Act, 2006*, which includes the creation of the Independent Police Review Director and independent investigative powers, as a positive measure towards ensuring police accountability and in fostering public trust, and urges that it be passed, with amendments to improve accountability.

The Working Group also feels that the publication of the complaints process for the conduct of a criminal prosecution would give the members of vulnerable communities in Ontario greater reason for confidence in the integrity of the criminal justice system and in that system's sincerity about entertaining complaints about hate incidents.

Communities should have adequate institutional supports to allow them to both intervene effectively on behalf of members of their community within the justice system, and also to provide independent oversight of the justice system.

Recording and Tracking Hate Crime

The Working Group notes that the task of maintaining records of, and tracking, hate crime and hate incidents is complicated by the absence of reliable, statistical information. The Working Group recommends that statistics about hate crime and hate incidents must be recorded, maintained and properly catalogued regularly and uniformly by the government so as to be accessible to the public at all times.

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Recommendations:

Effective Responses and Remedies

Criminal Law

The Working Group recommends that:

- 6.1. The Ministry of the Attorney General give community groups a role throughout criminal justice proceedings, including but not limited to, assisting in the preparation of individual and community victim impact statements.
- 6.2. The Attorney General study the efficacy of prejudice-aggravated criminal offences in jurisdictions that have enacted them and propose that the Federal/Provincial/Territorial Justice Ministers' Conference seriously consider endorsing enactment in the *Criminal Code* of such offences.
- 6.3. The Ministry of the Attorney General study, and report to the Attorney General, within six months, on ways to strengthen the impact in sentencing of hate or prejudice motivation, including sentencing guidelines and legislative amendments.

Ontario Human Rights Commission

The Working Group recommends that:

- 6.4. The Attorney General propose, before third reading, amendments to Bill 107 that:

- will allow complainants to opt for the Ontario Human Rights Commission to investigate their complaint with the full benefit of statutory powers of investigation;
 - guarantee to all complainants a publicly funded lawyer at all Tribunal proceedings;
 - strengthen the Ontario Human Rights Commission's powers to initiate and bring systemic complaints; and,
 - equip the Ontario Human Rights Commission with powers of investigation and/or public inquiry to carry out effectively its systemic complaints mandate.
- 6.5. The Attorney General ensure that the Commission has the dedicated resources, and the mandate, to research and recommend ways of preventing and eliminating systemic discrimination and thereby increasing the likelihood that hate crimes will be reduced.
- 6.6. The Attorney General take account of the whole of this report in funding and designing the mandates of the Commission and any legal representation scheme that is established with a view to making full use of both these organizations in implementing the Working Group's recommendations.

Civil Actions

The Working Group recommends that:

- 6.7. The Attorney General amend O.Reg. 456/96 to ensure any person convicted of any hate crime, as defined in this report, is liable, pursuant to Section 3 of the *Victims' Bill of Rights*, to his or her victim for the emotional distress and related bodily harm resulting from commission of the crime; and introduce legislation to provide that Section 3(2) of the *Victims' Bill of Rights* ensures that all victims of hate crime, as defined in this report, are presumed to have suffered emotional distress for purposes of Section 3(1).
- 6.8. The Attorney General, in cooperation with Legal Aid Ontario and, as appropriate, the Law Foundation of Ontario, ensure:
- civil actions against perpetrators for hate incidents are eligible for funding through legal aid certificates or legal clinics, as appropriate, in circumstances where plaintiffs meet the usual financial eligibility criteria and their actions, if funded, have a reasonable prospect of success; and
 - Legal Aid Ontario receives such additional funding as may be needed to support such initiatives without prejudice to its existing funding mandate.
- 6.9. The Attorney General introduce legislation to amend Section 13 of the *Legal Aid Services Act, 1998*, and the Lieutenant Governor in Council makes such changes to existing regulations, as may be necessary to remove any current statutory impediments to implementation of this recommendation.

Criminal Injuries Compensation

The Working Group recommends that:

- 6.10. The Attorney General introduce legislation to amend the *Compensation for Victims of Crime Act* to render eligible for criminal injuries compensation all victims of hate crime, as defined in this report, who suffer injuries or losses otherwise compensable under the Act.

Receptive, Sensitive, Informed and Effective Responses

Policing

The Working Group recommends that:

- 6.11. The Ministry of Community Safety and Correctional Services in consultation with the municipal police service boards and the Ontario Association of Chiefs of Police, and with others as appropriate:

- Review the existing protocols for dealing with hate/bias crime and hate propaganda recommended in the Policing Standards Manual and revise these protocols as may be necessary and appropriate within the next 12 months.
- Urge all police services boards in Ontario to work with the Chief of Police to ensure implementation of the *Policing Adequacy and Effectiveness Regulation* (12)¹, stipulating procedures and process for dealing with hate propaganda and hate or bias motivated crime, within the next 12 months.
- Urge all police services in Ontario to observe and be subject to the relevant protocols in the *Policing Standards Manual*, revised as appropriate in accordance with this report, unless and until the Ministry has approved its proposed procedures for dealing with such offences.
- Ensure that these protocols and procedures constitute enforceable standards in respect of the performance of the various relevant police services.

- 6.12. The Ministry of Community Safety and Correctional Services urge municipal police service boards to ensure that:

- Each police service has sufficient officers available on staff with special hate crime expertise to serve as resources to the rest of the police service and to deal with those hate incident allegations that require special expertise or special sensitivity.
- Each police service ensure that specialized dedicated hate-crimes units are established and have a clear mandate with sufficient resources to engage in properly executed police investigations.
- Each police service make public, on an ongoing basis, the resources it has available for responding to and investigating hate incident

allegations and the easiest and most appropriate ways of obtaining access to those resources.

- Each police officer in a police service have and accept responsibility for dealing, sensitively and competently, with the hate incident allegations brought to his or her attention, whether or not that police service has a dedicated hate crime unit.
 - Each police service make best efforts to ensure that all individuals in its local area are able to report crimes, and hate crimes or incidents in particular, in the languages in which they are most comfortable.
- 6.13. The Ministry of Community Safety and Correctional Services and municipal police services boards make best efforts generally to improve the relationship, and to facilitate trust and cooperation, between law enforcement authorities and vulnerable communities.

Police Training

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The Working Group recommends that:

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- 6.14. The Ministry of Community Safety and Correctional Services urge municipal police service boards to:
- Ensure that each new police officer appointed to a police service in Ontario receives training, and demonstrates baseline competence, before appointment, in
 - the recognition, prevention, investigation and enforcement of hate crime as defined in this report;
 - the historical and other factors that have given rise to manifestations of hate and prejudice toward vulnerable communities;
 - the specially damaging impact on such communities and their members of hate incidents and hate crimes, and
 - anti- discrimination such as anti-racism and other oppressions.
 - Ensure that each police officer has ample ongoing opportunities within the police service for refreshing or deepening his or her understanding of hate crimes, hate phenomena, and the people who suffer them.
 - Ensure that such training is developed in consultation with anti-discrimination experts and with affected communities, and appropriate evaluation mechanisms are put in place.
 - Explore mechanisms to ensure that staff maintain their competence in these areas.
- 6.15. The Ministry of Community Safety and Correctional Services in cooperation with municipal police services boards, and consistent with the authorities set out in the *Police Services Act*,

- ensure that the OPP has the financial resources necessary to implement these recommendations; and
- urge all municipal police services in Ontario to commit the financial resources necessary to implement these recommendations.

First Nations Police

The Working Group recommends that:

- 6.16. The Ministry of Community Safety and Correctional Services consult actively with First Nations authorities in the province about appropriate training and conduct standards for individuals appointed as First Nations constables.
- 6.17. The Ministry of Community Safety and Correctional Services make best efforts to ensure, pending and subject to the results of those consultations, that persons appointed as First Nations constables
- receive the same training in hate crime matters, including the additional training recommended in this report,
 - be subject to the same requirements recommended in this report of demonstrated ongoing competence in hate crime policing issues, and
 - be given the same authority and be subject to the same standards of conduct in policing as all other persons appointed as police officers in Ontario, and that all First Nations police services have dedicated hate crime expertise and capacity.
- 6.18. The Ministry of the Attorney General and the Ministry of Community Safety and Correctional Services make best efforts to ensure, after appropriate consultation with First Nations authorities, the implementation and publicizing of fair procedures for receiving, processing and disposing of public complaints about First Nations police services or the conduct of individual First Nations constables.

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Crown and Police Protocols

The Working Group recommends:

- 6.19. That the Ministries of the Attorney General and Community Safety and Correctional Services develop, in consultation with Crown Attorneys' offices and police services, a standard, easily recognizable way of identifying criminal investigation files as cases that may be appropriate for prosecution as hate crimes;
- that police services thereafter identify, in this prescribed way, cases that may be appropriate for prosecution as hate crimes:
 - all cases in which the complainant has characterized the incident as a hate crime or hate incident, as defined in this report, and

- all other cases in which there is evidence suggesting that an incident giving rise to criminal charges may have been a hate crime, as defined in this report; and
- that steps are taken to ensure that all Crown prosecutors have a full and complete knowledge of the components of the *Crown Policy Manual* dealing with hate and discrimination and, in particular, the *Practice Memorandum on Hate Crime*, and ensure that these practices and guidelines are applied consistently across the province.

Preventing Bias and Discrimination

Aboriginal Justice

The Working Group recommends that:

- 6.20. The Attorney General reaffirm publicly the government's commitment to the Aboriginal Justice Strategy and clarify the Strategy's mandate and the government's vision for the Strategy.
- 6.21. The Ministry of the Attorney General ensure:
- that the Aboriginal entities participating in the Aboriginal Justice Strategy receive sufficient funding to support meaningful participation in the process, and, more generally,
 - that the Strategy receives sufficient resources of all kinds to enable it to achieve its objectives.
- 6.22. The Ministry of the Attorney General, in cooperation, as appropriate, with Legal Aid Ontario and in consultation with appropriate First Nations and Métis organizations in the province, create mechanisms to ensure that all Aboriginal peoples, including those who are incarcerated, have access to knowledgeable, culturally appropriate legal advice and representation when charged with offences or when victimized by hatred, prejudice or bigotry.

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Corrections

- 6.23. The Ministry of Community Safety and Correctional Services increase its efforts to address and eliminate overt and systemic racism in the Ontario correctional service and within Ontario's correctional institutions.

Accountability Mechanisms

Complaints Processes

The Working Group recommends that:

- 6.24. The Attorney General, and the Ontario government as a whole, proceed expeditiously with the enactment of Bill 103, the *Independent Police Review Act, 2006*. The Bill should be amended to ensure that the Office of the Independent Police Review Director itself investigates all public complaints involving issues of race, religion, ancestry, sexual orientation or other

fundamental and visible personal characteristics, except where complainants request or consent to some other investigation arrangement that the Bill contemplates.

- 6.25. The Ministry of the Attorney General, Criminal Law Division, take steps to publicize the recently introduced *Criminal Law Division Practice Memorandum* entitled “Complaints Process” so that victims of hate crime can obtain information on how to make a complaint regarding a criminal prosecution, and about the procedure for addressing such a complaint.

Private Security

The Working Group recommends that:

- 6.26. The government implement the *Private Security and Investigative Services Act*, 2005 and;
- enact regulations under the *Act* that disqualify from license eligibility as a security guard any individuals found to have perpetrated hate incidents or hate crimes as defined in this report or to have contravened Ontario’s *Human Rights Code* or the *Canadian Human Rights Act*, and
 - provide that the code of conduct for private investigators and security guards prohibit them from carrying out their duties in ways that contravene the *Criminal Code*, or the *Human Rights Code* or that otherwise marginalize or stigmatize individuals on the basis of the kinds of personal characteristics identified in the Working Group’s definition of hate crime.

Tracking Hate Crimes

The Working Group recommends that:

- 6.27. The Ministries of the Attorney General and of Community Safety and Correctional Services in collaboration with police services boards and representatives from the Ontario Association of Chiefs of Police and the Canadian Centre for Justice Statistics, develop within the next 12 months, standard forms and procedures for collecting and keeping statistics on hate incidents reported to the criminal justice system and that police services and Crown attorneys’ offices keep statistics on all such incidents and report them annually to the two Ministers and the public.
- That these forms and procedures be designed to capture, at a minimum, all incidents that complainants have identified as hate crimes or hate incidents and all incidents for which there is evidence that suggests that they may qualify as hate crimes or hate incidents (as defined in this report), and, in respect of all such incidents:
 - what investigation was undertaken;
 - what charges, if any, were laid;
 - why charges were not laid;

- what other charges might reasonably have been laid in the circumstances but were not and why they were not;
 - whether any charges laid proceeded to trial and if they did not, why they did not;
 - what the disposition of the charges was;
 - whether, if the accused was convicted, the Crown raised hate or prejudice as an aggravating factor in sentencing;
 - whether, in such instances, the court took hate or prejudice explicitly into account as an aggravating factor in sentencing; and what the sentence, if any, was.
- That police services and Crown Attorneys' offices begin, once these forms and procedures are in place, keeping statistics on all such incidents and report them annually to the two Ministers, the Hate Crimes Governance Committee (recommended below) and to the public.
 - That the Ontario government enact regulations requiring that such statistics be kept and made available as indicated above.
- 6.28. The government of Ontario introduce such changes to regulations or to legislation as may be required to give effect to these recommendations.
- 6.29. That the Ministry of Community Safety and Correctional Services exercise such authority as it possesses to assist in bringing about these transformations.

7. Public Awareness and Social Marketing

Goal: Transform public awareness, understanding and response to hate and hate crime.

The Working Group believes that it is of critical importance to mount a public awareness and social marketing campaign against hate crime and hate incidents with the main purpose of influencing social change in relation to these issues. The transformative power of such a campaign will reside in its ability to make certain attitudes and behaviours socially unacceptable.

Objective:

The public recognizes and understands the various ramifications of hate and hate crime and is aware of their differential impact on victimized communities.

Effective public awareness and social marketing campaigns to promote behavioural change in the public arena have been conducted for centuries. One of the greatest success stories in Canada has been the campaign against domestic violence. As with hate crimes and hate incidents today, only a few decades ago domestic abuse was mainly ignored and not treated as a serious crime. The Working Group urges the Ontario

Government to pay close attention to the strategies and best practices modeled by the social marketing campaigns against domestic violence, in designing one to address hate crimes.

The Working Group advises that an anti-hate campaign select its messages and media with their intended audience in mind, targeting both adults and young people and incorporating contemporary and creative strategies to prevent hate crimes and hate incidents over the long term. The Working Group recommends that such a campaign must focus on strategies that promote and endorse values of equity and mutual respect in order to make a significant impact on the very young children. The more diverse the campaign, the more effective it will be.

Objective: The Working Group is very cognisant that different communities experience hate crimes and hate incidents differently and with differential impacts, and that there are many communities where hate does not manifest itself publicly or on a grand scale.

The public understands the historical context and pervasiveness of hate and hate crimes and their systemic dimensions

The Working Group believes that, in order to create a united public front against hate crime and hate incidents, the public must recognize hate in all of its forms and consequences. This process of recognition must begin with a shared understanding of how hate is expressed. The success of such a campaign will depend on the meaningful inclusion of, and representation from, victimized communities.

Objective: The Working Group concludes that articulating a clear and public commitment to ending hate crimes and hate incidents is one of the most compelling and cost-effective messages that that can be conveyed by the Ontario Government and that it must be championed by key government figures. It advises the government to examine the initiatives adopted in other countries to creatively address such problems.³

The public understands the effect of hate and hate crimes on society, and is aware of how to respond to incidents of hate and bias crime.

The Working Group fully understands that raising consciousness about hate crimes and hate incidents must go hand in hand with empowering people to deal constructively with them. An effective social marketing campaign should provide straightforward information on actions that can be taken, including options available to a victim or witness who wishes to report hate activity.

³ One such example is the use of “edutainment” by the South African government in order to raise awareness about HIV/AIDS among pre-adolescents. A successful example is that of ‘Soul City,’ a multimedia edutainment strategy that has been running since 1994 and has had phenomenal success in penetrating even the most rural parts of South Africa. Soul City uses five media channels (television, radio, newspapers, public relations/advertising and education packages) to convey health and social messages through the basic format of a soap opera. The program has been used to convey various “pro-social” messages, including the empowerment of women, and HIV messages have appeared in each of the three series. Independent evaluations have shown significant changes in self-reported behaviours of viewers, including an increase in the usage of condoms.

Recommendations:

The Working Group recommends that:

- 7.1. The Ontario Human Rights Commission, in collaboration with the Ministry of the Attorney General and the Ministry of Community Safety and Correctional Services, launch a cross-ministerial, large-scale social marketing campaign focused on hate and bias-related incidents in everyday life (i.e. in schools, workplaces and neighbourhoods).
 - The ultimate aim of such a campaign will be to promote behavioural change through the stigmatization of hate-motivated activity.
 - Attention will be focused on the effects of hate crimes on individual well-being, the safety and viability of vulnerable communities, and their corrosive impact on society as a whole.
 - This campaign should also highlight that the impact of hate varies from group to group, depending on how vulnerable they are. It is essential to ensure that vulnerable communities are consulted when developing the messaging for the campaign.
- 7.2. The Ministry of the Attorney General expand and enhance the education and prevention mandate of the Ontario Human Rights Commission, and ensure that it continues public education efforts.
- 7.3. The Ontario Human Rights Commission, in collaboration with the Ministry of the Attorney General, and the Ministry of Community Safety and Correctional Services, commits itself to producing and disseminating high quality information and resources to provide clear, incisive definitions of hate activity.
 - Include in this effort the distribution of information and resources regarding victims' rights, third party intervention, and processes/procedures for reporting and responding to hate crimes/incidents.
 - Solicit and incorporate community input with regards to the substance of the resource materials, and to ensure that the information is shared in a manner that will be useful and accessible to members of vulnerable communities.
 - Translate such materials into the appropriate languages to promote accessibility.
- 7.4. The Ontario Human Rights Commission, in collaboration with the Ministry of the Attorney General and the Ministry of Community Safety and Correctional Services, study and then publicly make recommendations to media bodies about the role that can and should, be played by media to educate and sensitize the public to hate.
 - The Attorney General should also undertake a serious examination of media coverage of hate related activity/occurrences and encourage the responsible, accurate media coverage of hate crimes/incidents.
 - In relation to this recommendation, the development of ethical guidelines for columnists should be considered.

- 7.5. The Ontario Human Rights Commission facilitate or provide public meetings where contentious issues related to hate can be discussed.
- 7.6. The Government of Ontario accord public recognition to Ontarians who protect hate crime/incident victims and/or report crimes/incidents to appropriate authorities, and to innovative activism that has had a positive effect.

“I felt I was victimized simply because of my race. I found myself asking questions –‘why did the officer treat me like this? Is it my accent? My colour? My immigration status? Because I am Arabic? Because I am Muslim?’ – I have lost my sense of security entirely”

Arabic Muslim Male, Victim of assault, Greater Toronto Area

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“I was shocked and felt violated. You know that racism and hate are there, but this was different – it was a personal violation – and delivered right to my home. Just because it’s not happening to you, doesn’t mean it’s not out there.”

Jewish Male, Victim of antisemitic hate mail, Thornhill Ontario

8. Implementation and Accountability

The Hate Crimes Community Working Group has consulted extensively on the development of a comprehensive strategy to address hate crimes and hate crime victimization. It has also set out a series of integrated recommendations designed to achieve these broader objectives. For this advice to be meaningful, however, the proposed strategy must be implemented in a logical, timely and effective fashion. In addition, there must be credible mechanisms in place to monitor and evaluate how well and rapidly the proposed measures are adopted.

In order to achieve real progress in addressing hate crimes and hate incidents, credible structures must be established and sustainable funding identified to support them. In addition, the Working Group believes that it is critical that communities affected by hate play a key role in developing the policies and services that will underpin the new strategy. They must also have a place at the table to ensure that the new ideas are implemented in a way that recognizes their pivotal interest in the outcomes.

Goal: Ensure timely and comprehensive implementation of the Hate Crimes Community Working Group strategy and recommendations with measurable outcomes.

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Structures

Enduring structures must be created to ensure the overall implementation of the strategy and the specific recommendations that form part of it. These structures must integrate multiple sectors, and embrace the community, the private sector and government bodies involved with hate crimes. This approach is necessary to ensure stakeholder buy-in, and to promote accountability among all responsible organizations. Although these structures may take many forms, the Working Group believes that the model recommended in this report would ensure effective implementation and oversight.

Objective:

Appropriate structures are in place to ensure implementation, monitoring and evaluation of the hate and hate crime strategy.

The Working Group understands that there are a number of Ministries within the provincial government that would be responsible for implementing various components of the strategy. On this basis, the Working Group recommends that a senior-level Interministerial Committee be established to oversee the horizontal implementation of the recommendations directed to government. This working group, would provide progress reports on a semi-annual basis to the Office for Victims of Crime (OVC) until a more permanent structure (as described below), is put into place.

Among the bodies to be represented on this group are the Ministries of the Attorney General, Community Safety and Correctional Services (both the police and corrections divisions of the Ministry), Citizenship, Education, and Training, Colleges and Universities. In addition, a member of the Ontario Human Rights Commission

(OHRC) with expertise in hate-related issues should also participate. The Interministerial Committee would be accountable to a designated deputy minister.

The Working Group also wishes to stress the importance of involving community organizations in the implementation of its strategy. Accordingly, the Working Group recommends that a joint government-community structure be established to provide advice to the Government on the implementation of the strategy and the co-ordination of multi-sector hate crimes programs and services. This group, to include community members, representatives from the private sector and government officials, would reflect the diversity of Ontario communities, and include representatives with knowledge of hate issues from the perspective(s) of affected communities, and knowledge of and experience in justice and education. It could be called the Hate Crimes Governance Committee ('the Governance Committee').

The Governance Committee would operate at arm's length from the government, and report to the Attorney General and the Minister of Community Safety and Correctional Services. It would, among other things, assess the impacts of hate on communities, coordinate and fund joint community and government initiatives, and monitor implementation of the strategy. It would also serve as a resource for community and government organizations regarding hate issues (e.g. for joint training) and facilitate information sharing. Finally, it would engage elements in the private sector, as appropriate, in addressing hate crime.

The Working Group also believes that there is a need for the government to fund a 'grass-roots' Community Hate Crimes Network, which would occur through the Governance Committee and other sources. This group would facilitate contacts between different communities, co-ordinate training, share information and best practices, and identify and address common challenges within and among communities. The Chair of this group would be appointed as a member of the Governance Committee.

Once the Governance Committee was established, it would liaise with the Interministerial Committee and with the Community Hate Crimes Network and report to the Attorney General and the Minister of Community Safety and Correctional Services. It would also consult with the OVC and the OHRC in the preparation of its advice to the Ministers.

Since it will take time to establish the Governance Committee and Network, the Working Group recommends that, in the interim, the Government charge the OVC with overseeing the implementation of the initial stages of the strategy. To bolster the ability of this agency to undertake this specialized assignment, the Working Group further recommends that the Government immediately appoint a new member to the OVC with significant community-based experience in hate crimes issues. Since the OVC consists of part-time members, the Attorney General should also ensure that the Ministry devotes sufficient resources to enable the OVC – and the designated community member – to undertake its work in a timely and effective fashion.

The interim and longer-term structures are depicted pictorially at the end of this section.

Resources

The Working Group believes that, to date, the major impediment to developing capacity among community organizations has been the lack of sustainable funding. Despite the valiant work that has been undertaken by community groups to develop public awareness materials and to pilot innovative projects to assist victims of hate, there has been virtually no funding provided by government or community granting agencies to address hate or hate crimes on an ongoing basis. This outcome stands in sharp contrast to the funding of government-based victims' programming, where expenditures have increased significantly over the last decade.

Objective:

Adequate resources are allocated to support and sustain implementation of the hate and hate crime strategy

The Working Group recognizes that funding for victim services is finite, and that there are other categories of crime victims with important needs. However, the funding and services provided to hate crime victims have, historically, been much less comprehensive than those offered to other victims' groups.

On this basis, the Working Group applauds the Ontario Government's decision to allocate \$1.35 million from the Victims' Justice Fund (VJF) to enhance programming for this under-served victims' group. The Working Group believes that this funding should be offered to community groups to enhance their capacity to offer services to hate crimes victims and to build linkages between them.

The Working Group further recommends that these funds be allocated on a competitive basis and that the Governance Committee be responsible for selecting the meritorious grants. It also understands that the Government has allocated \$6.0 million in funding for the 2007/08 community grants process and that one of the funding priorities relates to victims of hate crime. The Working Group believes that the Governance Committee should have oversight responsibility for the hate crimes funding allocation to ensure that funds are used in the most comprehensive way possible.

The Working Group notes, however, that the funds in question are time-limited in nature. On this basis, they would not be available to provide the sustainable funding which has been identified as a critical success factor for the hate crimes strategy. On this basis, the Working Group recommends that the Government identify and allocate a stream of sustainable funding from the VJF to fund the ongoing work of the Governance Committee, as well as related initiatives necessary to achieve the objectives identified in this strategy.

Accountability

The Working Group recognizes that significant work must be undertaken both within government and communities to effectively implement this strategy. This work must, however, be buttressed by the collection of meaningful statistics, effective monitoring, the establishment of performance measures and a well-thought out approach to evaluation.

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Objective:

All agencies, institutions and organizations responsible for components of the strategy are held accountable for their effective implementation

The Working Group believes that the Governance Committee would be best suited to develop the necessary protocols and agreements with participating organizations. It also recommends that the progress achieved in meeting the strategy, and accompanying performance measures, be shared with the public on at least an annual basis. Such a disciplined approach will help to maintain project momentum and ensure that public funds have been spent wisely.

Recommendations:

The Working Group recommends that:

With respect to structures:

- 8.1. The Ministry of the Attorney General and the Ministry of Community Safety and Correctional Services establish a Hate Crimes Governance Committee.
- 8.2. The Governance Committee will:
 - be comprised of government officials, community members who reflect the diversity of Ontario communities and representatives from the private sector;
 - include representatives with knowledge of hate issues from the perspectives of affected communities; and
 - include representatives with knowledge of and experience in justice and education.
- 8.3. The role of the Governance Committee includes the following:
 - To provide oversight, monitoring and evaluation of implementation of the strategy.
 - To liaise with the Community Hate Crimes Network, government, the Office for Victims of Crime, and the Ontario Human Rights Commission, on hate crimes issues and implementation of the strategy.
 - To assess the effectiveness of hate crimes reduction strategies.
 - To engage elements in the private sector, as appropriate, in addressing hate crime.
 - To assess the impacts of hate on communities.
 - To coordinate and fund joint community and government initiatives.
 - To provide advice to Government on allocation of Victims' Justice Fund monies targeted to hate crimes initiatives, in particular recommending grants for community-based initiatives.
 - To review proposed changes to laws, policies, programs and procedures regarding hate and hate crime.
 - To develop necessary protocols and agreements with participating organizations implementing the strategy.

Implementation and Accountability

- 8.4. The Government of Ontario establish an Interministerial Committee, with representatives from all affected ministries, to oversee the horizontal implementation of the Working Group's strategy.
- 8.5. The Ministry of the Attorney General ensure appointments with community experience in hate crimes to the Office for Victims of Crime and otherwise enhance the diversity of its membership.
- 8.6. The Ministry of the Attorney General and the Ministry of Community Safety and Correctional Services give the Office for Victims of Crime responsibility for monitoring implementation of these recommendations until such time as the Governance Committee is in place, and provide appropriate resources to the Office for Victims of Crime to enable it to undertake this role.
- 8.7. The Attorney General make reference to the Working Group's report, including its strategy and recommendations, when meeting with colleagues from other jurisdictions at upcoming Federal/Provincial/Territorial meetings, and propose that a new FPT Working Group be established to address the prosecution and prevention of hate crimes.

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With respect to resources:

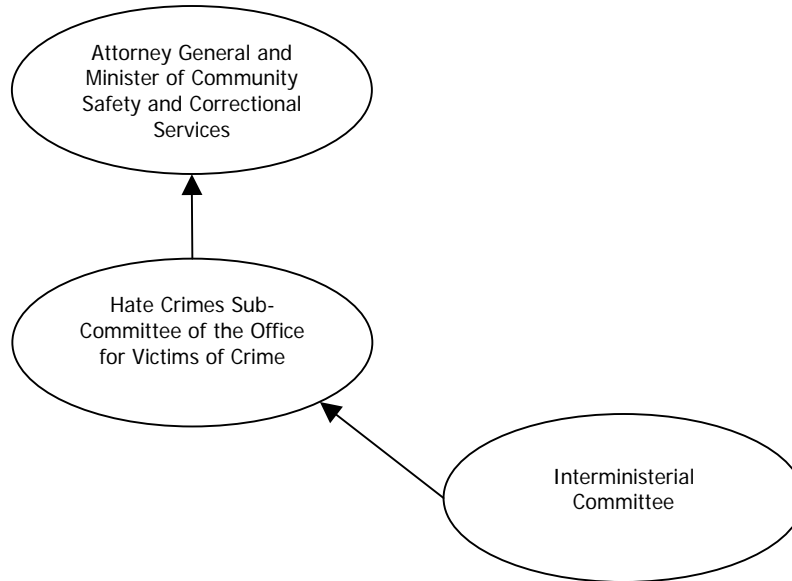
- 8.8. The Ministry of the Attorney General and the Ministry of Community Safety and Correctional Services provide sufficient and sustainable funding, including monies from the Victims' Justice Fund, to resource initiatives referenced in this strategy.
- 8.9. The Ministry of the Attorney General and the Ministry of Community Safety and Correctional Services allocate sufficient funding from the Victims' Justice Fund in 2006/2007 and 2007/2008 for the Hate Crimes Governance Committee and the Community Hate Crimes Network, insofar as they support victim services.
- 8.10. The Ministry of the Attorney General and the Ministry of Community Safety and Correctional Services commit \$1.35 M already allocated from the Victims' Justice Fund for hate crimes, to a project grant program, with the Governance Committee having oversight responsibility.

With respect to accountability:

- 8.11. The Interministerial Committee be required to liaise with the Governance Committee, to report on the steps the Government is taking to implement the strategy and on other issues of interest, and to hear from the Governance Committee about stakeholders' concerns.
- 8.12. The Governance Committee liaise with the Community Hate Crimes Network, the Interministerial Committee, the Office for Victims of Crime and the Ontario Human Rights Commission to ensure that the strategy is implemented and evaluated.
- 8.13. All recipients of Government funding for initiatives to address hate or hate crime enter into formal agreements regarding the use of the funds, and provide regular reports on the results of the funded initiatives.

- 8.14. The Ontario government ensure that these recommendations are addressed on a priority basis.

Short-Term Implementation Structures



Long-Term Proposed Implementation Structures

