

PROVINCE OF ONTARIO
MINISTRY OF ATTORNEY GENERAL

CROWN POLICY MANUAL

March 21, 2005

HATE CRIME AND DISCRIMINATION

PRINCIPLES

Hate crimes are offences that involve the intentional selection of a victim based on the offender's prejudice toward a "group" characteristic of the victim such as race, ethnic background, religion, gender, physical or mental disability or sexual orientation.

Hate crimes, regardless of the form they take, are by their nature, very serious offences. There is a very strong public interest in the successful prosecution of hate crime. These crimes are serious because of the following harmful impacts:

- **Impact on the Individual:** Hate crimes have a tremendous impact on the individuals who are victimized. In addition to the psychological and emotional harm caused by hate crime, and its repercussions on the identity and feelings of self-worth of the victim, the degree of violence involved in hate-motivated offences is normally much more extreme than in non-hate crimes
- **Impact on the Target Group:** Hate crime has a general terrorizing effect on the target group to which the victim belongs, because its occurrence makes them all feel vulnerable to victimization
- **Impact on Other Vulnerable Groups:** Hate crimes have a negative impact on other vulnerable groups that share minority status or identify with the targeted group, especially if the hate motivation is based on an ideology or doctrine that covers a number of the groups that live within the community
- **Impact on the Community as a Whole:** This, perhaps, is the greatest evil of hate crime. Hate crime can end up dividing people in society. In a multicultural society like Canada, where all groups are to live together in harmony and equality, hate crime is an anathema. Any occurrence of hate crime is a negation of the fundamental values of Canada.

Each region should have a particular Crown counsel who is designated as the “hate crime” coordinator.

Criminal Sanctions for Hate Crime: Describing a criminal offence as a hate crime does not require that the offence be motivated entirely by hate or bias against a victim because of his/her membership in a group. Even a crime partially motivated by hate or bias may be construed as a hate crime and treated as such. Although the Criminal Code has specific provisions relating to hate crime, offences need not be specifically designated as such, in order to qualify as hate crimes.

Crown counsel should be mindful of the following ways in which hate-motivated crime can be addressed:

- Within the Criminal Code are specific hate-crime offences, and provisions for forfeiture and seizure of hate-related material, requiring the consent of the Attorney General
- Within the mischief section of the Criminal Code is the offence of mischief to religious property that is motivated by bias, prejudice or hate
- Other criminal offences that are motivated by hate, could be hate crimes. Crown counsel should be vigilant about recognizing crimes as hate crimes
- Hate motivation is an aggravating factor in respect of sentence at common law and pursuant to the provisions of the Criminal Code.

Victim Impact: Given the nature of hate crime and the onerous effects it has on the victim, target groups and the community at large, the presentation of evidence relating to such effects may be particularly helpful at the sentencing phase of proceedings. Community-based organizations often have access to expertise and are usually in a position to provide relevant information that may assist in the sentencing process.