

MONITORING HATE CRIMES: A REPORT ON A PILOT PROJECT IN NEW SOUTH WALES*

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WHY COLLECT DATA ON THE INCIDENCE OF RACIST VIOLENCE AND HATE CRIMES?

The issue of hate crime has remained controversial in relation to policing strategies and criminal justice responses. Both racially motivated violence and homophobic violence continue to occur across Australia with regularity. This article considers a pilot project involving the New South Wales Police and the Human Rights and Equal Opportunity Commission in the establishment of a pilot system for monitoring the occurrence of hate crime.

The National Inquiry into Racist Violence (NIRV) was established by the Human Rights and Equal Opportunity Commission because of widespread community perceptions that both verbal and physical racist attacks were on the increase in Australia. At the time the Inquiry was established there were indications of a possible resurgence of racist violence and an increase in organised violence by racist groups. The Inquiry was the first time in Australia that an attempt had been made to systematically define and quantify racist violence. For the purposes of the Inquiry racist violence was defined as a specific act of violence, intimidation or harassment carried out against an individual, group or organisation (or their property) on the basis of race, colour, descent or national or ethnic origins, and/or support for nonracist policies.

One of the significant findings which emerged during the course of the Inquiry was that many people who had been the victims of racist violence and harassment were reluctant to discuss their experiences or report them to the police, social workers or other public officials. The Inquiry was told that many people were unwilling to come forward to give evidence because they feared retaliatory attacks or because they did not believe that anyone could help them. This is consistent with overseas experience where evidence suggests that less than 5 per cent of racially motivated incidents were reported to the police.¹

* This article draws on a draft report prepared by Liz de Rome for the Human Rights and Equal Opportunity Commission entitled "Monitoring Hate Crimes. A Report on the Community Relations Data Project, February 1993". The project was part of the Commonwealth Community Relations Strategy.

1 Home Office, *The Response to Racial Attacks and Harassment: Guidance for the Statutory Agencies*, Report of the Inter-Departmental Racial Attacks Group, United Kingdom, 1989.

The Inquiry found that, compared to other countries, Australia was a nonviolent and socially cohesive nation and that racist violence on the basis of ethnic identity is nowhere near the level that it is in many other countries. However the Inquiry found that people of non-English speaking background were subjected to racist intimidation and harassment because they are visibly different and that unfamiliarity with the English language could exacerbate the situation. For people of Aboriginal and Torres Strait Islander background, the Inquiry reported that racism and racist violence were endemic to their daily lives. The Inquiry also found that Aboriginal–police relations were at crisis point. The conclusion of the NIRV Inquiry was that racist violence in Australia existed at a level that was a serious cause for concern and that it could increase in intensity and extent unless addressed firmly.² One of the problems emerging from the Inquiry was the accuracy of assessing the level of racist violence and whether increases or decreases in extent were occurring.

RESEARCH INTO RACIST VIOLENCE IN AUSTRALIA

Amongst the specific research commissioned by the Inquiry were a series of interviews conducted by Dr Beryl Langer in Melbourne and Dr Pauline Newell in Sydney to gain a measure of the extent of racist violence among culturally visible minorities. The Melbourne research amongst Salvadorean families reported that 60 per cent of adults and 27 per cent of students had experienced racist verbal abuse, while 15 per cent of adults and 25 per cent of students had been subjected to physical racist harassment.³

Dr Newell's study⁴ in the Sydney suburbs of Campbelltown and Marrickville found that in Campbelltown (n = 128 adults, 152 students), 47 per cent of adults and 36 per cent of students interviewed had experienced racist abuse, threats and hostility in the form of words and gestures. Nine per cent of adults and 14 per cent of students interviewed had experienced physical violence, ranging from jostling in the street through to serious assaults requiring medical treatment. In addition, approximately 50 per cent of the households interviewed in Campbelltown reported racially motivated attacks on their property, including bricks thrown through windows and rubbish thrown over fences. In Marrickville (n = 148 adults, 110 students), 40 per cent of adults and 15 per cent of students interviewed had experienced racist verbal abuse, while 7 per cent of adults and 9 per cent of students had suffered racist physical violence.

It was evident that few of the incidents were reported to the police. When they had been reported the victims often felt that the police had not responded effectively. However it was noted that in one patrol (Marrickville) a system was in use to monitor incidents and disputes which involved members of ethnic communities. This was used by intelligence officers to note trends and patterns in terms of localities or incidents. Marrickville also

2 Human Rights and Equal Opportunity Commission, *Racist Violence: Report of the National Inquiry into Racist Violence in Australia*, AGPS, Canberra, 1991 at 387.

3 Langer, B, "Melbourne Study of 26 Salvadorean Families", unpublished survey commissioned by the National Inquiry into Racist Violence, 1990, Human Rights and Equal Opportunity Commission, Sydney.

4 Newell, P, *Migrant Experience of Racist Violence: A Study of Households in Campbelltown & Marrickville*, *A Report to the National Inquiry into Racist Violence*, unpublished paper commissioned by the National Inquiry into Racist Violence, 1990, Human Rights and Equal Opportunity Commission, Sydney.

had an active Community Consultative Committee. These measures seem fundamental to community policing initiatives. Intrinsic to any such initiatives is the necessity for police officers to recognise that persistent verbal abuse, threats and racist graffiti can have a devastating effect on individuals and families, although they are traditionally regarded as minor offences. Police must be prepared to understand that racist motivation renders any incident more serious in terms of its impact on the victim and on the victim's community.

An immediate and unambiguous police response to such incidents, particularly in neighbourhood disputes, could assist to set standards which would improve community relations generally and could discourage further escalation into even more serious incidents.

RECOMMENDATIONS OF THE NATIONAL INQUIRY INTO RACIST VIOLENCE

From the outset it was an issue of concern to the Inquiry that no official statistics were kept at any level to identify particular crimes as having a racial element. This was a significant problem when attempting to estimate the extent of racist violence and whether such violence was increasing or decreasing. The absence of such information also inhibited agencies from developing or evaluating strategies for responding to racist violence.

The Inquiry made a number of recommendations specific to recording incidents of racist violence and to investigating racially motivated offences as follows:

Recommendation 16

That uniform national procedures for the collection of statistics on racist violence, intimidation and harassment be developed, and that the incidence of racially based crime in Australia be reported upon annually by an appropriate Federal agency.

Recommendation 17

That Federal and State Police record incidents and allegations of racist violence, intimidation and harassment on a uniform basis, and that such statistics be collected, collated and analysed nationally by the appropriate Federal agency.

Recommendation 21

That police and other intelligence agencies accord a high priority to the investigation of racially motivated offences and racist groups and assist in ensuring the successful prosecution of such offences.

OVERSEAS DEVELOPMENT IN RELATION TO RACIST VIOLENCE

There are indications of an increase in racist and other forms of violence motivated by prejudice — so called “hate crimes” — in a number of overseas countries. The US Community Relations Service, the Anti-Defamation League of B'nai B'rith, the Southern Poverty Law Centre, the National Institute Against Prejudice and Violence and the

National Gay and Lesbian Task Force have all recently documented increased incidence of hate crimes in the United States.⁵ In Britain, a survey of housing authorities by the Commission for Racial Equality (CRE) in 1987 found that 80 per cent stated that racist harassment was an issue in their areas and 77 per cent said that it was getting worse.⁶ The revival of neo-nazi racist activities in Europe, particularly in Germany and France, are reminders that racist violence can escalate to a point of fragmenting the community and threatening the stability of the society as a whole. The policy of 'ethnic cleansing' in the former territories of Yugoslavia is an horrific reminder of what can happen when racist ideology is used to excuse and justify economic and political ends.

UNITED STATES: MONITORING HATE CRIMES

In the United States monitoring and reporting on the incidence of racist violence has, in the past, mainly been undertaken by non-government organisations. These organisations such as the Southern Poverty Law Centre are largely funded independently by bequest and grants and have been able to apply pressure to governments over the years, with the result that police in a number of states have been collecting data in relation to hate crimes for some time. In addition to monitoring hate crime statistics and providing training on hate crimes for police, other measures have included the establishment of special response units (such as the Community Disorders Unit, Boston) and the provision of special support services and counselling for victims of hate crimes.⁷

As a response to evidence of the increasing incidence of hate crimes, the US Congress passed the *Hate Crimes Statistics Act* in 1990. Under this Act all law enforcement agencies in the United States, are required to report via the US Department of Justice on all crimes that manifest prejudice based on characteristics such as race, religion or sexual preference. The Act provides for a 5 year period of collection 1991–1996.

The methodology for collection of the statistics has been developed by the FBI's Uniform Crime Recording Unit in order to ensure uniformity of the data. This requires a two-tier decision-making process for police determining whether a particular incident should be recorded as a hate crime.

The responding police officer making the initial report is required to classify the incident as a Suspected Bias Incident if there is any indication that the offender was motivated by bias against the victim's race, religion, ethnicity or national origin, or sexual orientation. Such cases are then referred on to a more senior officer who has been specially trained in hate crime matters. Victim perceptions of the offender's motivation are one of the factors which will be taken into account, however the onus for the decision

5 Bensinger, G J, *Hate Crimes: A New/Old Problem*, Prepared for Presentation at the Annual Meeting of The American Society of Criminology, San Francisco, November, 21 1991, Criminal Justice Department, Loyola University of Chicago.

6 CRE cited in Castles, S, "Programs to Counter Racist Violence: The International Experience", unpublished paper commissioned for the National Inquiry into Racist Violence, Human Rights and Equal Opportunity Commission, Sydney, 1990.

7 Wexler, C and Marx, G T, "When Law and Order Works: Boston's Innovative Approach to the Problems of Racial Violence", (1986) 32/2 *Crime & Delinq*; Bensinger, above n5.

rests with the police. Police are required to base their decision on a number of questions intended to obtain objective information to determine the existence of bias.

BRITAIN: REPORTED RACIAL INCIDENTS

Since 1986 in England and Wales, and since 1987 in Scotland, all police forces have collected statistics on racial incidents. In 1987, the London Metropolitan Police reported 2179 racial incidents, including 270 cases of serious assault, 397 of minor assault, 483 of criminal damage, 47 of arson and 725 of abusive behaviour. This is in a population including approximately one million people of non-anglo/celtic origin. However there is convincing evidence that only a fraction of racially motivated incidents are actually reported to authorities. A 1987 survey in Newham, a borough of London, revealed that only 1 in 20 racially motivated incidents had been reported to the police.⁸

The British approach to monitoring differs from the United States in that data is only collected in relation to racially motivated offences, and victim perceptions of the offender's motivation are given equal weight to the perceptions of the police. All persons reporting a crime or incident to police are asked whether they consider that the incident may have been motivated by prejudice. The police officer taking the report is also required to comment on this aspect of the incident. This information is recorded as a part of the standard crime incident report filled out for all incidents reported to the police.

Given the accepted difficulty of identifying motivation for the purpose of defining a racial incident, the British approach is to give importance both to the context in which the incident takes place (as assessed by the police) and to the victim's perceptions. The onus for the decision as to whether racist motivation was a factor does not therefore rest solely with the police. The British approach of giving equal emphasis to the victim is seen to provide better information in relation to policy development, rather than simply attempting to measure the extent of racist violence. The method also provides some recognition to the problems of under-reporting by considering specifically the victim's assessment of the situation.

ESTABLISHING A PILOT PROGRAMME FOR POLICE MONITORING OF RACIST VIOLENCE

In ensuring the implementation of the recommendations referred to above, the Human Rights and Equal Opportunity Commission decided to assist in the development of a data base model for use by police in the collection of information on racist violence. The aim was to provide a means for the systematic collection of information nationally, both as a social indicator and as a source of information for policy development in preventative policing strategies.

There was also the recognition of the importance of collecting data by non-government agencies. A variety of sources of data collection is desirable as each may serve as a check on the reliability of others. In particular non-government community and advocacy

8 Above n1.

agencies might be expected to have access to information not normally available to law enforcement agencies. Options for data collection among community agencies include: community legal services, Aboriginal legal services, dispute resolution/mediation centres, and ethnic and Aboriginal and Torres Strait Islander community centres.

Options for data collection within the justice system include victim impact statements, court statistics, Ombudsman's Office statistics, crime statistics and police intelligence reports. The project reported upon in this article was designed to establish a model for the collection of data by police. The intention was that this model should be applied nationally. Two options were initially considered. The first was to work from the national level to establish a mechanism for the collection of data on hate crimes from police records through the National Uniform Crime Statistics Unit (NUCSU) of the Australian Bureau of Statistics (ABS). The second option was to work at the local level establishing a pilot project with a particular police service.

Although the NUCS Unit was ostensibly the most appropriate agency to undertake this project, it had only recently been established and was not able to take on the additional role. The NUCSU was still concerned with finding ways of making existing data collection comparable across jurisdictions, whereas we wished to include a whole new area of information. Once their base information format is established across jurisdictions, the field of hate crime statistics could readily be included in the national crime statistics collection, provided each jurisdiction adopts the same format. It is our view that it is imperative that a national system be developed.

LOCAL LEVEL PILOT STUDY WITH THE NSW POLICE SERVICE: FROM RACIST VIOLENCE TO HATE CRIMES

The NSW Police Service had established a Task Force to respond to the Report of the National Inquiry into Racist Violence. Following a meeting between the Task Force and the Human Rights and Equal Opportunity Commission, it was proposed that the two agencies could work together through a Steering Committee to establish a pilot project for the monitoring of racist violence. There were two objectives to the project as follows:

- (i) To test an approach to data collection which might establish uniform procedures for the collection of statistics on incidents and allegations of racist and other violence, intimidation and harassment which is motivated by prejudice.
- (ii) To establish awareness amongst police officers of the relevance of such information for the provision of services and the development of preventative policing strategies within the context of effective community policing.

A project strategy was devised for a small number of patrols in metropolitan Sydney, selected on the basis of likely support for the project and willingness to be involved in developing new strategies for effective preventative policing. The three patrols selected already had experience of working in a culturally diverse community, and had also been involved in introducing other community policing strategies. They were Cabramatta, Bankstown and Campbelltown. The latter was of particular interest because of the earlier study of racist violence in the area,⁹ and because subsequent research by the Liverpool

Migrant Resource Centre¹⁰ had proposed strategies for improving community relations in the area which involved police.

The project was initially concerned with the monitoring of incidents motivated by racial prejudice. However it was proposed by the NSW Police that the model should be extended to include other forms of prejudice — so-called “hate crimes”. Religious prejudice had always been an issue associated with racial prejudice and racial violence. Homophobic violence was also of considerable public concern, particularly in New South Wales. The NSW Police also were of the view that sex and age be included.

The Project Committee considered both the British and US models for data collection before deciding to adopt the British model. This was the model of giving equal weight to the perceptions of the police and the victim as to whether prejudice was a motivating factor, rather than the US approach of placing the onus for the decision on the police. This approach was seen to place a more appropriate level of validity on the perceptions of the victim, and to place less reliance on the awareness of individual police officers. This was in recognition that a general level of awareness of issues associated with “hate crimes” is not currently a feature of police services in Australia. In addition the US model required a level of prerequisite training that was not feasible within the time-frame or resources of the pilot project. It was anticipated that the process of asking victims about these issues and having to consider the factors themselves, would in itself be a learning experience for many officers, who may not have previously considered issues such as racial motivation as a salient factor in a crime.

It was determined that all incidents brought to police attention should be included in the study. This was in recognition that many of the incidents which caused distress may not in themselves be defined as criminal offences. These may include jostling in the street, racist abuse and insulting behaviour, dumping of rubbish or racist graffiti on the victim’s property. Such incidents when repeated over time create an insidious atmosphere of intimidation and harassment. The National Inquiry into Racist Violence found that the existence of a threatening environment was the most prevalent form of racist violence confronting people of non-English speaking background.¹¹ Both the United States and British research have noted that, in hate crimes, it is the awareness of the perpetrators’ motivation that transforms what may be otherwise a trivial incident into something that is more than usually distressing and frightening both for the victim and for other members of their community.¹²

We were concerned to be able to access information about these types of incidents and to develop ways for police to use the information to recognise patterns of activity, to identify perpetrators and to anticipate and prevent future incidents. Accordingly police

9 Above n4.

10 Yamine, R and Elias, A M, *Community Relations Strategy for the Campbelltown Local Government Area*, Project of the Liverpool Migrant Resource Centre funded by the Department of Immigration, Local Government and Ethnic Affairs and the Liverpool Migrant Resource Centre as part of the Commonwealth Community Relations Strategy, 1992.

11 Above n2 at 397.

12 Above n1, para 12; above n6 at 210.

were instructed to include the questions concerning motivation and prejudice of all incidents recorded on all Crime Information Reports (P40) and Intelligence Reports (P41). The latter are records for the use of Intelligence Officers and may be used to record information about incidents which do not constitute a crime, and are therefore not included as part of the State crime statistics collection. An important focus of developing the collection strategy was to concentrate on information that would be of use for police intelligence purposes at the local level. For the system to work it was envisaged that local police themselves would need to see a useful application for the information which was being collected.

METHODOLOGY

All police officers at the three nominated patrols were instructed to seek information on all incidents to determine whether the victim considered that any form of prejudice was a factor in the motivation of the offender. Victims were then to be asked to identify the form of prejudice involved from a list including race, ethnicity or cultural background, sex, religion, age, sexual preference (gay or lesbian), or other prejudice. Officers were also required to provide the same information from their own readings of the situation. The victim and police officer's perceptions were each to be entered on the standard Crime Information Report (P40 CIR) or Intelligence Report (P41 IR).

A major problem was that the questions were not printed on the CIR form, and had to be manually added into the narrative space at the bottom of the page. The use of the space in the narrative section placed the burden of remembering to ask the additional questions on the police officers.

A booklet was produced which explained the purpose and outlined procedures for the implementation of the project. It included the exact wording of the question to be asked by the police officer, and was translated into 17 community languages nominated by the Patrol Commanders as being required in their area. The booklets, which fitted inside the standard police pocket notebook, were issued to each police officer serving in the three patrol districts. Officers were instructed to show the translations to any person making a complaint who were not able to communicate in English. The introduction to the booklet also cautioned officers of the necessity to be discreet in asking these questions and to use telephone interpreter services when required. The Telephone Interpreter Service were advised of the project and copies of the booklets sent for their information should their services be called upon. We are unaware if the interpreter service was used at all in relation to the project.

While the emphasis was on the practical requirement of collecting the information for statistical purposes, it was the expressed intention that methods of collecting the information would be devised to enable intelligence officers and tacticians to identify patterns and trends, and therefore develop preventative policing strategies. Tacticians, Intelligence Officers and the Domestic Violence Liaison Officers from each patrol attended an orientation session at Police Headquarters to enable them to act as a resource person to patrol staff. In particular we were concerned to ensure that patrol police were able to confer with senior officers if they were unsure as to whether bias was evident as a

factor in a particular case. Senior officers were also responsible for ensuring that patrol police did complete the questions on the Crime Intelligence Reports.

The Chief Statistician for the Police Service visited each patrol and advised the Intelligence Officers on procedures for including the information collected in their crime and intelligence computer data base systems. Arrangements were also made for these questions to be included as fields on the new computerised intelligence information system known as COPS (Computerised Operational Policing System). Although the system is unlikely to be operational before the end of 1994, it was necessary for notice of the requirement for these fields to be included at this stage in anticipation of the outcomes of the pilot study.

All incidents reported to the police in these patrols during the trial period of three months were to be included in the study. The Campbelltown Patrol commenced the trial on 16 June 1992, Cabramatta and Bankstown commenced two weeks later on 1 July 1992. Training for patrol police was integrated into regular on-the-job police briefings.

SUMMARY OF RESULTS

A full discussion of the results of the pilot project can be found elsewhere.¹³ It should also be remembered that the pilot project was not primarily intended to assess the incidence of hate crimes in the selected patrol regions, but rather to devise a model which would provide an operational means for monitoring hate crimes at the patrol level, while also providing data for state and national statistics.

However in summary the following information was retrieved:

(i) Cabramatta

In 6 per cent of reported incidents, the victim identified prejudice as a motivating factor (in 32 of 563 incidents). The most frequent response for the type of prejudice was that based on race, culture or ethnicity (14 of the 32 incidents).

In 7 per cent of reported incidents, the police identified prejudice as a motivating factor. However the type of prejudice was most frequently recorded in the "other" category, so the nature of the perceived bias is not immediately obvious.

(ii) Campbelltown

In 2.5 per cent of reported incidents, the victim identified prejudice as a motivating factor (in 34 of 1342 incidents). The most frequent response for the type of prejudice was recorded in the "other" category, followed by the category of race, culture or ethnicity.

In 2 per cent of reported incidents, the police identified prejudice as a motivating factor.

13 de Rome, L. (1993) *Monitoring Hate Crimes. A Report on the Community Relations Strategy Data Project, February 1993*, Report to the Human Rights and Equal Opportunity Commission.

(iii) Bankstown

In 7 per cent of reported incidents, the victim identified prejudice as a motivating factor (in 53 of 730 incidents). The most frequent response for the type of prejudice was recorded in the "other" category, followed by the category of race, culture or ethnicity.

In 7 per cent of reported incidents, the police identified prejudice as a motivating factor.

OVERVIEW

Up to 7 per cent of all incidents were perceived by the victim to have been motivated by prejudice. The offences with which the perception of prejudice was most frequently associated were assaults and malicious damage.

The overall incidence of hate crimes at Campbelltown appears to be much lower than in Bankstown or Cabramatta. However the project was able to compare the figures for completed Crime Intelligence Reports (CIRs) for the trial period held at police headquarters with those provided for the project by the patrols. Theoretically they should have been the same number. There was considerable variation with the highest rate of completed returns obtained from Cabramatta (91 per cent), then Bankstown (73 per cent) and finally Campbelltown patrol (66 per cent). In Campbelltown patrol less than a quarter of the assaults reported during the test period were included in the study.

There were also differences between patrols as to whether victimless crimes (such as drug offences, gaming and betting offences) were included in the study. Cabramatta excluded these offences but the two other patrols did not. It would seem appropriate that victimless crimes at least be excluded from calculations of the extent to which offences are motivated by prejudice.

The discrepancies between the patrols in the proportion of CIRs which were coded for the study are likely to be associated with the procedural inconvenience of the trial format and would be overcome once the questions were included as a standard and mandatory part of the CIR format and through training and supervision. For instance in Cabramatta, which had a high return rate, Intelligence Officers were required to return any CIR forms to the responding officer, if the questions on prejudice had not been asked. This process reinforced the requirement for compliance with the study.

The pilot study confirmed that collecting, collating and analysing data at the patrol level is possible. Patrol commanders at each locality reported no difficulties in obtaining or recording the information provided adequate training and supervision is provided.

The pilot study has also confirmed that a proportion of incidents, particularly assault and malicious damage, are perceived by both victims and responding police to have been motivated by prejudice. Indeed in one patrol up to a quarter of all assaults were seen as being motivated by prejudice. Such findings should be considered in conjunction with the findings of the NIRV Report, the research by Dr Newell, and a further study of community relations in Campbelltown by the Liverpool Migrant Resource Centre¹⁴ which

indicate that only a small proportion of incidents are reported to the police. This is consistent with overseas experience that victims of hate crimes are less likely than others to report the incident to the police.¹⁵

ANALYSIS OF THE DATA FOR INTELLIGENCE PURPOSES

The incorporation of the data into the local operational intelligence data base is obviously essential if it is to be of use in preventative policing strategies. However there also needs to be a means of information retrieval that is readily accessible and appropriate for such intelligence purposes. Bankstown and Cabramatta incorporated the additional information into new fields on their PINTS (Police Intelligence Tracking System) data bases and were able to provide basic information on the type of offence and category of prejudice. National implementation of the model will need to consider the variations in police intelligence/crime reporting systems and the extent and nature of computerisation.

It had been an important feature of the project proposal that procedures should be developed to ensure that information could be incorporated into an intelligence collection so that police could identify potential problems and patterns of behaviour. There was no attempt at any of the patrols to develop a system for analysing patterns of incidents as a problem solving/preventative strategy, however this is perhaps understandable given the small pilot nature of the project.

It is of more concern that despite the original brief which stated that "all incidents" should be included in the study, only incidents which constituted actual offences and were recorded on the Crime Intelligence Reports (P40) have, in fact, been included by any of the Patrols. This means that we were not accessing information on many neighbourhood disputes and other incidents to which police were called but which are either resolved on the spot or referred to other agencies such as the Community Justice Centres. It is through accessing this level of information together with the more serious incidents recorded as crime statistics that we had hoped to develop a community policing model.

The inclusion of age and sex did not appear to contribute anything to the identification of patterns of offences motivated by prejudice beyond information that is already collected on the CIR. Crimes motivated by the victim's age seemed to be more related to opportunity than to prejudice. If the police were seeking to identify patterns of offences against a particular age group, age of victim is already coded on CIRs, as is the age of the suspect/offender. Similarly, sex as a motivating factor was identified primarily in relation to domestic violence and sexual assault. While not denying the sexist basis to such offences, the question arises as to whether the inclusion of this category for the purposes of identifying hate crimes contributes anything more to the information already collected and analysed. Crimes by men against women could indeed be classified as hate crimes, but the sex of the victim and the suspect/offender is already recorded on the CIR. In addition there are a number of questions on the CIR relating to domestic violence which include the victim's relationship to the offender. It is our view that, at least in New South

14 Above n9.

15 Above n1; above n6.

Wales, relevant information is collected in relation to age and sex without being included in an additional "hate crimes" category.

Accordingly the results of the pilot project indicated that the model for the implementation of data collection on the incidence of hate crimes should be restricted to the following categories of prejudice:

- 1 Race, ethnicity or cultural background
- 2 Religion
- 3 Sexual preference
- 4 Other form of prejudice (please specify)

By including the "other" category, but requiring it to be specified, incidents which are not adequately covered under either these questions nor the demographic details of the victim will be able to be included.

It had been intended that each patrol would advise their Community Consultative Committee about the pilot project and would publicise the objects of the study. This was to ensure that communities were aware of the initiative and did not misunderstand the study as an indication of an escalation of racial violence or other forms of hate crime in their area. It was also a strategy to encourage people who were the victims of such harassment and violence to report incidents to the police. The community liaison aspect of the project proposal was, unfortunately, not followed up.

Prior to the implementation of the pilot project, concerns had been expressed about the sensitivity of the issues to be raised by the questions and the potential for a negative reaction from or impact on the nonEnglish speaking and Aboriginal and Torres Strait Islander communities in the regions under study. Despite the absence of a community information campaign, none of the patrols reported any negative response from people (n=2635) on being asked the questions.

CONCLUSION

The under-reporting of hate crimes is the experience of monitoring agencies in Britain and the United States. The types of incidents least likely to be reported are those described as vandalism and where serious physical harm is not caused to person or property.¹⁶ Much of the behaviour which creates an atmosphere of oppression and harassment in a community may not be recognised as a criminal offence by the victim or the police, and for that reason may not be reported or recorded. This is a matter of concern as it is recognised that the hatred and prejudice which motivates this type of incident is a more potent cause of emotional injury to the victim than the actual damage caused by the behaviour.¹⁷ In addition, perpetrators of relatively minor abusive and harassing behaviour who are not checked, may assume a level of social sanction which confirms the basis of their prejudice, and may lead to an escalation into more serious abuse and violence.

16 Above n1.

17 Above n1; above n6.

Authorities in the United States have placed considerable onus on the police for responsibility for identifying, monitoring and dealing with hate crimes; including placing a high priority on investigating all incidents involving a racist element to a successful conclusion or until all leads have been exhausted. In Britain, the emphasis has been more on the involvement of the community and other agencies in preventative strategies. However the objective on either side of the Atlantic has been to create an environment in which both victims and perpetrators know that racial violence and other hate crimes will not be tolerated by the police or the community. This is the environment that needs to be established in Australia.

The data collected during the study should not be considered an accurate indication of the level of hate crimes in the trial areas. There were obvious sample selection problems and the normal difficulties of introducing a new element into a system. However, the incidence of offences which were considered to have been motivated by prejudice is an indicator which should be considered seriously, particularly as these figures are likely to represent only a minority of those that actually occur due to the extent of under-reporting of such incidents. In addition there should be consideration of the ongoing incidence of homophobic hate crime and racially-motivated attacks on Aboriginal and Torres Strait Islander people. Since 1987 there have been 19 gay hate murders in New South Wales which have been brought to the attention of the Gay and Lesbian Liaison Officer of the New South Wales police.¹⁸ This figure excludes more recent murders.¹⁹ It has also been alleged that there has been an upsurge in violence against indigenous people in Australia as a result of the High Court's ruling in *Mabo v Queensland* which recognised the existence of Aboriginal native title to land. Violent group attacks on Aboriginal people have been noted recently in Melbourne²⁰ and North Queensland,²¹ as well as desecration and destruction of Aboriginal sites.²²

The pilot project reported on in this paper has demonstrated that collecting information on the incidence of crimes motivated by prejudice is a relatively simple procedural matter which could readily be introduced to existing systems with appropriate training and supervision. In addition new police practices are increasingly turning to problem oriented policing which involves the systematic analysis of patterns of incidents, and the development of actions required to solve the underlying problems which precipitate them. Information on hate crimes should be seen as fundamental to a problem-solving approach to policing.

18 Thompson, S, "Homophobic Violence: A Police Response", paper presented to the Second National Conference on Violence, Australian Institute of Criminology, Canberra 15-18 June 1993.

19 See for example *Sydney Morning Herald* 17 Aug 1993 at 2.

20 See *The Australian* 9 Aug 1993 at 2.

21 See the *Douglas Times* 3 Jun 1993 at 1.

22 Personal correspondence, Queensland Anti-Discrimination Commission, Cairns.