

# Hate Crime in Northern Ireland

**A thematic inspection of the  
management of hate crime  
by the criminal justice system  
in Northern Ireland**

January 2007





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Justice (Northern Ireland) Act 2002

**Criminal Justice Inspection  
Northern Ireland**  
*a better justice system for all*







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## List of abbreviations

<b>ACPO</b>	Association of Chief Police Officers of England, Wales and Northern Ireland
<b>CJA</b>	Criminal Justice Agencies
<b>CJI</b>	Criminal Justice Inspection
<b>CJS</b>	Criminal Justice System
<b>DCU</b>	District Command Unit
<b>HMIC</b>	Her Majesty's Inspectorate of Constabulary
<b>MLOs</b>	Minority Liaison Officers
<b>NICEM</b>	Northern Ireland Council of Ethnic Minorities
<b>NICtS</b>	Northern Ireland Court Service
<b>NIO</b>	Northern Ireland Office
<b>NISRA</b>	Northern Ireland Statistics and Research Agency
<b>OFMDFM</b>	Office of First Minister and Deputy First Minister
<b>PBNI</b>	Probation Board for Northern Ireland
<b>PPS</b>	Public Prosecution Service
<b>PSNI</b>	Police Service of Northern Ireland
<b>RFI</b>	Request for Further Information
<b>RIOH</b>	Recording Incidents Of Hate



## Chief Inspector's Foreword

Over recent years society in Northern Ireland has become more culturally diverse, presenting many challenges to individuals, communities, voluntary organisations and government agencies. This is especially an issue for the criminal justice system (CJS), whose published purpose is 'to deliver a criminal justice system which serves and protects the people of Northern Ireland and in which the whole community can have confidence'.<sup>1</sup>

Diverse and multi-cultural communities have a huge amount to offer, and once diversity is accepted as the norm it can become a source of strength for a community. But the transition to diversity is always problematic. It all too often results in increasing tensions within the community, which can manifest as hate crimes.

Statistics over recent years have shown a significant increase in the number of hate incidents being reported to the police. There is, however, anecdotal evidence to indicate that despite efforts to encourage reporting, there is still a significant level of under-reporting of these types of crimes due to the victim's unwillingness to come forward.

Like all inspections, this thematic was a snapshot at a particular point in time. This report details our findings at that time and highlights areas where further development is needed. Agencies have different approaches as to how they manage hate crime. The fundamental need identified by Inspectors to improve the management of hate crime within the criminal justice system is for a more consistent, integrated and systematic approach to reporting, recording, investigating and prosecution. In addition, agencies need to further develop their outreach programmes in working with other public, voluntary and community sector bodies on preventive measures.

The inspection team led by John Shanks with support from Everett Henry (HMIC) and other Inspectors from CJI appreciated the assistance of staff from the key agencies, public sector bodies, voluntary and community support groups and individuals for their frank co-operation during this inspection.



**Kit Chivers**

Chief Inspector of Criminal Justice in Northern Ireland.

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<sup>1</sup> Criminal Justice System Northern Ireland Annual Report 2005/06







## Executive Summary

There used to be talk about two cultures in Northern Ireland. Not any more. Northern Ireland is fast changing into a multi-cultural society. Social changes which were held up during the Troubles are accelerating as Northern Ireland comes out of its cultural isolation. As a result the divisions in Northern Ireland, which used to be along the single dimension of sectarianism, have become multi-dimensional. Increased diversity has led to the formation of a range of minorities, which are subject to discrimination and, at the worst, to crimes motivated by hatred. There are worrying signs that groups such as ethnic minorities, homosexuals and the disabled are becoming the new scapegoats on whom those so inclined are now exercising their aggression.

The definitions of a 'hate crime' and a 'hate incident' are not simple, and they are not well understood. Being perceived as such is a sufficient criterion for the purposes of record keeping, but prosecution requires a stricter, evidential test. There is probably still substantial under-reporting, despite good efforts by the authorities through the Recording Incidents of Hate (RIOH) initiative. But even allowing for an improvement in the rate of reporting it is evident that both incidents and crimes of hate are on the increase.

The PSNI have a sophisticated hate incident and crime recording system which feeds directly into a comprehensive statistical system. They also have good policies and procedures in place for managing hate crimes, and the organisation has engaged in very positive and well received consultation exercises with the communities about them. However, there are variations in the awareness of those policies and procedures in police Districts. E-mailing important guidance to officers proves not to be an effective means of communication. The Districts differ in their approaches to managing hate crime: one has a Hate Crime Unit; others work through Community Safety Units or Criminal Justice Units. Excellent work has been done on developing the use of interpreters which is something the other agencies can learn from. The PSNI are now focusing on further development of their investigative strategy to improve the quality of investigations to ensure best outcomes. This point has been addressed in more detail in *Handling Volume Crime and the Use of Police Bail* Inspection Report published by CJI in December 2006<sup>2</sup>.

Delay is a problem in relation to hate crime, as it is for the criminal justice system at large. It is crucially important that swift action should be taken to punish and deter these crimes. It would be particularly helpful in relation to hate crimes if the Public Prosecution Service could work more closely with police officers to guide them through the difficult legal questions that arise. Co-location of prosecutors would, in principle, be helpful, though Inspectors recognise the wider issues which that would raise.

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<sup>2</sup> See Executive Summary and paragraphs 2.9 to 2.12 – Handling Volume Crime and the Use of Police Bail Inspection Report – CJI – December 2006



The concept of ‘clearance’ of these crimes is not simple, and the PSNI’s performance, though improving, is still not as good as it could be. There are no joined-up data to show the progress of hate crimes through the criminal justice system: improvements in the statistics are urgently needed. The numbers of cases in which offences are deemed to be aggravated by hostility are still small. Inspectors recognise that ‘aggravation’ is not always easy to prove.

The introduction of Minority Liaison Officers within DCU structures has proved a great success. They have contributed to a marked improvement in relations with the minority communities. Overall the agencies show a commendable commitment to tackling hate crime, but the problem needs to be addressed across a wider front: it is not just a matter for the criminal justice system.

The whole of society has a responsibility for confronting and finding solutions to hate crime, it is not the sole responsibility of the criminal justice system. Responsibilities to challenge culture, attitudes, values and actions rest with individuals, groups, organisations and the various sectors of local society. While all criminal activity is a matter of concern, crime that also denies humanity to its subjects and can devastate relationships and corrupt the ability to function together as a community, is a cause for even greater concern.

Inspectors found that effective partnerships are one of the most productive means of delivering services to victims of hate crime. This has encouraged voluntary and community groups to come more to the fore to support and engage with the CJS. The necessary remedial work is about changing attitudes this may start within family units, the workplace, religious or political organisations, the education system through curriculum development in schools exploring diversity and culture through citizenship modules. It is important that the work of the CJS in preventing and detecting hate crime promptly to minimise victimisation and re-victimisation fits with other initiatives.



## Recommendations

The following recommendations have been made:

### Partnerships

- It is recommended that more cohesive interchange links need to be developed across government bodies. The NIO should lead on behalf of the Criminal Justice agencies (CJAs) to establish better co-ordination and assessment of strategies with others to combat hate crime. (paragraph 1.9)
- It is recommended that the NIO on behalf of the CJAs should co-ordinate census information needs with NISRA on the most appropriate methods to provide accurate population data on the numbers and trends within the minority communities in Northern Ireland to aid criminal justice policy development. (paragraph 1.13)
- It is recommended that the PPS adopt this approach across all regions so that prosecutors will ensure that all instances of hate crime are prominently marked on files and brought to the attention of the court. (paragraph 6.2)

### Strategy, Policy and Procedural Development

- It is recommended that the Criminal Justice Board should co-ordinate the development of a Criminal Justice System Hate Crime Strategy for communication to all staff and the public. (paragraph 2.17)
- It is also recommended that there needs to be agreement of a common set of hate crime definitions for use within the CJS and that they be communicated clearly across all agencies. (paragraph 2.17)
- We further recommend the development of hate crime training programmes within and across agencies. (paragraph 2.17)
- It is recommended that the necessary legislative and procedural framework should be enacted to introduce an Intermediary Service to Northern Ireland. (paragraph 1.18)
- It is recommended that the PPS should develop its own Hate Crime Policy with links to those of the other agencies. (paragraph 2.12)
- It is recommended that prior to extension of the project, the RIOH working group should review and develop guidance and an action plan as to how the data gathered is to be used and ensure that any duplication in the recording system is identified and removed so that strategy and policy development will have best available quality information. (paragraph 4.11)



## Management Information

- It is recommended that all clearance rate targets in respect of hate crime should be reviewed to ensure that they are both robust and challenging. (paragraph 5.17)
- It is recommended that all agencies including the NICtS and PBNI should record key statistics at local and corporate level in relation to the processing of hate crime cases. Some examples of key information are outlined at Appendix 3. (paragraph 6.4)
- It is further recommended that the information recorded by all agencies should be capable of illustrating the transparent flow and timeliness of business between agencies. (paragraph 6.4)
- It is recommended that henceforth any case presented to a court as having been aggravated by hostility and/or where the Criminal Justice (No.2) (NI) Order 2004 has been applied, should be recorded as such by both the PPS and NICtS. Consideration should also be given to monitoring the use made of the legislation since its implementation in 2004. (paragraph 6.4)
- It is recommended that the monitoring mechanism outlined by the NIAC - that the PSNI, the Policing Board and the NIO closely monitor the effectiveness of the new legislation (Criminal Justice No.2 (NI) Order 2004) should be actioned and reported. (paragraph 6.11)

## PSNI Specific Recommendations

- It is recommended that the PSNI need to clarify for their officers that the hate incident definitions used for recording purposes are solely perception based and not evidence based. (paragraph 2.18)
- It is recommended that the PSNI undertake a formal review to identify further methods to address how the reporting system can be further enhanced to minimise under-reporting of hate crime. (paragraph 3.9)
- It is recommended that initial and subsequent entries keyed onto the police systems in relation to hate crime are regularly reviewed; subject to evidenced management checks and that categorisation based on the policy definitions are confirmed as being accurate to ensure integrity of the management information system. (paragraph 4.2)
- It is recommended that the PSNI reviews how it can communicate more clearly the type of clearances being used and also identify opportunities to educate the public as to what clearance rates actually mean. (paragraph 5.14)
- It is recommended that MLO resourcing in terms of available numbers, appropriate support/facilities and event budgets need to be re-examined by the PSNI to further develop this critical role. (paragraph 6.10)

**PART**



# **Inspection Report**



## CHAPTER 1:

# Hate Crime: A Reflection of a Changing Society

- 1.1 The peace process in Northern Ireland has led to a gradual increase in stability and normalisation of society. As a result Northern Ireland, which was for a time isolated by its 'Troubles,' is quickly catching up on the international trends towards more migration of labour and more cultural diversity. This continues to create challenges for individuals, communities, voluntary organisations and government agencies. The increasing problem of hate crime associated with these broad societal changes is one such challenge.
- 1.2 Northern Ireland has had a tradition of discriminating on grounds of religion. But new divisions and lines of possible discrimination have opened up in recent years. Large numbers of migrant workers arriving in Northern Ireland in search of employment are settling; gay, lesbian, bisexual and transgender people are more content to be seen as such; and increasing numbers of people are meeting the definition of disabled. To a worrying extent people in these minority groups are increasingly inheriting the 'scapegoat' role and being targeted by people who would previously have acted out their hatred on the other religious community.
- 1.3 People confirmed to Inspectors that they could feel threatened when someone encroaches on their territory who is different in terms of race, religion, sexual orientation or disability. Examples were given of migrant workers being clustered into multiple occupancy housing, often "hot bedding" due to shift working, and private sector housing being used with no consideration of individual or community needs.
- 1.4 The promotion of equality and human rights was central to the Belfast Agreement. It figured prominently in the *Programme for Government* in which the first Northern Ireland Executive set out its vision for a community in which equality, human rights, mutual trust and respect were core values and in which all citizens could realise their full potential and live free from fear and prejudice. Development work is on-going across government and community sectors to realise this vision.
- 1.5 Many best practice initiatives to promote good relations and improved integration within local communities were highlighted to Inspectors. The Police Service for Northern Ireland (PSNI) also



provided Inspectors with good examples of innovative approaches which have been undertaken across District Command Units (DCUs). These have been designed to increase awareness of cultural diversity, reduce fears and increase public confidence in law and order issues.

- 1.6 Conflict and violence between and within communities during the 'Troubles' has left a profound legacy in Northern Ireland. While many of the issues remain invisible, the legacies of sectarian problems are visible to many citizens in terms of:
- the number of murders, injuries and bereavements which occurred over a prolonged period that scarred so many lives across communities;
  - the number of people who were imprisoned for activities directly related to the 'Troubles' which also put a burden on families and communities;
  - the identification of personal and community safety issues which created segregation and suspicion between communities;
  - attitudes, behaviour and perceptions that were formed on the basis of a distrust which presumed hostility and threat from others;
  - a culture that tolerates and promotes paramilitary activity which represented law and order regimes in some communities.
  - Such problems can still fuel sectarianism today and can be the catalyst for hate incidents.

- 1.7 With many developments in the political process since the signing of the Belfast Agreement, opportunities have been accepted by the voluntary and community sector from both

sides of the divide to improve relationships. The first *Programme for Government* also set out the aim of policy as a 'peaceful, inclusive, prosperous, stable and fair society firmly founded on the achievement of reconciliation, tolerance and mutual trust.' Inspectors were informed that more than words and ideas are needed. Current work to challenge attitudes to prevent hate crime is happening in pockets across different communities with good practices and benefits being realised.

- 1.8 Hate crime reflects upon the attitudes and prejudice that exists within our society. It is important that every citizen and every organisation across all sections of society accept their shared responsibility to tackle this difficult issue. The criminal justice system has a leading role to play in combating hate crime but it can not be expected to tackle the attitudes and prejudice within our society at large. There is a need for a local administration to develop and co-ordinate a strategy of policy and practice that cuts-across all departments and their agencies through education (formal and informal) and working in partnership with voluntary and community sectors, social partners, media and civil society. The strategy needs the support from local political representatives and their concerted actions in order to give a clear message to those perpetrators of hate crime.
- 1.9 Responsibility for developing an integrated approach to managing aspects of diversity and crime within the community lies across several



government departments. Principally the two main departments would be the Office of the First Minister and Deputy First Minister (OFMDFM) for strategy development; and the Northern Ireland Office (NIO) for co-ordinating criminal justice policy implementation. Both come from separate civil service structures and often provide independent briefings to Ministers. Inspectors were advised that on occasions, tensions can occur in terms of co-ordination of plans which can result in public service delivery not always being best achieved. For the CJS to keep pace with the level of diversity change **it is recommended that more cohesive interchange links need to be developed across government bodies. The NIO should lead on behalf of the criminal justice agencies to establish better co-ordination and assessment of strategies with others to combat hate crime.**

1.10 The CJS needs to have better links direct to other public service core information and strategy development. This would facilitate a meaningful input to the creation of a common shared public information portal system for Northern Ireland available in different languages and formats which is currently being developed within OFMDFM. Through such an interactive facility minority communities would gain a greater understanding of how the CJS works with links to each of the Criminal Justice agencies (CJAs) who can help victims of hate incidents. This may help address under-reporting of hate crimes by breaking down any fears or

barriers about reporting incidents to the police or third parties. Such an approach would provide the public with access in an easily understood form about current service delivery standards, procedures, policies and protocols. It would also allow the CJAs to gain access to core information upon which agencies can collectively develop policies and make plans to ensure hate incidents and crimes are addressed in a more consistent and co-ordinated manner.

1.11 In recent years the trend of migration to Northern Ireland has changed significantly due to:

- the impact of the ‘Troubles’ within Northern Ireland being much reduced;
- the increase in number of European Union states which permits freedom of movement and employment within the Union;
- an upturn in the Northern Ireland economy, providing a wider range of employment opportunities;
- enhanced air travel links to Northern Ireland.

1.12 Over the past decade there has been change in the composition of the local population, mainly due to the increase in migrant workers. The 2001 census reported that around 15,000 people (less than 1% of total population) from minority ethnic communities lived in Northern Ireland, with recognised groups including Chinese, Indian and Irish Travellers. Diversity has increased in more recent years, particularly with the influx of migrant workers from the new member states of the European Union and from Asia. There are now sizeable communities of



Portuguese, Polish, Latvian and Lithuanian nationals across Northern Ireland supporting both manual and professional industries. Inspectors found that it was proving difficult for the CJAs to get accurate information relating to the changing environment. It is now thought that a more accurate figure of ethnic minorities in Northern Ireland is around 45,000, representing approximately 2.5% of the total population.

- 1.13 Inspectors also found that stakeholders were concerned that data from the last Northern Ireland census or mid assessments did not provide a true reflection of the number and percentage of people from minority backgrounds. The Northern Ireland Statistics and Research Agency (NISRA) who run the census informed Inspectors that they planned to test new questions to be included in the 2011 census that would provide a more accurate figure for the number of people from an ethnic minority background resident in Northern Ireland. NISRA have also published a report outlining the various methods, highlighting advantages and disadvantages, available to estimate the population of migrant workers in Northern Ireland. As yet the Northern Ireland census does not record questions in relation to sexual orientation. A lack of accurate population composition data makes it difficult for the CJS to establish the full extent of the problem of hate crime and may impact on the development of improved services for victims. **It is recommended that the NIO**

**on behalf of the CJAs should co-ordinate census information needs with NISRA on the most appropriate methods to provide accurate population data on the numbers and trends within the minority communities in Northern Ireland to aid criminal justice policy development.**

- 1.14 The process of migration to Northern Ireland, active recruitment of migrants by employers to Northern Ireland and the provision of services and resources to migrants present a big challenge for society to manage. The Racial Equality Strategy for Northern Ireland (OFMDFM 2005) states that 'The speed and extent of the increase in the number of migrant workers in Northern Ireland – and the diversity of people involved – pose complex challenges for Government and society alike.'<sup>3</sup> Inspectors found varying degrees of engagement across the CJS in response to the challenges. The majority of the hate crime system rests within the control of the PSNI. As a result of their proactive approach, policy development and work on the outcomes of other reports the PSNI has been at the forefront of developing reform to policies, procedures, facilities and outreach programmes to address the challenges that hate crime management presents.
- 1.15 As further equality and human rights legislation comes into place more people and their representative support groups are increasingly feeling comfortable to come forward

<sup>3</sup> Paragraph 3.15 of the Racial Equality Strategy Northern Ireland 2005



to ensure that both sexual orientation and disability equality issues are recognised and addressed. Voluntary sector support bodies have lobbied hard to have their areas included in hate crime legislation.

1.16 Many lesbian, gay, bisexual and transgender people in Northern Ireland face disadvantage and prejudice in their daily lives because of their perceived sexual orientation. Some people are unable to be open for fear of losing their jobs, homes, children and the support of family and friends, or becoming victims of attacks. This is a significant concern when dealing with the CJS. There are fears that reporting hate crimes could result in more hostility towards them, the possible homophobic attitude of police officers, their personal privacy being breached and the consequences should a case go to court and be reported in the media. Homophobic violence has long been an issue in Northern Ireland. The number of incidents reported to the police is increasing but Inspectors were advised that many more incidents remain unreported.

1.17 The wider definition of disability as being ‘someone with a physical or mental impairment which has a substantial or long term adverse effect on their ability to carry out normal day to day activities’<sup>4</sup> means that increasingly more people are being registered as having a disability. Inspectors were advised that more than one in five (300,000) people in Northern Ireland have a disability<sup>5</sup>

Disability is a term covering a wide variety of circumstances. It can be physical, sensory, mental, light or severe and refer to all people male, female, young and old. Inspectors were informed that very few attacks on people with disabilities are reported as many disabled people believe that their complaint will not be taken seriously by the authorities or by society in general. Inspectors found that disabled people, particularly those with learning difficulties or visual impairments, also find it difficult to identify or give evidence about the perpetrator and therefore do not feel comfortable about or valued within the CJS.

1.18 Improvements could be made in this area by introducing an Intermediary Service for Northern Ireland along a similar framework that is currently available in England and Wales through the service supported by the Home Office. The intermediary provision in England and Wales is one of a range of measures which, under the Youth Justice and Criminal Evidence Act 1999, the courts may make available to vulnerable witnesses to assist them to communicate with the police, prosecution, defence and judiciary to process a case through the CJS including giving evidence in court. As with all special measures, this provision may be used by both defence and prosecution witnesses. Intermediaries can be the difference between vulnerable witnesses reporting and communicating their best evidence or not communicating

<sup>4</sup> The Disability Discrimination Act 1995

<sup>5</sup> Disability Action NI



at all. An intermediary is a specially recruited person who can help a vulnerable witness to understand questions they are asked and who can then communicate the witness's responses. Intermediaries can help witnesses at each stage of the criminal justice process, from police investigations and interviews, through to pre-trial preparations to Court. As well as improving access to justice for vulnerable people, intermediaries can also help criminal justice practitioners by:

- improving decision making by providing practical information about a witness's needs;
- make investigation interviews and court testimony more productive and
- improving the prospect that a case will have a positive outcome in court.

**It is recommended that the necessary legislative and procedural framework should be enacted to introduce an intermediary service to Northern Ireland.**

## Definitions: Setting the Context

2.1 For the purpose of this inspection hate crime has been defined as ‘any hate incident which constitutes a criminal offence, perceived by the victim or any other person, as being motivated by prejudice or hate’<sup>6</sup>. A hate incident is accepted as being any incident, which may or may not constitute a criminal offence, which is perceived by the victim or any other person, as being motivated by prejudice or hate.

2.2 All hate crimes are hate incidents. However, some hate incidents may not constitute a criminal offence and therefore will not be recorded as a hate crime. For example, abusive comments making inappropriate reference to the colour of someone’s skin may be perceived as a racist incident. Upon review there may be insufficient evidence that the incident would constitute a racist crime. Inspectors found that of the 2997 hate crime incidents recorded by the Police Service of Northern Ireland (PSNI) in 2005/06, 880 (29%) did not have a crime. The remaining 2117 were progressed for investigation.

2.3 From the information supplied by the PSNI it was possible for Inspectors to further establish that:

- 46% (32) of disability hate incidents;
- 38% (84) of homophobic hate incidents;
- 31% (287) of racial hate incidents;
- 28% (470) of sectarian hate incidents;
- 10% (7) of religion/faith hate incidents;

did not result in an actual crime being recorded.

2.4 The Criminal Justice (No.2) (Northern Ireland) Order 2004 details hate crime into four main categories: racial, homophobic, religion and disability. For monitoring purposes the PSNI has created an additional ‘sectarian’ category (which in 2005-06 represented 57% of all hate crimes) to specifically record hate incidents perpetrated between the Catholic and Protestant communities.

<sup>6</sup> Hate Crime: Delivering a Quality Service Good Practice and Tactical Guidance (Home Office Police Standards Unit and Association of Chief Police Officers (ACPO) 2005)



2.5 Based on these definitions hate crime represents a serious problem for Northern Ireland. The inspection focused on how the criminal justice system manages offences being committed against people and property on the grounds of their religion, ethnicity, sexual orientation and disability. Recent years have witnessed a significant increase in the number of reported hate crimes in Northern Ireland, resulting in increased media attention, public concern and government focus.

2.6 To facilitate effective management of hate crime across the entire CJS it is important that specific, consistent and clearly understood definitions are applied. This is necessary to ensure proper and accurate categorisation of incidents which is needed to facilitate the development of strategies, policies and approaches to resolve such crimes. Definitions currently used within the PSNI relating to hate incidents include:

**Sectarian Incident**

‘Any incident which is perceived to be sectarian by the victim or any other person.’

**Racist Incident**

‘Any incident which is perceived to be racist by the victim or any other person.’

**Homophobic Incident**

‘Any incident which is perceived to be homophobic by the victim or any other person.’

**Faith Related Incident**

‘Any incident which is perceived to be based upon prejudice towards or hatred of the faith of the victim or so perceived by the victim or any other person.’

**Disability Related Incident**

‘Any incident which is perceived to be based upon prejudice towards or hatred of the victim because of their disability or so perceived by the victim or any other person.’

2.7 The PSNI definitions of hate crime are based on the Association of Chief Police Officers (ACPO) guidance, which were adopted from those recommended by the Stephen Lawrence Enquiry. While the definitions were generally understood by police officers, the issue of ‘perception’ and who had “final say” in determining whether an incident should be categorised as a hate crime presented difficulties. Some of the difficulties highlighted to Inspectors included application of definitions and how incidents would be categorised and recorded. This included the accuracy and completeness of incidents being recorded on the police computer systems and the completion of investigative files that would pass across to the Public Prosecution Service (PPS). Several of the real scenarios outlined to Inspectors have been included in the following examples:

### **Example 1**

A 38-year-old Asian man closed his shop late at night and proceeded to the local bank to use the night lodgement facility. When nearing the bank he was attacked from behind and had his lodgement wallet stolen. He reported the matter to the police and stated that he believed it was a racist incident. He indicated that earlier in the evening he had been called offensive names and threatened. The police recorded the incident, but did not record the robbery as being racist as nothing was said. Police considered that incident was more of an opportunist crime someone had been watching for anyone going to the night lodgement facility. The man was not happy with this action as he considered it to be a racist matter and considered it was his view that mattered.

### **Example 2**

A 50-year-old man one evening walking his dog in a Belfast park was attacked and had his wallet stolen. He reported the matter to police, gave a statement and was later informed by the police that the incident was being categorised as a homophobic hate crime. The police perception based on intelligence was that he was a single man walking in a well known gay cruising area where recent homophobic attacks including a murder had occurred. The married man, a father with three children was horrified realising that this tag had personal implications for him if the case went to court. He informed the police he was not gay or bisexual and considered that he had the right to say how the incident should be recorded. He was concerned what his family, friends and colleagues would think. He reminded police that no one had called him any names or used any anti-gay comments towards him. No one was apprehended for the offence and therefore the case did not get as far as the PPS or Courts.

2.8 Inspectors found examples of files sent by the PSNI to the PPS which had been wrongly categorised and not in compliance with the guidance detailed in the PPS/PSNI Protocols. For example, in some cases received by the PPS which related to sexual crimes between males and females, some of these were seen by the police as being aggravated due to sexual orientation. Prosecutors found no evidence submitted in the file to support this categorisation. This left prosecution staff wondering whether the police had misunderstood the definition and classification. It would suggest that the police had considered there was a sexual orientation to the crime rather than the crime being aggravated due to the perceived sexual orientation of the victim.

2.9 The above issues raise concerns over the knowledge and understanding of officers who respond to hate crimes, their exposure to and interpretation of PSNI policy directives, the completeness and accuracy of statistics being recorded, the appropriateness of supervision and ultimately the quality of support being provided to victims. Inspectors found that in 65% of the 2997 hate crime incidents recorded by the PSNI in 2005/06 there was no perceived motivation indicated on the report form. This had reduced to 61% for the 1477 hate crime incidents recorded between 1 April and 31 August 2006. Of the remaining 1039 incidents recorded by the PSNI where a hate crime motivation had been indicated:

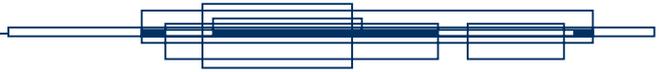
- 77% were perceived by the victim;
- 30% by a police officer and
- 6% by a third party.



(Note - percentages add to more than 100% due to some multiple responses.)

- 2.10 People who are assumed to belong to a particular community of interest are often targeted in hate crimes because of a perception of their difference. Inspectors found that victims of hate crime could fall into more than one category: both ethnic minority and gay, for example. In such cases police officers were confused as to how the incident should be recorded.
- 2.11 Inspectors found that problems with the definition of hate crime and the subsequent categorisation can result in the victim not being prepared to proceed with the case.
- 2.12 Inspectors found a limited knowledge of guidance including policies, procedures and agreed hate crime definitions in the other main criminal justice agencies. The PPS does not have its own hate crime policy but refers to the *Crown Prosecution Service Racist and Religious Crime Policy*. There is no read-across to the Northern Ireland jurisdiction and legislation and no reference to the homophobic or disabled hate crimes included within the Northern Ireland legislation. However the PPS informed Inspectors that there was additional guidance on its intranet site which all staff had access to. Inspectors found that staff awareness of this guidance was low. **It is recommended that the PPS should develop its own Hate Crime Policy with links to those of the other agencies.**
- 2.13 The Northern Ireland Court Service (NICtS) issued a general circular (25/2004) to staff highlighting the introduction of the Criminal Justice (No.2) (NI) Order 2004. The circular provides an overview of the legislation and outlines the implications for administrative arrangements within the courts. Staff awareness of this guidance was particularly low and court clerks indicated that based on the small number of cases coming forward they had not needed to refer to the guidance.
- 2.14 The Probation Board for Northern Ireland (PBNI) has a Policy on Hate Crime which was developed and released in 2005. It outlines to all staff the definitions, aims and objectives to deliver effective assessments and interventions in respect of offenders charged and convicted of hate crime and the impact on victims. Inspectors were advised that the PBNI had trained all their officers to look for any motivation for an offence in order to consider appropriate action. Standards<sup>7</sup> implemented in June 2006 underpin the requirement for Probation staff to mention in Pre-Sentence Reports to the Court any aggravating or hostility factors known with regard to the case. Inspectors found that PBNI had not yet developed a specific hate crime management programme for offenders due to the low number of convictions. However, as an interim measure they could call upon relevant elements of other programmes.

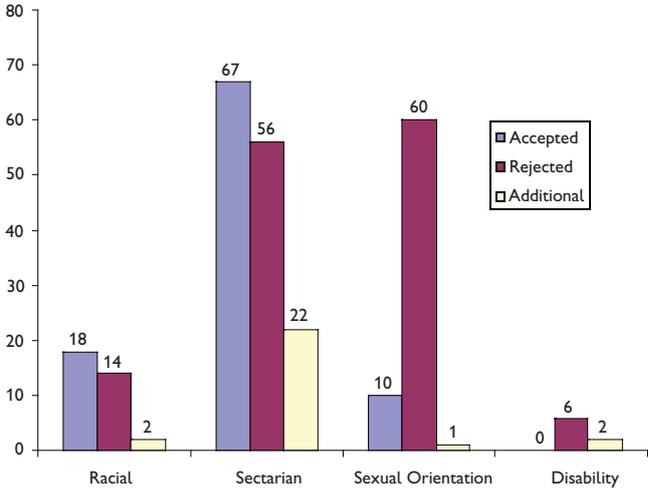
<sup>7</sup> PBNI Standards for the Assessment, Management and Supervision of Offenders



2.15 One of the problems surrounding the collection and interpretation of data on hate crime is the use of the term hate crime itself. The definitions outlined above present some difficulties in terms of being based on perceptions rather than on evidence. For recording purposes it is sufficient for the test to be perception based. However, it is one thing to deem an incident to be hate motivated and another to prove that it was a hate crime. It is the role of the PPS to consider whether there is sufficient evidence to support a prosecution for an offence and to clarify whether the evidence shows that the incident was aggravated by hostility based on the victims actual or presumed religion, race, sexual orientation or disability.

2.16 During 2005/06 the PSNI forwarded 232 files to the PPS in Belfast and Fermanagh & Tyrone with a hate crime motivation. Of these files the PPS agreed with 95 (41%) and disagreed with 136 (59%) with no decision made on one sectarian hate crime file at the time of the inspection. The PPS also recommended a perceived hate crime motivation for a further 27 files not indicated by the PSNI. Figure 1 shows the number of files accepted by the PPS by motivation. Of particular note is the high percent of sexual orientation hate crime files rejected by the PPS.

**Figure 1**  
**Hate crime files accepted, rejected and additional from the PPS**



2.17 There is an urgent need for the CJAs to collectively demonstrate a more robust, co-ordinated and informed approach to hate crime management. **It is recommended that the Criminal Justice Board should co-ordinate the development of a Criminal Justice System Hate Crime Strategy for communication to all staff and the public.** All agencies need to enhance both staff and public awareness as to how hate crime will be managed including outlining the roles and responsibilities of each agency and providing transparency as to the minimum service delivery standards that can be expected. Strategy development would also facilitate the objective review and alignment of each agency's hate crime policy and procedural guidance. **It is also recommended that there needs to be agreement of a common set of hate crime definitions for use within the CJS and that they be communicated clearly across all agencies.**





The strategy should also address the urgent need for staff training and public awareness. **We further recommend the development of hate crime training programmes within and across agencies.**

- 2.18 **It is recommended that the PSNI need to clarify for their officers that the hate incident definitions used for recording purposes are solely perception based and not evidence based.** This in effect means that at the reporting/recording stage if one party in any incident (victim, witness or police) views the incident as being aggravated by hate then it should be recorded as such. That is without prejudice to the question of whether the case should be prosecuted as a hate crime.
- 2.19 Unlike the offences documented in the Crime and Disorder Act 1998 in England and Wales there are no specific offences of hate crime in Northern Ireland. Hate crime offences can range from the loss of life or property, physical injury or criminal damage to the associated fear, harassment and intimidation that may result. Hate crime involves people being targeted because of their difference; it often affects not only the primary victim of the crime but also the wider family, friends and often local communities. It is a serious category of crimes often committed against victims who are particularly vulnerable.

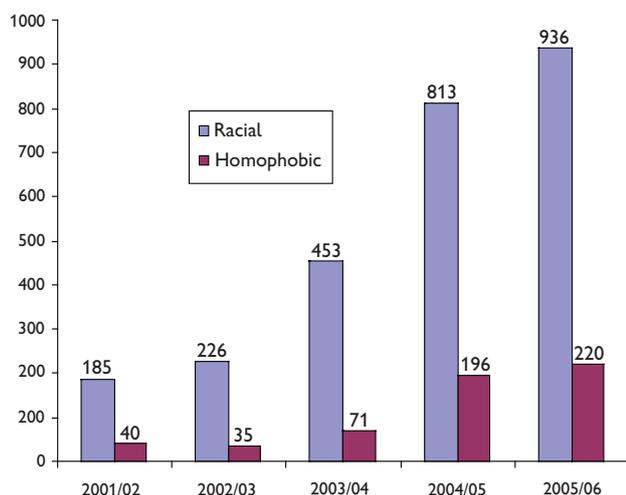
- 2.20 Hate crime is often a process rather than an event, and it can escalate in frequency and seriousness. It can have devastating effects on the quality of life of its victims. There can be the added trauma of knowing that the perpetrator's motivation is an impersonal group hatred, relating to some feature that the victim shares with others. This factor is greatest where the hatred is directed against a visible feature such as skin colour, physical disability or relating to core personal values such as religion or being lesbian, gay, bisexual or transgender. A crime that might normally have a minor impact becomes, with the hate element, an intimate and hurtful attack that can undermine the victim's quality of life and self esteem.
- 2.21 Over the past few years the profile of hate crime has been very high. Publication in April 2005 of the Northern Ireland Affairs Committee report '*The Challenge of Diversity: Hate Crime in Northern Ireland*' concluded that "the inquiry identified a lack of firm and effective leadership by the Government, the Police Service of Northern Ireland, and the criminal justice agencies in Northern Ireland to tackle these appalling crimes." They identified improvements that needed to be implemented in a co-ordinated way, noting that otherwise: '*hate crime may spiral out of control with extremely serious consequences for the pace of social improvement in Northern Ireland*'.

## CHAPTER 3:

# Reported Incidents, Crimes and Clearance Trends

3.1 The PSNI have been publishing statistics on racial incidents since 1995/96 and homophobic hate crime incidents in Northern Ireland since 2001/02. Figure 2 shows the increase in reporting of both racial and homophobic hate crime incidents over the period 2001/02 to 2005/06.

**Figure 2**  
Racial and Homophobic incidents reported to the PSNI 2001/02 to 2005/06



3.2 During 2004/05 the police established a baseline measure of crimes with a racial or homophobic motivation and the figures for 2005/06 now provide directly comparable information for a second year (see Table 1).

**Table 1**  
Hate Incidents, Crimes and Clearance Rates with Racial or Homophobic Motivation 2004/05 and 2005/06

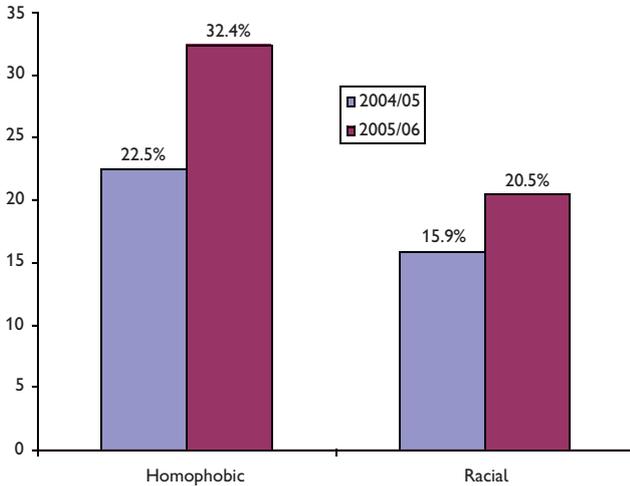
	Racial		Homophobic	
	2004/05	2005/06	2004/05	2005/06
Total number of incidents	813	936	196	220
Total number of crimes	634	746	151	148
% clearance rate	15.9	20.5	22.5	32.4

3.3 There were 746 racially motivated crimes during 2005/06, an increase of 112 (+17.7%) compared with the previous year. The number of crimes with a homophobic motivation decreased by 3 (-2.0%) from 151 in 2004/05 to 148 in 2005/06.

3.4 Clearance rates for racial and homophobic hate crime incidents have also been recorded by the PSNI for 2004/05 and 2005/06. Figure 3 shows that the clearance rates for racial and homophobic hate crimes between 2004/05 and 2005/06 have improved with an increase of 4.6% and 9.9% respectively.



**Figure 3:  
Clearance Rates for Racial and  
Homophobic Hate Crimes:  
2004/05 and 2005/06**



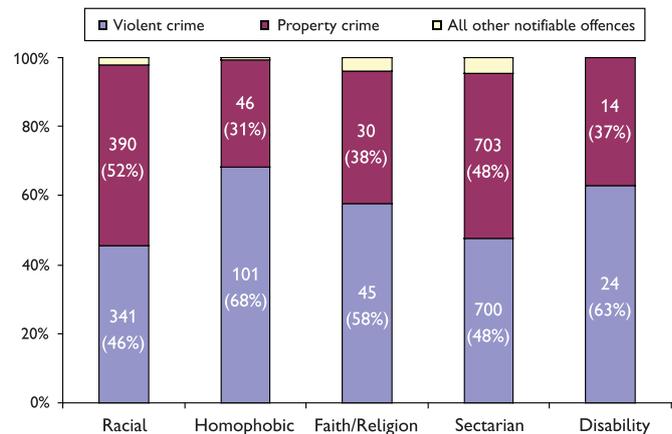
3.5 In 2005/06 the PSNI further developed a baseline measure of crimes with a faith/religion, sectarian or disability motivation which will provide comparators for future years (see Table 2).

**Table 2:  
Incidents, Crimes and Clearance  
Rates with Faith/Religion, Sectarian  
or Disability Motivation 2005/06**

	Faith/Religion	Sectarian	Disability
Total Number of incidents	70	1,701	70
Total Number of crimes	78	1,470	38
% Clearance Rate	17.9	14.4	39.5

3.6 The types of crimes vary between the five motivations as recorded in 2005/06. Figure 4 shows that 68% of homophobic hate crime incidents were classed as violent crime (offences against the person, sexual offences and robbery) compared to 46% of racial hate crime incidents. While under half (48%) of sectarian hate crime incidents were property crime (burglary, theft and criminal damage) compared to 37% of the disability hate crime incidents.

**Figure 4:  
Composition of Recorded Crimes  
motivated by hate 2005/06**



3.7 Inspectors found that under-reporting of hate crime is a key concern among the criminal justice agencies and the community sector support groups. The concern expressed was that if victims do not report incidents of hate crime to the police it can:

- reduce the chance that victims will receive the support they need;
- impact on intelligence gathering;
- reduce the evidence needed to apprehend and convict criminals;



- result in a lower and false volume of crime, against which policing priorities and resources are set and
- mean that appropriate measures to tackle the problems are unlikely to be taken.

3.8 The reasons given for not reporting incidents of hate crime are consistent with other research undertaken by CJI in connection with the Victim and Witness Report published in July 2005. They include:

- negative perceptions of the police by some members of society;
- perception that the police could not help or the matter would not be treated seriously;
- poor experience in the past;
- having to divulge private or confidential matters including lifestyle, proof of identity and immigration status;
- negative experiences of reporting incidents to the police;
- negative experience of the police in their country of origin and
- a sense that reporting is futile as nothing will change.

3.9 Inspectors found that the PSNI have introduced variations in facilities to encourage the public to report crime. These include PSNI website on-line reporting, third party reporting protocols and links to the NIO sponsored RIOH pilot scheme. **It is recommended that the PSNI undertake a formal review to identify further methods to**

**address how the reporting system can be further enhanced to minimise under-reporting of hate crime.** This will involve closer work with partners in the:

- CJS and the community including church groups;
- ethnic support groups;
- local independent advisory groups;
- employer forums, community workers;
- political representatives;
- victim support;
- schools and colleges;
- trade unions and
- immigration services etc.





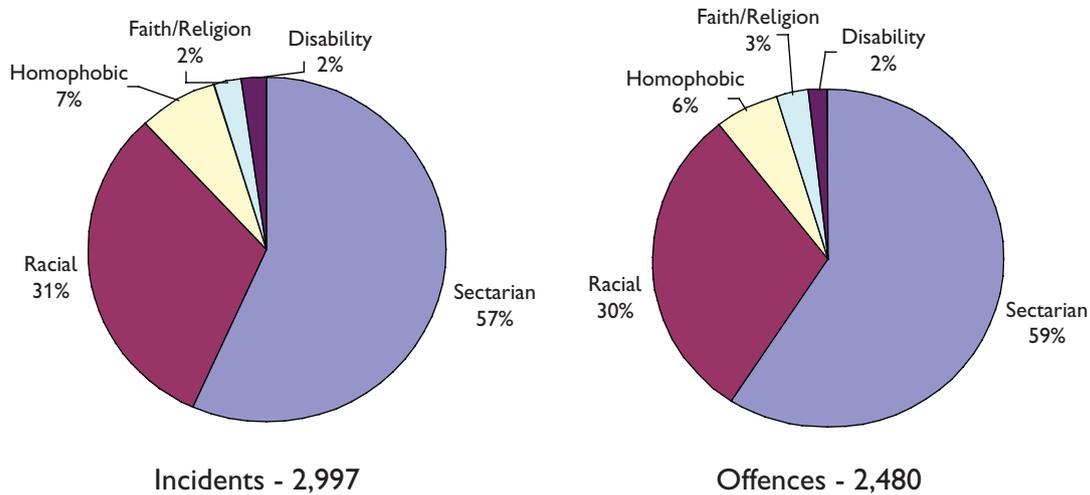
## Reporting and Recording of Hate Crime



- 4.1 The PSNI are responsible for the initial collection of data in relation to the reporting of hate incidents. It is important that this data is comprehensive to establish trends and inform an intelligence driven response. Over recent years there has been an increase in the number of hate incidents recorded in Northern Ireland. While this is significant, some uncertainty exists as to whether this is due to:
- an increase in hate crime levels; or
  - victims of hate crime feeling more confident about reporting incidents.
- 4.2 The police have developed reliable and accurate data collection mechanisms. They have also introduced effective reporting processes on the type and occurrence of hate crime. However, the systems are only as good as the quality of information which is entered onto them. Inspectors found discrepancies in initial entries and officers expressed concern at accuracy levels of crime recording in some DCUs. **It is recommended that initial and subsequent entries keyed onto the police systems in relation to hate crime are regularly reviewed; subject to evidenced management checks and that**
- categorisation based on the policy definitions are confirmed as being accurate to ensure integrity of the management information system.** This is necessary to ensure the development of effective policies and programmes to combat hate crime. Poor data collection quality means that hate crimes, to a large extent, can remain hidden from public and government view. In addition, insufficient information on the nature and extent of hate crimes means that the criminal justice agencies, as well as local communities, do not have the information necessary to take steps to combat such crimes.
- 4.3 Figure 5 sets out the number of incidents and offences recorded by the police for the period 2005/06. Based on the recording of incidents using the definitions outlined in Chapter 2 the following trends are emerging. Hate crime represents around 2% of total crime. This raises questions as to what priority and proportion of resources should be applied to this type of crime. Some comparisons for the same period are that theft represents 24% of total crime and domestic crimes represent 9% of total crime.



**Figure 5**  
**Police Statistics 2005/06 – Incidents and Offences by type of Hate Crime**



A total of 123,194 criminal offences were recorded during 2005/06. Therefore hate crime as a percentage of total crime  $(2,480/123,194) \times 100 = 2\%$ .

4.4 Sectarian incidents (57%) represent by far the largest proportion of hate crime. Inspectors found from Police analysis that damage to property, particularly criminal damage, is where most of the incidents have been reported. In many of these cases police are unable to establish who the offender is.

4.5 Racial incidents account for almost one third (31%) of all hate crime. Inspectors found a slight shift from intimidation/harassment to criminal damage and assault. The information indicates that there is also a shift in where incidents are occurring in terms of geographical location. Previously there had been increased reporting in urban region but it is now moving into rural areas coinciding with a change in the victim ethnicity. There are more Eastern

European victims with the rapid increase in migrant workers gaining employment in the agricultural, construction, and food processing industries. PSNI have noticed more incidents being reported in rural areas where communities are living close to places of employment.

4.6 Homophobic incidents account for 7% of all reported hate crime. The number of incidents has increased compared to previous years. Police attribute this to improved outreach to the gay and lesbian community, the development of multi-agency protocols and the building up of trust. The most common offence is physical assault to the person mostly in and around entertainment venues and meeting places known to be used by the gay community.



4.7 Inspectors found that PSNI have engaged in outreach with disabled people and their representative groups to establish better quality information to enhance their understanding of this type of hate crime. It is estimated that few attacks on people with disabilities are reported as many disabled people believe that their complaint will not be taken seriously by the agencies or society in general. Disabled people, particularly those with learning disabilities or visual impairments, also find it difficult to identify the attacker. The recording system indicates that Disability hate crime is approximately 2%.

4.8 The PSNI and partners believe there is significant under-reporting of hate crime. They have introduced on-line reporting facilities on their website and also supported the Recording Incidents of Hate (RIOH) pilot project currently being run in South Belfast. The PSNI will record any reported incident perceived to have been committed against any person or property on the grounds of a particular person's ethnicity, sexual orientation, religion or disability, whether it amounts to a crime or not. Hate crime is identified as a priority policing issue in the Northern Ireland Policing Plan. The focus is on two specific areas: the number of hate crimes/incidents and the clearance rates.

4.9 In June 2006 the Criminal Justice Minister launched the South Belfast RIOH pilot project. RIOH is a multi-agency approach project designed to provide information about the extent of hate crime in South Belfast which may otherwise not be reported. A range of agencies including Gay and Lesbian Youth Northern Ireland (GLYNI), Northern Ireland Council for Ethnic Minorities (NICEM) and the South and East Belfast Health and Social Services Trust (S&EBHSST) have dedicated RIOH computer terminals where victims of hate crime can, with trained staff, anonymously complete the RIOH monitoring form. The staff can also signpost the victim to other agencies or encourage the victim to report the incident to the police. Leaflets in English, Braille and eight different languages<sup>8</sup> along with posters (English language only) were distributed throughout South Belfast. The NIO Community Safety Unit (CSU) has developed a project RIOH webpage<sup>9</sup> where the leaflet and monitoring form can be downloaded. Statistical data can also be downloaded from any of the RIOH terminals. As at the 8 November 2006, 106 monitoring forms have been completed and added to the RIOH database, see Tables 3 and 4.

<sup>8</sup> Arabic, Cantonese, Latvian, Lithuanian, Mandarin, Polish, Portuguese, and Spanish.

<sup>9</sup> [www.reporthate.org](http://www.reporthate.org)



## Details of the Completed RIOH Monitoring Forms

Table 3 - By Motivation

Motivation	No.	%
Race	60	57%
Sectarian	35	33%
Sexual orientation	9	8%
Disability	1	1%
Religion	1	1%
Total	106	100%

Table 4 - By Source of Record

Agency	No.	%
PSNI	91	86%
Victim Support	6	6%
CSU (postal)	4	4%
GLYNI	2	2%
Disability Action	1	1%
S&EBHSST	1	1%
NICEM	1	1%
Total	106	100%

crunching tool and some had concerns regarding possible duplication in that 86% of RIOH updates have come from PSNI and would they be counted in both police and RIOH statistics. **It is recommended that prior to extension of the project the RIOH working group should review and develop guidance and an action plan as to how the data gathered is to be used and ensure that any duplication in the recording system is identified and removed so that strategy and policy development will have best available quality information.**

4.10 Inspectors found that RIOH had been developed as a mechanism to address the under-reporting of incidents of hate incidents. It is important that this project is evaluated and if feasible, extended to gain a fuller picture across the whole of Northern Ireland.

4.11 Inspectors were advised that the project was 'rushed in' even though behind schedule and that more thought needs to be given to how the data should be used. Views were expressed that RIOH was a number

## CHAPTER 5:

# Hate Crime – Investigation and Clearance



- 5.1 Policy Directive 02/06 ‘Police Response to Hate Incidents’ which was issued in March 2006 sets out clearly how the PSNI will record and manage hate incidents and crimes reported to them. A separate internal police document provides comprehensive guidance for investigating and supervising officers and links in terms of best practice and investigation advice. However, Inspectors found a wide variation in awareness of the policy, its content and implications. Inspectors also found concerns regarding the lack of corporate or local training to help officers and supervisors implement the policy.
- 5.2 Inspectors found that the policy was well received externally. Groups in the voluntary and community sector had been involved in the consultation phases of policy development. They considered that statements made in the document were proactive and welcomed the transparency of the policy through publication on the PSNI website. Inspectors found that effective community links had been established with the central PSNI Community Safety Branch and also to local specialised officers in District Command Units (DCUs) known as Minority Liaison Officers (MLOs)<sup>10</sup>.
- 5.3 Inspectors found evidence of a variety of approaches to managing hate crime in the sample of DCUs visited as part of the inspection. A specialised Hate Crime Unit was established in one DCU, in others hate crime is managed through the Community Safety Unit or Criminal Justice Units. Some DCUs had one MLO to cover the whole area while in others, up to seven MLOs covered different sector areas. Local intelligence and review of hate crime profiles helped priorities to be established delivering services for this type of crime and involvement in the planned 12-month review. It was considered that the policy statements were reassuring and addressed some of the barriers to reporting hate crime.
- 5.4 Inspectors found a varied awareness level of the policy when talking to focus groups of police officers who worked outside the above units. Some were clearly aware of the main content of the policy, some mentioned local hate crime policies being developed based on the corporate directive while other

<sup>10</sup> Also known as District Hate Incident and Minority Liaison Officers



officers were unaware of the policy and its content. Upon further exploration with officers they considered the e-mail communication method of policies could result in something being deleted rather than read. Officers indicated that they could receive a large number of e-mails ranging from changes in facilities at stations (that they would never be using), general circulation and association matters and key documents could easily get lost within the variety of e-mails. Officers also raised the lack of training associated with such policies and considered the hate crime procedures as being appropriate for priority with local trainers and inclusion in corporate training plans such as Foundation level at the Police College.

- 5.5 When a hate incident is reported the PSNI are normally the first point of contact for the victim with the criminal justice system. The response officer or station enquiry officer is responsible for detailing the initial contact and creating a record when a hate crime is being reported. Inspectors were advised that it is vital that police officers are well trained and supported to deliver a professional service across this diverse business area. Police Officers will normally attend a hate crime incident immediately they are made aware of it. Inspectors found this could be as a result of a 999 call, sector patrol duties or through direct phone contact between community safety networking and PSNI MLOs. The initial response will seek to identify the victim, assess the situation, address any immediate risks,

identify any witnesses, ascertain description or whereabouts of any suspects and seek to preserve any evidence at the scene. All details will be logged on to the Incident Report Form (IRF) and submitted for review including for management purposes with the Crime Controller.

- 5.6 Hate crime is also reported through the submission of letters, e-mail, on-line and telephone and may not need an immediate response. Inspectors found that such reports are assessed in terms of danger to the victim and an officer will make contact at the earliest opportunity. The services of support agencies including Victim Support are offered to the victim at this stage. How the response officer or investigating officer deals with the victim can determine the likely outcome of the incident and build or destroy the confidence of the victim.
- 5.7 With the increasing number of nationalities of migrant workers one of the fundamental problems can be effective communication and the need for interpreter services. Inspectors found that Officers are confident about accessing appropriate interpreter services when needed. PSNI have prepared an 'Interpreting and Translating Within the Police Service Guide' for both officers and interpreters. This guide provides officers with guidance on how to access the three main providers:
- face to face interpreting needs through NICEM;
  - telephone interpreting through National Interpreting Service;
  - sign language through Royal National Institute for Deaf People.

5.8 In several DCUs officers had been supported to develop key language skills, for example in Portuguese and Polish. Inspectors were informed that there is difficulty in getting access to DCU mobile phones to access language services so officers tended to use their own personal mobile phones at their own expense. Good use has also been made of checklists with standard phrases in different languages being available to officers to help explain the process, cautions and protocols to a victim of crime who cannot speak English.

5.9 Officers informed Inspectors that the investigation process is improving due to the internal policy guidance, standardisation of forms and gathering more on the job experience. Introduction of the new electronic submission of PPS file system with prompts had helped with consistency in approach. However, Police Officers expressed concern about the 28 day internal supervisory review period and the targets for submission of files to PPS. In one DCU an interim review of 14 days had been introduced due to the inexperience level of Officers. Some Officers highlighted concern about the appropriateness of targets and the time needed to prepare and submit a full file to the PPS when a charge file may suffice. Similar issues were raised and addressed with Inspectors during the Avoidable Delay Thematic Inspection<sup>11</sup>.

5.10 Inspectors were informed that a Sergeant will normally attend the scene of a hate crime with the

response officer to undertake a risk assessment, provide assistance to officers attending and demonstrate the commitment of police to the victim. Based on their experience they can focus on evidence gathering including forensic opportunities and deciding whether the Duty Inspector needs to be involved.

5.11 When a person is made amenable for the crime an investigation file will be sent to the PPS for consideration and direction. In focus groups with Police Officers a general concern was raised in terms of the length of time it could take the PPS to provide prosecution advice and direct on a case. Officers informed Inspectors that electronic submission of files, whilst efficient, has some drawbacks as it now minimises contact between the PPS and PSNI. Officers would welcome the co-location of a PPS prosecutor/directing officer in each DCU or within specific regions who is available on the spot for charging advice, agreement of hate crime definition, directions and agree recommendations to draw the hostility aggravation to the Court's attention under the Criminal Justice (No2 )(NI) Order 2004. However there are reservations on the part of the PPS about the idea of co-location. The PPS is concerned to maintain the public perception of its independence. Inspectors hope that in the longer-term this concern may be relaxed to the point where co-location can be considered. However, in the meantime everything possible should be done to encourage free communication by telephone and e-mail.

11 Avoidable Delay Inspection Report – Published by CJI May 2006 (Paragraphs 6.15 and 6.16)



5.12 Inspectors found that there is confusion as to what the term clearances actually means. Victims and their support groups tend to think of clearances as being convictions. This is not the case. Clearances (or detections as they may alternatively be known) are, broadly speaking, those crimes that have been 'cleared up' by the police. Crimes are counted as 'cleared or detected' in accordance with strict counting rules issued by the Home Office. They are counted on the basis of crimes rather than offenders. For example, if six offenders are involved in a robbery and are all arrested and charged, then this counts as one clearance. Alternatively if only one of the six is identified and charged while the other five remain unidentified and go free, this also counts as one clearance. In this respect clearance data differs from conviction data as conviction data counts offenders while clearance data counts crimes.

5.13 The following methods of clearance involve a formal sanction:

- charging or issuing a summons to an offender;
- issuing a caution to the offender;
- having the offence accepted for consideration in court or
- the offender is a juvenile who is dealt with by means of an informed warning, restorative warning, restorative caution or prosecutorial diversion.

5.14 Offences not involving a formal sanction but still regarded as 'cleared up' are those where the police take

no further action for one of the following reasons:

- offender, victim or essential witness dies or becomes too ill;
- victim refuses or is unable to give evidence;
- offender is under the age of criminal responsibility;
- police or PPS decides that no useful purpose would be served by proceeding or
- time limit of six months for commencing prosecution has been exceeded.

Since clearance rates have become a key performance indicator **it is recommended that the PSNI reviews how it can communicate more clearly the type of clearances being used and also identify opportunities to educate the public as to what clearance rates actually mean.**

5.15 Inspectors found that the clearance rates are calculated by the total number of hate crime cases closed during a financial year (regardless of when received) divided by the total number of cases received during a financial year. For example, in 2005/06 the PSNI recorded 936 racial incidents. From these incidents 746 offences were recorded. During the same period the PSNI cleared 153 offences. The clearance rate therefore was calculated as 153 divided by 746 with the result multiplied by 100 thereby providing a clearance rate of 20.5%. See Table 5 for the percentage clearance rates by type of hate crime during 2004/05 and 2005/06.



**Table 5**  
**% Clearance Rates by Type of Hate Crime for Periods 2004/05 and 2005/06**

Clearance Rate	Racial	Homophobic	Faith/Religion	Sectarian	Disability
2004/05	15.9	22.5	N/A	N/A	N/A
2005/06	20.5	32.4	17.9	14.4	39.5

5.16 As can be seen from the information in Table 5, clearance rates can be influenced by many factors. Some of which the criminal justice system can control and others which they cannot. Inspectors heard concerns from officers over the time taken for the PPS to give directions in cases and how this can influence their performance. Equally Inspectors heard of prosecutor’s concerns over the quality of files submitted and the time taken by the police to respond to requests for further information (RFIs). Of the 252 hate crime files forwarded by the PSNI in 2005/06 to the PPS in Belfast and Fermanagh and Tyrone there were 78 RFIs (excluding requests for full files). The two main reasons for the PPS requests were for further statements (26) and further inquiry/investigation (23).

5.17 Although the PSNI clearance rates for racial and homophobic hate crimes have increased the rates for faith/religion and sectarian hate crime are poor. This is of particular concern as sectarian hate crime constitutes the largest proportion of hate crime in Northern Ireland. **It is recommended that all clearance rate targets in respect of hate crime should be reviewed to ensure that they are both robust and challenging.**

5.18 The Northern Ireland Policing Board published the PSNI performance targets in the Policing Plan 2006-2008. Targets with regard to hate crime included:

- To monitor the number of racist and homophobic crimes/incidents. (4.8.1.)
- To establish a baseline for the number of religious and sectarian motivation incidents/crimes and incidents/crimes against persons with a disability. (4.8.2.)
- To increase the clearance rate for racist/homophobic crimes. (4.9.1.)
- To establish a baseline clearance rate for religious and sectarian motivated crimes and crimes against persons with a disability. (4.9.1.)

The above targets were all achieved by the PSNI and subsequently in the Policing Plan 2006-2009, two new performance targets prioritising on clearance rates were introduced. They were:

- To increase the clearance rate for sectarian crimes by 2 percentage points.
  - To increase the clearance rate for race crimes by 2 percentage points.
- Inspectors noted that the targets only relate to race and sectarian hate crime and do not include homophobic, faith/religion, and disability hate crime. Further, a target of two percent, particularly for sectarian hate crime appears limited





given it accounts for over half of all hate crime incidents.

5.19 The Chief Constable has acknowledged that clearance rates for these types of crime have been low and have not been as good as national comparators. The information in Table 5 illustrates some improvement. Victims have highlighted and Figure 6 confirms that a large proportion of the crimes perpetrated are of a criminal damage nature. Such crimes are often perpetrated during the hours of darkness when few witnesses are about which reduces the chances of apprehension. Successful clearance in the public's eye is about catching the criminal, prosecuting them through the courts and the delivery of a

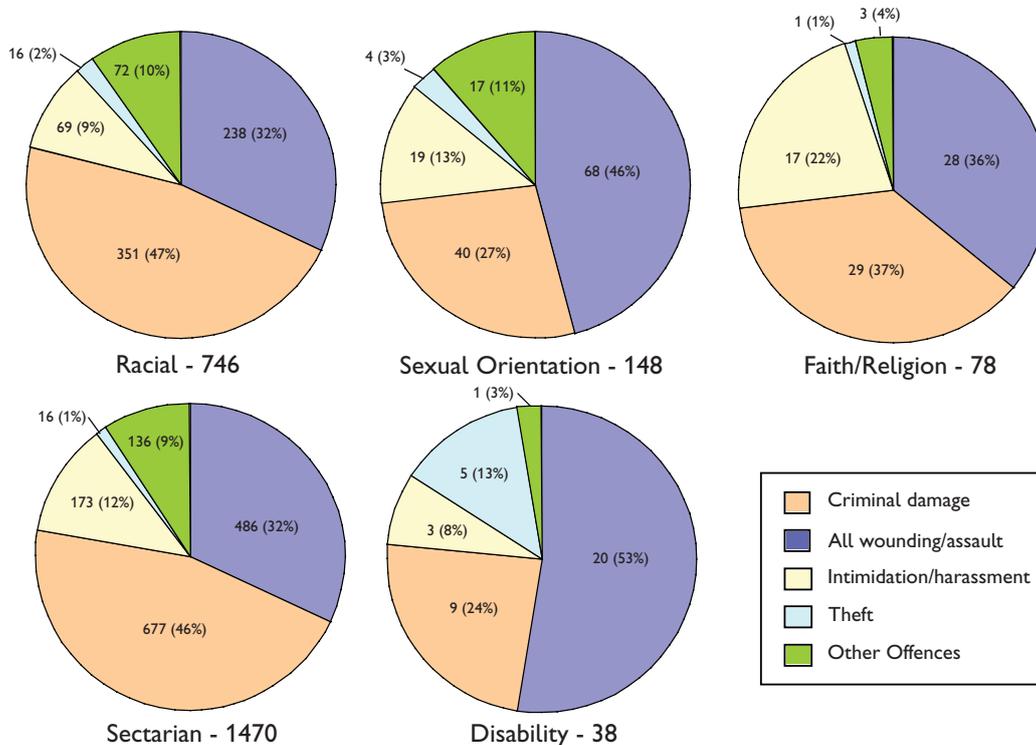
significant sentence. From the available information this is not often achieved.

5.20 Figure 6 shows the number and percentage of offences recorded for hate crime during 2005/2006. All wounding/assaults include grievous bodily harm, assault occasioning actual bodily harm, common assault, aggravated assault and assault on police. Some important trends emerge from this information:

**Racial**

Just under half (47%) of offences of racial hate crime were recorded as criminal damage, 32% as wounding/assaults, 9% as intimidation/harassment, 2% theft with the remaining 10% other offences.

**Figure 6 PSNI Hate Crime Offences Recorded 2005/06**



Other Offences include: murder, manslaughter, attempted murder, threat or conspiracy to murder, robbery, burglary, other violent crime, and all other notifiable offences



**Sexual Orientation**

46% of offences of homophobic hate crime were woundings/assaults, 27% were criminal damage, 13% intimidation/harassment, 3% theft with the remaining 11% other offences.

**Faith/Religion**

Over a third (37%) of offences of faith/religious hate crime were criminal damage, 36% were woundings/assaults, 22% were intimidation/harassment, 1% theft with the remaining 4% other offences.

**Sectarian**

46% of offences of sectarian hate crime were criminal damage, 32% were woundings/assaults, 12% were intimidation/harassment, 1% theft with 9% other offences.

**Disability**

Over half (53%) of offences of disability hate crime were wounding/assault, 24% were criminal damage, 13% were theft, 8% were intimidation/harassment and 3% were other offences.

5.21 The overall clearance rate in 2005/06 for all wounding/assaults was 58% compared to 15.2% for criminal damage. As the clearance rate for all wounding/assaults is high this may explain why the clearance rate for both disability and homophobic hate crime is also high given these two groups having a higher proportion of such offences.

5.22 Table 6 shows data for racial and homophobic hate crime offences during 2003/04<sup>12</sup>, 2004/05, and 2005/06. It is clear from this information that the offences of racial hate crime have escalated from intimidation/harassment to criminal damage and assault. The only notable differences with the homophobic hate crime offences have been a decrease in criminal damage.

**Table 6  
Racial and Homophobic Hate Crime Offences 2003/04 – 2005/06**

	Racial			Homophobic		
	2003/04	2004/05	2005/06	2003/04	2004/05	2005/06
All wounding/assaults	23%	29%	32%	49%	48%	46%
Criminal damage	47%	51%	47%	30%	31%	27%
Intimidation/harassment	24%	10%	9%	14%	14%	13%
Other Offences	6%	10%	12%	7%	7%	14%
Total	100%	100%	100%	100%	100%	100%

12 For comparison the data for 2003/04 was re-categorised; physical assault to all woundings/assaults, verbal abuse/threats to intimidation/harassment, and attack on home, attack on property and graffiti merged to criminal damage.



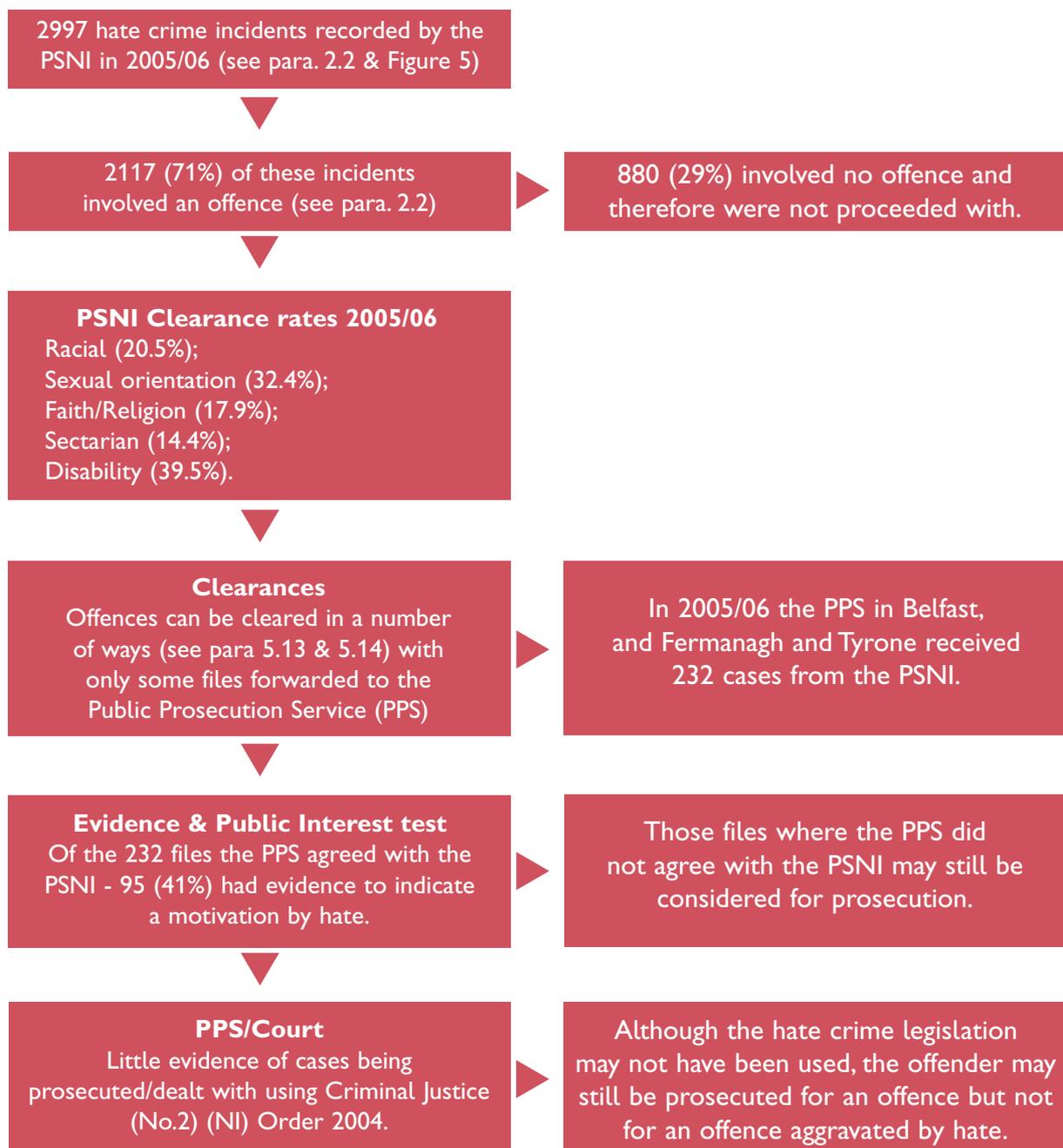


## CHAPTER 6:

# Management of Hate Crime across the Criminal Justice System



**Figure 7**  
**Outline of the Progression of Hate Crime cases in 2005/06**





- 6.1 For illustrative purposes CJI have used information made available during the inspection to document the flow and management of hate crime cases across the CJS, see Figure 7. Inspectors found with the exception of the PSNI, agencies had not focused on hate crime as a specialised area of business. Inspectors found there is little exchange of information or statistics across agencies. Also with the exception of the RIOH pilot project in South Belfast, there is no cross agency operational forum that focuses on hate crime management issues. Inspectors found evidence of a 'silo management' approach within agencies in respect of hate crime.
- 6.2 Inspectors found there is currently insufficient data to communicate progress of hate crime cases through the criminal justice system especially in relation to the flow of cases for prosecution, conviction rates in the courts, length of sentences and other penalties. The Crown Prosecution Services and Home Office in England and Wales can provide statistics on the number of cases received for prosecution, analyse the increase or decrease from previous periods and cite the number of cases successfully prosecuted or discontinued, with a breakdown of reasons for discontinuation of cases. The Crown Prosecution Manual and Code for Prosecutors stresses the positive duty of prosecutors to bring evidence of racial motivation to the attention of the courts. Inspectors were advised that while the PPS Code for Prosecutors publication did not stress the same positive duty, good practice would ensure that such matters were

drawn to the attention of the court. Inspectors found that in some sectarian and sexual orientation cases no reference was made by the prosecution to the hate crime aggravation aspect of the case. The Judicial Officer presiding only became aware of this factor by making enquiries in court as to what gave rise to the dispute. Inspectors found that at the initiation of the Judicial Officer in one region, the PPS have undertaken to notify prosecutors to ensure that all instances of hate crime are prominently marked on files and brought to the attention of the court. **It is recommended that the PPS adopt this approach across all regions so that prosecutors will ensure that all instances of hate crime are prominently marked on files and brought to the attention of the court.**

- 6.3 As mentioned earlier in this report, unlike England and Wales there are no specific hate crime offences in Northern Ireland. Consequently as the NICtS record court statistics under offence types no statistical information is captured specially under headings associated with hate crime. Their court management information system records, amongst other things, data about the number of defendants, the category of offence and the result or type of penalty imposed by the type of court and venue. Inspectors confirmed from a review of court records that there is no administrative system in place to record any information in relation to the use of the Criminal Justice (No.2) (Northern Ireland) Order 2004. NICtS informed Inspectors that there



is no statutory requirement to record such information. It is important that such information is available from within the CJS to facilitate effective management of hate crime cases. It would also facilitate better quality information being available within the CJS to support Parliamentary Questions and similar information requests.

- 6.4 From the limitations of the information Figure 7 attempts to illustrate the progression of hate crime incidents recorded by the PSNI and PPS. As mentioned no information was available from the NICtS or PBNI because statistics are not currently gathered on cases or convictions under any hate crime legislation. **It is recommended that all agencies including the NICtS and PBNI should record key statistics at local and corporate level in relation to the processing of hate crime cases. Some examples of key information are outlined at Appendix 3.** To facilitate accountability and clear ownership it is further recommended that the information recorded by all agencies should be capable of illustrating the transparent flow and timeliness of business between agencies. From available statistics it is clear that 29% of hate crime incidents recorded by the police are not proceeded with as they do not amount to a criminal offence. Clearance rates are relatively low in comparison to those of other crimes. Although offences may be closed by other means a relatively small number of files are forwarded to the PPS for direction.

Less than half of these files pass the PPS evidential and public interest test. Inspectors found little evidence that the hate crime legislation has been referred to in court prosecutions. **It is recommended that henceforth any case presented to a court as having been aggravated by hostility and/or where the Criminal Justice (No.2) (NI) Order 2004 has been applied should be recorded as such by both PPS and NICtS. Consideration should also be given to monitoring the use made of the legislation since its implementation in 2004.**

- 6.5 In essence, there is no joined up management information system across the CJS to show the flow of hate crime cases between the key agencies in terms of investigation, prosecution and court action. Therefore it is difficult to establish the effectiveness of how hate crime business is managed. The PSNI have recorded reported hate crime information at both DCU and corporate levels. At this stage in its development the PPS can provide provisional hate crime data for the financial year 2005/06 for the regions of Belfast and Fermanagh & Tyrone. Complete data on hate crime cases was not available at the time of the inspection as the other regions have not yet been fully 'rolled out'.
- 6.6 The PPS informed Inspectors that this information is a relatively new variable but they now have sufficient numbers of relevant cases to justify capturing it. Inspectors were advised that the PPS plans to undertake "a



root and branch quality assurance review” before the end of March 2007. This may help with recommendations outlined at paragraph 6.4. This will involve work over a period of several months to facilitate a review of case files. It is envisaged this will provide not only more accurate data but also identify any issues including amendments to PPS training procedures.

6.7 In September 2004 the NICtS issued Circular 25/2004 drawing attention to the new piece of legislation and its implications for court. Inspectors found court staff’s knowledge of the existence of the circular to be low. This was further emphasised (with the exception of one court venue) when experienced court clerks confirmed that they were unaware of the provisions of Articles 2 and 4 ever being raised within court. From a review of court records and PPS files Inspectors were unable to substantiate (with the exception of two cases in one venue) what use if any had been made of the provisions of the Criminal Justice (No.2) (Northern Ireland) Order 2004.

6.8 Inspectors reviewed a sample of Parliamentary Questions in relation to Hate Crime dated between June 2005 and July 2006. From the responses given by Ministers it is clear that they had high anticipation about the benefits of the legislation and the additional powers it afforded the courts. However, Inspectors found little evidence of the legislation being used based on contacts with court staff and prosecutors. This raises the questions why it is seldom used, is the ‘aggravated by hostility’

(Article 2) hard to prove? Or are there some other reasons?

6.9 Inspectors found good evidence of outreach programmes by all agencies to engage with local communities. This included direct contacts, involvement in consultation, participation and hosting of training/conference initiatives. Local PSNI DCUs have engaged with diversity groups including ethnic minority groups to fund, co-ordinate and facilitate activities and events for the whole community to enjoy.

6.10 One of the key strengths of the PSNI approach to managing hate crime is the use made of the Minority Liaison Officers. Inspectors heard excellent reviews from both police colleagues about the support and added value MLOs made to investigations and relationship building between the police and minority communities. Inspectors also found positive observations of MLOs from people outside of PSNI. Local equality circles, Independent Advisory Groups (IAGs) and other user forums valued the role of these Officers. **It is recommended that MLO resourcing in terms of available numbers, appropriate support/facilities and event budgets need to be re-examined by the PSNI to further develop this critical role.** In one DCU there are six MLOs each with specific geographical and group responsibilities whereas in other Districts there is one MLO whose MLO responsibilities are bolted on to other duties. Some Officers raised with Inspectors the resources, time and effort needed to invest at this



important stage of development. Some equated their role with that of the full time Domestic Violence Officers who could specialise in their role. Some officers considered that the availability of an MLO function to cover all shift patterns was important.

- 6.11 Inspectors were advised that in some cases insufficient regard is paid to the definition of hostility under Article 2(3) of the Criminal Justice (No.2) (Northern Ireland) Order 2004 in that hostility has to be demonstrated either at the time of the offence, immediately before or after its commission. Inspectors found widespread concern that the impact the legislation was meant to make, had not yet been achieved. The Northern Ireland Affairs Committee (NIAC) in their April 2005 report *“The Challenge of Diversity: Hate Crime in Northern Ireland”* recommended at paragraph 101 “that the PSNI, the Policing Board and the NIO closely monitor the effectiveness of the new legislation (Criminal Justice No.2 (NI) Order 2004).” Importantly, prosecutions need to attract widespread media attention to act as a deterrent to others that hate crime will be robustly tackled by the criminal justice system. **It is recommended that the monitoring mechanism outlined by the NIAC - that the PSNI, the Policing Board and the NIO closely monitor the effectiveness of the new legislation (Criminal Justice No.2 (NI) Order 2004) should be actioned and reported.** Inspectors found no evidence to support any active monitoring in this regard.



PART



# Appendices



# Appendix 1

## METHODOLOGY

The approach applied to this inspection was to inform, collect, process and report information by various methods including:

- communication with the lead agencies and supporting bodies;
- review of reports, briefing documents, web-sites, legislation, plans; management information, targets and commentaries;
- review and follow up of written feedback from stakeholders;
- interviews, focus groups and informal forums with personnel from lead agencies, other stakeholders and victims of hate crime and support groups;
- recording and analysis of emerging findings;
- evaluation of facts and findings and formulation of recommendations;
- reporting to all interested parties and
- developing and maintaining relationships to enhance improvement.

The inspection process was informed by the work of a Steering Committee with representatives drawn from key stakeholders. The Committee met to review the following key checkpoints:

- consideration and approval of the Project Initiation Document;
- discussion of an emerging findings report;
- delivery of a final draft report.



# Appendix 2

## TERMS OF REFERENCE

The aim of the inspection was to review the effectiveness of mechanisms across the Criminal Justice System to combat hate crime perpetrated against the increasingly diverse Northern Ireland community.

The terms of reference of this inspection were to:

- assess the effectiveness of the policies, procedures and processes within the Criminal Justice System in Northern Ireland to deliver an effective and professional approach to manage the criminality of hate crime;
- inspect the services and provisions available to victims of hate crime in Northern Ireland with particular reference to the needs of those involving crime due to a persons religion, ethnic background, sexual orientation or disability;
- identify areas of good practice and also consider recommendations to enhance performance and confidence of users of the CJS and
- consider the reliability of hate crime reporting, effectiveness of investigations, support processes and prosecution to aid closure for victims.



## Appendix 3

### **SUGGESTED KEY STATISTICAL NEEDS FOR HATE CRIME TO FACILITATE EFFECTIVE MANAGEMENT IN THE CRIMINAL JUSTICE SYSTEM**

To consolidate hate crime information and to aid the transparency of its management the following information should be captured. It would be helpful if clear and accurate statistics were available on the processing of hate crimes throughout the Criminal Justice System. Commencing from an initial report made to police to the follow up and outcome of the particular reported case.

1. Accurate capture of hate crime incidents reported to police.
2. Clarification of the number/type of cases referred by police for prosecution.
3. Clarification and quantification of other types of clearances used by police.
4. Clarification of the number/type of cases progressed to the Courts by PPS.
5. Accurate recording of hate crime cases dealt with by way of conviction and type of penalty imposed/non conviction by the courts.
6. Clarification of the number of cases where legislation allowing increased sentencing has been used by the courts.
7. Clarification of the number/type of case with reasons why the case has not been prosecuted by the PPS.
8. Number/type of case being managed by Probation Board/Youth Justice Agency.







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