



Discussion Paper

COLLECTION OF HATE-RELATED DATA

NSW Police Service
Information Technology Branch

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DRAFT

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1. INTRODUCTION

In late 1994, a request was sent from the Office of the Minister for Police and Emergency Services for statistics on crimes against ethnic minorities.

In attempting to respond to this request, it was apparent that there were no service-wide procedures for collecting such information.

The State Commander requested the Data Management Committee to review the issue and to provide advice on "the updating of the Services's data bases to enable the collection of data on the basis of ethnicity and where appropriate, other associated factors which may assist in the identification of crime which is hate inspired."

The identification of a hate-related aspect to a crime could enable Police to provide appropriate support to victims. It could signal the requirement for involvement of specialist officers in dealing with particular types of incidents. It could contribute useful information to assist investigation. And, most significantly, it could provide an improved understanding of incident patterns, supporting pro-active policing.

This paper examines the issues involved in enhancing existing Police computing systems or developing new facilities to collect hate related crime data.

Opinions, advice and background documentation were provided by a number of Police Service staff, as listed in Attachment 2.

In summary, the paper recommends that COPS be enhanced to collect officer and victim perceptions of hate crime and that the enhancement be implemented with regard to three key issues:

TRAINING

Identification of hate-crime is inherently difficult, so there should be a training programme which will teach officers how to identify hate related crime. In addition, formal training should be supplemented by COPS help screens which could remind officers about ways of identifying hate crime.

PRIVACY

When Police record that an incident was motivated by prejudice to a particular group, it can be inferred that the victim is either a member of or associated with that group. This is sensitive personal information with the potential to be misused or misconstrued. There should, therefore, be restrictions on the way this information can be accessed, to ensure that a victim's right to privacy is not compromised.

LOCAL NEEDS

At present, the NSW Police Service does not have any objective reliable indicators of the spread of hate-crime across the State. It could be a significant issue in some patrols and negligible in other patrols. Any collection of hate crime data will involve costs to train people how to gather the information, to supervise users to ensure that the information is gathered, and to actually record the information. For some Patrols, the costs could outweigh the benefits of the small amount of information recorded. Initially, therefore, it may be desirable to implement hate crime recording facilities in a way that is tailored to individual patrol requirements, rather than making hate crime reporting mandatory across the Service.



2. HATE RELATED CRIME DEFINITION

For the purposes of this project, the following working definition has been adopted.

An act of a criminal nature which is motivated either wholly or in part by prejudice based on race, ethnic or cultural background, religion, or sexual orientation.

The following points about the definition and their implications for data collection are as follows.

A hate motivation may lie behind many different types of offences, for example assault, property damage, intimidation, trespass, robbery. Therefore, the project definition contains no reference to particular types of offences. It should be able to collect hate indicators for any incident category.

A hate crime may not necessarily have a direct victim belonging to a particular group, for example:

Graffiti sprayed on State Rail Authority (SRA) property inciting anti-Croatian violence could be seen as a hate related activity, even though the victim, the SRA, is not a Croatian organisation;

There may be a summary offence in which an offender uses offensive language and makes racial insults in a public place. Similarly a street offence of unlawful assembly could have a racial prejudice purpose.

The victim may not actually belong to the hate-target group, for example, a hate motivated crime could be committed against a person perceived by the offender to be Croatian, when in fact the victim is not Croatian.

The project definition does not refer to a victim. It should be possible to collect a range of hate crime indicators, and not rely on data about characteristics or perceptions of victims

It is difficult to assess the motivation for an actual criminal incident. The difficulty of nominating a motivation for a suspected incident would be far greater. Hate-crime indicators for a suspected crime are likely to be poor quality. Therefore the project definition does not refer to suspected incidents. COPS should collect hate-crime indicators for "accepted" criminal incidents only.

Hate-related activity could indicate prejudice based on many group characteristics. The project definition has been restricted to prejudice based on:

1. race, ethnicity or cultural background
2. religion
3. sexual orientation
4. political affiliation

Prejudice towards age, disability and sex have been excluded, because of the difficulty of finding objective indicators of such prejudice. The inclusion of prejudice against political affiliations has been suggested as a means for monitoring hate crimes carried out by or against extremist political groups. At this stage the suggestion has been accepted, but the practical difficulty of defining what exactly "political affiliation" is and how to evaluate information about it, is acknowledged.



Some other definitions which have been used within the NSW Police Service and by other organisations are set out in Attachment 3.

3. EXAMPLE COLLECTION PROCEDURES

3.1 UNITED STATE OF AMERICA, BIAS REPORTING

In the United States of America, the Hate Crimes Statistics Act authorises the Attorney General to acquire data about crimes that "manifest evidence of prejudice based on race, religion, sexual orientation or ethnicity". The FBI is responsible for actually collecting data from State Police agencies and then analysing and publishing the data.

The data recorded about a hate crime incident for inclusion in national statistics are:

- offence type eg murder
- location type eg residence
- religious bias motivation eg anti-Catholic
- racial bias motivation eg anti-black
- ethnicity bias motivation eg anti-Arab
- sexual bias motivation eg anti-male homosexual
- number and type of victim eg individual or business
- number of offenders
- suspected offenders race eg white, black

The FBI provides training materials about the nature of bias crime. The FBI also provides guidelines for agencies to handle hate crime investigation and data collection, it recommends a two-tier approach:

- the officer on the scene of an incident, makes an initial determination that bias motivation is suspected
- a second officer or unit with more expertise in bias matters makes the final determination of whether a hate crime has actually occurred. If so then the incident is included in the national collection as a bias-motivated crime

A significant feature of the FBI procedures is that although victim perceptions are taken into account, the onus for deciding if an incident is hate-related rests with Police who must assess the incident by standard criteria to determine bias. Documentation of the standard criteria and training about them is therefore a very important part of the FBI procedures.

FBI Training materials set out the factors that should be considered by reporting officer and the reviewing officer to determine if there are enough objective indicators to justify classifying an incident as hate-related. A copy of these factors is found in Attachment 4.

3.2 BRITISH DATA COLLECTION

In England, Scotland and Wales, all police agencies have collected statistics on racial incidents since 1987. All persons reporting a crime or incident are asked whether they consider that the incident may have been motivated by prejudice. The attending Police Officer must also make an assessment, based



on all available information known about the incident, whether or not the incident was motivated by prejudice. Both assessments are recorded on a standard crime incident report, and are given equal weight.

Data on "homophobic" incidents have been collected on a trial basis in a number of areas. When a crime report sheet is completed, if the incident appears to the victim or any other person including reporting or investigating officers to be motivated by animosity towards lesbians or gay men, then the crime sheet is marked "HOMOPHOBIC". The trial procedures recommend that for purposes of confidentiality, such references are deleted when reports are forwarded to a central point for statistical analysis.

The British approach to identifying prejudice-related incidents is based on the notion that it is a difficult matter to assess the motivation behind an incident. Police Officers may not always have the experience, training, background knowledge or perceptiveness to confidently make such decisions. Thus it is important to record and give weight to the victim's assessment.

3.3 NSW EXPERIENCE, COMMUNITY RELATIONS STRATEGY (CRS) STUDY

In 1992, the Community Relations strategy (CRS) Data Collection Pilot Study was undertaken as a joint venture between Human Rights and Equal Opportunity Commission and the NSW Police Service. The objective was to develop a data base model for use by Police in the collection of information in the collection of information on racist violence intimidation and harassment. The study was conducted in 3 metropolitan regions of Sydney, Campbelltown, Cabramatta and Bankstown, over the period 1 June to 30 September 1992.

The study considered both the British and US models for data collection, and adopted the British model of seeking both victim and Police assessment of whether prejudice was a motivating factor in an incident.

Police Officers at the 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 asked to identify the form of prejudice from a list including race, ethnicity or cultural background, sex (gender), religion, 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.

The study report concluded that the pilot was a practical demonstration "that the collection of information on the incidence of perceived hate crimes is a procedurally simple matter which could readily be incorporated into existing systems with appropriate training and supervision."

3.4 OTHER AUSTRALIAN HATE-CRIME DATA COLLECTION PRACTICES

The National Crime Statistics Unit (NSCU) of the Australian Bureau of Statistics operates under the auspices of the Australian Police Ministers' Council and is responsible for co-ordinating the production and publication of national crime statistics.

In 1994 the NSCU was requested by the Federal Race Discrimination Commissioner, to develop a strategy for a national collection of the incidence of perceived hate crimes. It was the NSCU's conclusion that the national collection of hate crime data would not be feasible, because of the lack of comparable data across different Police jurisdictions. It also considered that because of the subjective judgements



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involved in assessing the motives behind incidents, the development of national data definition standards and counting rules for hate-related incidents would be a difficult exercise.

The NSCU has noted that only 3 of the 8 Australian Police jurisdictions collect and data on hate crimes. The only consistent element across the jurisdictions seen to be racial appearance of offender and/or victim. Jurisdictions collecting this information felt that data quality is generally poor. The following table summarises hate crime indicators collected by Australian Police jurisdictions.

TABLE: COMPARISON OF HATE CRIME DATA INDICATORS COLLECTED BY POLICE JURISDICTIONS

ITEM	QUEENSLAND	SOUTH AUSTRALIA	VICTORIA
Racial incident	yes		
victim racial appearance	yes	yes	yes
offender racial appearance	yes	yes	yes
victim ethnicity		yes	
offender ethnicity		yes	

In summary, there are no national data definitions to guide agencies in collecting hate-crime indicators. Other States do not appear to have successful data collection procedures, from which NSW could learn from.

4. NSW COMPUTERISED OPERATIONAL POLICING SYSTEM (COPS)

In April 1994, the NSW Police Service commenced use of the Computerised Operational Policing System (COPS). COPS is a comprehensive computer data base system which allow NSW Police to enter, analyse and access incident information and intelligence across the Service.

COPS allows the user to nominate one or more ASSOCIATED FACTORS for an incident. The recording of ASSOCIATED FACTOR is the first Service-wide attempt at collecting data about the underlying causes of incidents.

The current list of associated factors include two hate-related entries:

POSSIBLE HOMOSEXUAL HATE CRIME
RACIAL RELATED



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According to the Police Executive Information Service, of the 535,714 crime incidents recorded in 1994:

55 were flagged as POSSIBLE HOMOSEXUAL HATE CRIME
74 were flagged as RACIAL RELATED

The Community Relations strategy (CRS) Data Collection Pilot Study conducted in 3 metropolitan regions of Sydney, Campbelltown, Cabramatta and Bankstown, over the period 1 June to 30 September 1992 tabulated hate-related crime as approximately 3% to 8% of incidents included in the survey. By comparison, the proportion of incidents reported in 1994 COPS incidents as hate-related is negligible.

The under-reporting is attributed in part to the hard to use layout of the COPS screens which capture ASSOCIATED FACTORS. However, it may well be that users are reluctant to nominate associated factors due to what they perceive as the subjective nature of the decision and a natural caution about stereotyping parties involved in an incident. At present, there is no Service wide training about the nature of hate related crime and how to identify it.

In addition, among COPS users there seems to be a general reluctance to record ASSOCIATED FACTORS of any kind. When recording an incident account, the operational user is probably more concerned with recording useful details for investigation and identification of offenders than with making decisions about how to classify an incident for the purpose of ASSOCIATED FACTOR crime statistics.

5. IDENTIFICATION OF INCIDENTS MOTIVATED BY HATE

It is not easy for a Police Officer to judge whether an incident has been motivated by prejudice. The FBI training materials in Attachment 4 set out the many indicators that may need to be considered by an Officer trying to assess whether an incident is hate motivated. When investigating an incident, there could often be difficulties in drawing conclusions from these indicators.

For some incidents, there could be definite indicators that an act is hate-related, for example an incident could involve malicious damage to a Croatian meeting hall including anti-Croatian graffiti.

In other acts, the indicators may be inconclusive. For example, a shop is the subject of malicious damage. The owner is Croatian. Was the damage a deliberate act of hate towards Croatians. Or was the shop selected by the offender for other reasons?

An incident itself may not have obvious hate indicators. However something may be known to the victim or have happened in the past, for example threatening phone calls, which indicates a hate motive.

Similarly, a person may be assaulted near a gay venue. By itself, the location could indicate that prejudice against gay people who frequent the venue; alternatively, it could indicate that the location itself provides conditions for crime, regardless of the type of people who are found at the location.

Determining if a incident is hate-related involves looking at a number of indicators, the hate-related aspect may not become apparent until the investigation is completed and the offender caught. Often, indicators may be inconclusive. An incident may not, initially, be considered as hate related, however if a pattern of similar or related incidents emerge, then the earlier incident could be reclassified as hate-related.



The implications of these difficulties for recording of hate crime data indicators are:

Police officers will have to be properly educated to recognise hate-related crime. Without a training program in place, the basis on which users are making decisions (and supervisors are verifying decisions) would be unknown, this would mean that the data quality of hate crime indicators would be unreliable.

Because of the inherent difficulty of identifying incident causes, a computer recording system should include extensive user help screens with prompts about factors to be considered

It should be possible to update incident details as more information becomes available over the course of an investigation

Also, it is important to note that the NSW Police Service does not have any objective reliable indicators of the spread of hate-crime across the State. It could be significant issue in some patrols and negligible in other patrols. Any collection of hate crime data will involve costs to train people how to gather the information, to supervise users to ensure that the information is gathered, and to actually record the information. For some Patrols, the costs could outweigh the benefits of the small amount of information recorded. It may therefore be desirable to implement hate crime recording facilities in way that is tailored to individual patrol requirements.

6. ETHICAL ASPECT OF COLLECTION OF HATE-RELATED DATA

It is one of the cornerstones of the current Police incident recording is that incident details recorded by one unit will be available for enquiry or updating by authorised officers through out the Police Service. This is because it is impossible to determine where information about a particular event will come to light. An event may occur in one patrol, be reported by the victim in another patrol, witnesses may come forward and be interviewed in yet another patrol. Investigating officers will need access to incidents involving a similar modus operandi, regardless of where the incidents occurred and which unit investigated them.

Recording of hate-related data poses a special problem. A hypothetical Joe Bloggs could be a victim in an incident that was classified as "homosexual prejudice related", because of one or more of the following:

his perception that offenders were motivated by prejudice against homosexuals;

the incident occurred in a location frequented by homosexuals;

modus operandi indicates prejudice, eg. language or graffiti; or

offender(s) admits incident was motivated by homosexual prejudice.

If this information is available to every authorised Police user, there is a danger that the next time Joe Bloggs is encountered, an officer may view the information, stereotype Joe Bloggs as homosexual and

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perhaps treat Joe differently to how he would have been treated had that background information not been seen.

Although the information does not directly say Joe Bloggs is a homosexual, a Police user could:

Misinterpret the information. If the user sees the name "Joe Bloggs" and a term such as "homosexual prejudice related" in the same incident, they could jump to the conclusion that the system is saying that Joe Bloggs is a homosexual.

Reason that if Joe Bloggs was the victim of a crime motivated by homosexual prejudice and/or he was found in a place frequented by homosexuals and/or an offender thought he was a homosexual, then most probably Joe Bloggs is a homosexual.

The staff of the Police Service are representative of the community. The positive aspect of this is that Police have empathy with, and understanding of the community they serve. The negative aspect is that among Police staff, there may be many of the same prejudices that occur in the community. Thus if a computer system gives a hint that Joe Bloggs could be a member of a particular ethnic, political, sexual preference or religious group, there is a risk that Police may deal with Joe Bloggs in a prejudiced or negative way, when he is encountered again.

Ideally information about an incident should be available to any authorised user in any unit. Confidential personal background information should be stored as part of the incident. This is necessary so that investigators can have a full picture of an incident and so that statistics correlating confidential details with other not so confidential details in the incident can be produced.

At the same time the sensitive details should be secured in such a way that they are not available for ad hoc enquiries. Sensitive details could be created and accessed as follows:

Allow the user to create sensitive details as part of a complete and accurate account of an incident.

The creating officer or verifying officer would be able to view or update sensitive details.

Specialist officers who have a legitimate requirement to view particular types of incidents, would be able to enquire on, and view sensitive information within an incident. For example, a Gay Liaison Officer for a Unit could select for viewing, all incidents in which the victim considers the incident was gay-hate related.

Statistical programs would be able to access the information for purposes of calculating and reporting incident counts.

Enquiring officers would be able to view details of the incident and all parties connected to the incident. They would not however be able to view sensitive details.

If the incident became the subject of a case, then officers attached to the case would have access to confidential personal information for parties linked to the incident. Officers investigating the incident would have a legitimate reason to view all information recorded in the incident.



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Appendix 5 of this document contains further information about data privacy concerns and safeguards related to hate crime data.

7. POSSIBLE NSW POLICE DATA COLLECTION OPTIONS

7.1 INTRODUCTION

When an incident comes to Police attention, it should be possible to record:

was incident motivated by prejudice

if so, prejudice towards which group

The logical place to record hate-crime indicators is in COPS. All incidents which come to Police attention should be recorded in COPS. From an operational perspective, it is desirable to record, in one place, all information known about an incident which is then subject to standard verification, access, archiving and auditing rules.

Also, COPS integrates recording of event and Police action recording. Thus, once a recording officer indicates that an incident is hate-related, the system could also be enhanced to automatically disseminate a message about hate crime incidents to a specialist Officer such as a Gay Liaison Officer, Ethnic Group Liaison Officer for further investigation and/or follow up with the victim and hate target group.

Within COPS, the user would be able to review help screens which would display a list of hate crime indicators, similar to those set out in the FBI training material found in attachment 4. In this way, if the user has not been trained to recognise hate-crimes or has not dealt with hate crimes before, the list is a good reminder about things to consider when investigating different aspects of an incident.

The remainder of this section sets out different options for recording hate-crime indicators in COPS.

7.2 COPS OPTION 1, CONTINUE TO RECORD ASSOCIATED FACTOR

This option would involve improving existing ASSOCIATED FACTOR data collection screens by making them compulsory and easier to use. And in the case of an ASSOCIATED FACTOR of "prejudice", providing facilities on the screen to record the group towards which the prejudice was directed.

Using the ASSOCIATED FACTORS screen, for example, a user could record the fact that an incident is ETHNIC PREJUDICE related and the target group is CROATIANS.

For this approach to be successful, it would have to be accompanied by a Police Service wide training programme so that all users recording or verifying incident accounts were familiar with the hate-crime concept and the factors which would indicate its presence in an incident.

Even if users are trained, they are still making subjective decisions. The quality of the data would be suspect because there may be nothing else in the incident description to back up the user's judgement that the incident was hate related.



7.3 COPS OPTION 2, RECORD USER AND VICTIM JUDGEMENT

This option would follow the 1991 Community Relations strategy (CRS) Data Collection Pilot Study and record:

- whether or not any victim in the incident felt the act was motivated by prejudice;
- if so, prejudice to which group;
- reporting officer's perception of whether or not act was motivated by prejudice; and
- if so, prejudice to which group;

In this approach, the onus for identifying an incident as hate-related does not rest entirely with the recording officer. This is in line with the British and NSW CRS Pilot Study approach to recording hate crime indicators.

From a work practice perspective, the gathering of information about the victim perceptions would involve:

- determining the exact wording of the questions to be asked of a victim, an explanation of why the information is sought and an explanation that the victim is under no obligation to provide the answer; and
- training of Police Officers about when and how to ask these questions.

As with option 1, information about the reporting officer's perception will only be useful, if officers have been properly trained to recognise the many different factors that could make an incident "hate-related".

7.4 COPS OPTION 3, SYSTEM ASSISTS USER TO MAKE JUDGEMENT

In this option, the system would not explicitly collect hate-crime indicators for an incident. Rather the emphasis is to collect as much objective, descriptive information as possible about the incident and collect it in a format which makes it useful for investigation, identifying offenders and understanding incident patterns. The system then examines the incident details to determine if it should prompt the user to confirm whether or not the incident is hate related.



Different COPS information components could be considered for expansion to include hate-crime indicators, as follows.

VICTIM

It should be possible to record the perception of each victim involved in an incident about whether or not the incident was hate motivated. This would involve updating VICTIM screens to capture:

victim believes act was hate motivated; and

group to which victim believes hate was directed.

MODUS OPERANDI

Possible indicators of hate-related crime would be the language or comments used by the offender during the incident and the nature of any graffiti that might accompany the incident. Therefore COPS should expand the range of MODUS OPERANDI features that can be collected about an incident to include "prejudice language/comments", "prejudice graffiti" and "prejudice symbolic gesture". This enhancement could be implemented by adding hate-related entries to the COPS modus operandi tables.

OFFENDER MOTIVE

When offender details are recorded for an incident, COPS allows the user to record a "declared" motive. This is the motive which the offender may state when they are apprehended and interviewed. The list of possible motives from which the COPS user can select could be expanded to include prejudice-type motives. The implementation, in COPS STAGE 2, of Charge Management as an extension to CPS Event recording, will make it easier for a COPS user to update an event account before or after charging an offender. This enhancement could be implemented by adding hate-related entries to the COPS motive table.

CALENDAR EVENT

It is possible when recording an incident to link it to community events which might have influenced their happening. For example, on a particular date, same assaults in the XYZ patrol could be linked to the holding of an Ethnic Festival held in the area at that time. An understanding of the nature and number of incidents which occur in conjunction with community events will enable Police to take action to prevent incidents occurring when similar future events are held in the future.

COPS calendar event recording facilities could be expanded to include a "type" for a calendar event. Thus, for example, if an incident has been linked to a calendar event of type of "ethnic" or "political", this would be an indicator that the incident might possibly be hate-related.

Using COPS calendar event facilities it would be possible to record events organised by or of significance to particular groups, for example, political anniversaries, religious festivals.



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LOCATION

The place where an incident occurs may indicate underlying associated factors contributing to an incident occurring. For example:

a location within view of licensed premises could indicate that incident may be "alcohol related" crime; or

a location at or near known gay/lesbian/ethnic/religious venue could indicate that incident may be motivated by prejudice to gays/lesbians etc.

Potentially, it would be useful for COPS to record "outside/within view of particular types of premises" as part of the description of a location at the time of its involvement in an incident. For example, if a bashing occurs on the footpath at 26 Smith St Smithville, the user could indicate that this location is outside/within view of known gay/lesbian venue". The next time an incident occurs at that location the user can be prompted to confirm that the location is still "outside/within view of known gay/lesbian venue". The system should "remember" what it has been told about a location and not rely on users to repeatedly describe the location.

When user has finished creating or updating an incident account, then the system would prompt the user to nominate ASSOCIATED FACTORS, including "possible hate crime" for the incident. Before indicating their own judgement, the user would be able to review any hate crime indicators already recorded for the incident, ie. victim(s) perceptions, modus operandi or offender(s) motive.

The prompts displayed to a user could be along the following lines

" Incident description includes -

incident location: near to gay venue

modus operandi value: anti-gay language

victim feels incident was motivated by prejudice towards: gays

Can you confirm that the incident should be classified as: hate related"

" Incident description includes -

victim feels incident was motivated by prejudice towards: Croatians

Can you confirm that the incident should be classified as: hate related"



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TABLE: COMPARISON OF OPTIONS

	OPTION 1 upgrade ASSOCIATED FACTOR screens	OPTION 2 record officer perception and victim perception	OPTION 3 record objective indicators of hate
SYSTEM COST	Low.	Medium cost. Option would require the development of a new screen.	High system cost to: enhance existing components, eg. LOCATION; and develop program to look for and display to user possible hate crime indicators and request user confirmation that incident is hate related or not.
TRAINING COST	High.	High.	High training costs. However, collection of objective indicators, eg. modus operandi language used, means that the system is not entirely reliant on the user's judgement about whether an act was hate-related or not
PRIVACY OF SENSITIVE DETAILS	Hate crime indicators held as two fields, which could be "confidentialised".	Hate crime indicators held as four fields, which could be "confidentialised".	indicators would be collected as part of different incident components, ie victim description, modus operandi, location, calendar event. With many hate-crime indicators scattered through incident details, it would be difficult to "hide" sensitive details from ad hoc enquiries.
SUPPORT FOR INVEST.	No specific details which would be useful for investigation.	No specific details which would be useful for investigations.	specific details such as modus operandi, would be useful for investigation.
TAILOR TO LOCAL NEEDS	Recording of hate-related associated factor could be restricted to particular units.	Recording of hate-related perceptions could be restricted to particular units	With many hate-crime indicators scattered through incident details, it would be a complex matter to switch each indicator on or off depending on the unit which was recording an incident.



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9. RECOMMENDATION

9.1 PREFERRED OPTION FOR IMPLEMENTATION

OPTION 1, improve COPS ASSOCIATED FACTOR recording, is not recommended for implementation (other than as a short term measure). It involves recording only the officer's decision, that an incident was hate motivated. Even with training, the officer's decision is subjective and may not always be reliable.

OPTION 3, collect objective indicators of hate crime, is not recommended for implementation for several reasons:

The notion of recording objective indicators rather than subjective judgements is attractive, but in practice the indicators could be many, varied and subtle. The system may not be able to account for them all. So for many incidents, Police might well come back to relying simply on the officers perception and the victims perception that the incident was hate-related or not.

By scattering hate-related details through an incident description, it would be technically difficult to "hide" that information from ad hoc event enquiries. It would also be technically difficult to limit collection of hate-related indicators to Patrols that have an interest in analysing hate-related incident patterns.

OPTION 2, record officer and victim perception, is the preferred option for implementation. It is technically simple. It would not ^{involve} collecting a lot of information, but by recording the victim's perception as well as the officer's perception - the Police service should be better able to identify hate-related incident patterns. Technically it should not be difficult to restrict access to sensitive data on hate-crime perceptions to particular functions, ie:

- generation of statistics
- users attached to a CASE investigating the event
- specialist officers such as ethnic or gay liaison officers

Technically, it should also be possible to restrict recording of the hate-crime indicator component of an information report to particular patrols. In this way, recording would be mandatory for those patrols which have a commitment to identifying and analysing hate crime patterns. But it would not be a recording burden in those units where identification of hate crime is not a priority, or where hate crime identification training had been delivered.

9.2 ESTABLISHMENT OF HATE CRIME FOCUS GROUP

It is recommended that a Focus Group of Police Service personnel involved in identification and analysis of hate-related crime, consider the following matters:

Confirmation that the recording of officer and victim perceptions of hate crime is the appropriate strategy for the Police service.

Rules for access to hate crime indicators recorded for an incident.



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Procedures for eliciting information from victims, including the exact wording of questions, and notifications about how information will be used.

Development of a formal training programme to educate Police Officers about the nature of hate crime Policies and procedures. Once a hate-related incident is identified, how should it be handled.

Updates to Commissioner's Instructions



ATTACHMENT 1 BIBLIOGRAPHY

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J. Levin and J McDermott "Hate Crimes, The Rising Tide Of Bloodshed And Bigotry"

N. Taylor Editor "Bias Crime, The Law Enforcement Response"

L. de Rome "Monitoring Hate Crimes, A Report on the Community Relations Strategy data Project", prepared for the Human Rights and Equal Opportunity Commission February 1993



ATTACHMENT 2 PERSONS WHO PROVIDED ADVICE AND BACKGROUND INFORMATION

Sergeant D. Timms, Maroubra Patrol

Sergeant J. Thommeny, South West Region

Constable First Class B. Scanlon

Senior Constable L. Watson, Ethnic Liaison Officer, Community Safety Development Branch

S. Thompson, Gay Liaison Officer, Community Safety Development Branch

J. Baldwin, Police Service Statistician



ATTACHMENT 3 DEFINITIONS OF HATE-RELATED CRIME/ACTIVITY

It is necessary for the Police Service to adopt a standard definition of "hate-related crime" before it can determine when and how to collect hate-crime indicators.

Some definitions which have been used both within the NSW Police Service and other organisations have been considered.

"Hate related crime is defined as a criminal offence committed upon a person or institution which is directly motivated by that person's or institution's ethnic, religious, sexual or political affiliation."

Professional Responsibility Branch, NSW Police Service in letter to Ethnic Affairs Commission 27.3.95

"A criminal offence committed against a person or property, involving acts or threats of violence or harassment directed at an individual or group and motivated totally or partly by hostility to their real or perceived race, ethnic background, national origin, religious belief, sex, age, disability or sexual orientation."

"Hate Crime, Report On The Current Collection of Prejudice Related Data", paper by Constable First Class B. Scanlon and S. Thompson, NSW Police Service

"Crimes that manifest evidence of prejudice based on race, religion, sexual orientation or ethnicity."

The United States of America 1990 Hate Crime Statistics Act

"An act which appears to be motivated or perceived to be motivated by the victim to be based on race, religion or ethnic background"

Maryland State Police Data collection procedures quoted in N. Taylor Editor "Bias Crime, The Law Enforcement Response"

"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 non-racist policies."

Human Rights and Equal Opportunity Commission, for the purpose of the National Inquiry into Racist Violence 1989

"Any criminal act coupled with overt actions motivated by bigotry and bias including, but not limited to, a threatened, attempted, or a completed overt act motivated at least in part, by racial, religious, ethnic, handicap, or sexual orientation prejudice, or which deprives another person of his/her constitutional rights by threats, intimidation, or coercion, or which seeks to interfere with or disrupt a persons exercise of constitutional rights through harassment or intimidation"

Massachusetts General Laws, chapter 22, section 16

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"A Bias Incident is defined as a suspected or confirmed offence or unlawful act which occurs to a person, private property, or public property on the basis of race, colour, creed, ethnicity, religious or sexual orientation. An offence is Bias based if the motive for the commission of the offence or unlawful act is racial, religious, ethnic or sexual oriented in nature."

New Jersey Bill 1062



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ATTACHMENT 4 HATE CRIME CRITERIA USED BY FEDERAL BUREAU OF INVESTIGATION IN UNITED STATES OF AMERICA

The Second Level Judgment Officer/Unit should seek answers to the following types of questions before making the final determination of whether an incident was motivated by bias:

- * Is the victim a member of a target racial, religious, ethnic/national origin, or sexual orientation group?
- * Were the offender and the victim of different racial, religious, ethnic/national origin, or sexual orientation groups? For example, the victim was black and the offenders were white.
- * Would the incident have taken place if the victim and offender were of the same race, religion, ethnic group, or sexual orientation?
- * Were biased oral comments, written statements, or gestures made by the offender which indicate his/her bias? For example, the offender shouted a racial epithet at the victim.
- * Were bias-related drawings, markings, symbols, or graffiti left at the crime scene? For example, a swastika was painted on the door of a synagogue.
- * Were certain objects, items, or things which indicate bias used (e.g., the offenders wore white sheets with hoods covering their faces) or left behind by the offender(s) (e.g., a burning cross was left in front of the victim's residence)?
- * Is the victim a member of a racial, religious, ethnic/national origin, or sexual orientation group which is overwhelmingly outnumbered by members of another group in the neighborhood where the victim lives and the incident took place? This factor loses significance with the passage of time, i.e., it is most significant when the victim first moved into the neighborhood and becomes less significant as time passes without incident.
- * Was the victim visiting a neighborhood where previous hate crimes had been committed against other members of his/her racial, religious, ethnic/national origin, or sexual orientation group and where tensions remain high against his/her group?
- * Have several incidents occurred in the same locality, at or about the same time, and are the victims all of the same racial, religious, ethnic/national origin, or sexual orientation group?
- * Does a substantial portion of the community where the crime occurred perceive that the incident was motivated by bias?
- * Was the victim engaged in activities promoting his/her racial, religious, ethnic/national origin, or sexual orientation group? For example, the victim is a member of the NAACP, participates in gay rights demonstrations, etc.
- * Did the incident coincide with a holiday relating to, or a date of particular significance to, a racial, religious, or ethnic/national origin group (e.g., Martin Luther King Day, Rosh Hashanah, etc.)?

- * Was the offender previously involved in a similar hate crime or is he/she a member of a hate group?
- * Were there indications that a hate group was involved? For example, a hate group claimed responsibility for the crime or was active in the neighborhood.
- * Does a historically established animosity exist between the victim's group and the offender's group?
- * Is this incident similar to other known and documented cases of bias, particularly in this area? Does it fit a similar modus operandi to these other incidents?
- * Has this victim been previously involved in similar situations?
- * Are there other explanations for the incident, such as a childish prank, unrelated vandalism, etc.?
- * Did the offender have some understanding of the impact his/her actions would have on the victim?

The Second Level Judgment Officer/Unit should respond to the scenes of large bias incidents, such as race riots, demonstrations, etc. When doing so, a determination should be made whether additional resources should be called to the scene, such as police tactical units, community affairs/relations representatives, mental/physical health professionals, and/or the clergy.

It is important to note that, only after the Second Level Judgment Officer/Unit has made a decision that the crime was bias motivated, should it be reported to the FBI's UCR Section.

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ATTACHMENT 5 DATA PRIVACY ISSUES

**PART 1 NSW PRIVACY COMMITTEE SUBMISSION ON THE PROPOSAL TO COLLECT HATE CRIME
ON THE COPS SYSTEM**