

Bound by the Code: Constraints of policing gender-motivated violence in Canada

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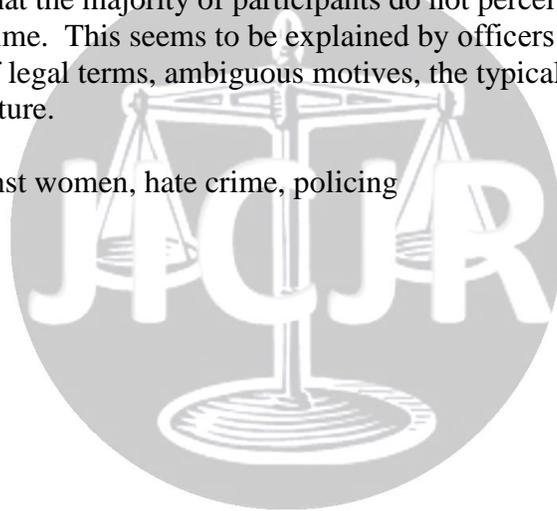
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ABSTRACT

Police officers' perceptions of gender-motivated violence against women have been overlooked in hate crime research. In an attempt to bridge a gap in the literature, the researchers examined how nine police officers from Ontario, Canada conceptualized gender-motivated violence using vignettes, sentence-completion tasks, and an interview guide. Here, officers were asked about their perceptions of and experience with hate crime and gender-motivated hate crime. Results indicate that the majority of participants do not perceive instances of violence against women as hate crime. This seems to be explained by officers' understandings of the definitional constraints of legal terms, ambiguous motives, the typical victims of hate notion, and the masculinist police culture.

Keywords: violence against women, hate crime, policing



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INTRODUCTION

Dragged behind a pick-up truck, James Byrd Jr., an African American man, was murdered by three White men in Jasper, Texas. Robbed, pistol-whipped, and tortured, Matthew Shepard, a young gay college student, was tied to a fence and left for dead in Laramie, Wyoming. Four schoolgirls and their female teacher were deliberately shot to death by two male classmates at Westside Middle School in Jonesboro, Arkansas (McPhail, 2003). Each of these horrific events sparked national debates about the causes of and solutions to such violence. While the first two crimes, motivated by racism and homophobia, were publicly regarded as hate crime, the third was deemed to be very different from the others. As Jenness and Grattet (2001) noted in a similar context ten years ago,

In contrast to these two incidents, the murder of four young girls in a Jonesboro, Arkansas schoolyard in March of 1998 generally has not been viewed as a hate crime, despite the revelation that the young boys in custody for the killings sought to shoot girls because it was girls that angered them. That is, they selected their victims on the basis of gender. *Time Magazine* (Labi, 1998) referred to it as a “youth crime” and *Newsweek* (McCormick, 1998) called it a “schoolyard crime.” Because of this framing, the incident triggered a different set of legal and policy discussions, most often in terms of school violence and the debate over gun control. (p. 7)

The inconsistencies between how each of these crimes were generally viewed, reported, and discussed illustrates the debate of whether gender bias-motivated violence can and should be included under the rubric of hate crime policy (McPhail, 2003). And although Canadian and U.S. hate crime legislation now recognizes ‘gender’ and ‘sex’ as protected categories, debates continue today. One key component of the argument, however, remains untouched – police perceptions of gender-motivated hate crime against women.¹

Many scholars have examined the debates for and against the inclusion of gender in hate crime legislation. Those arguing in favour make the theoretical case that male violence against women *does* fit the definition of ‘hate crime’ (Angelari, 1994; Ault, 1997; Copeland & Wolfe, 1991; DeKeseredy, 2009; McPhail, 2003; Pendo, 1994; Perry, 2001; Taylor 1996; Weisburd & Levin, 1994). McPhail (2003), however, reminds us that:

...currently, much of the literature on gender-bias violence consists of conceptual arguments within legal circles and little empirical research. (p. 275)

That is, research has not sufficiently explored the possibility of violence against women as hate crime, nor has it fully examined practitioners’ perceptions of this position (DeKeseredy, 2009; Gelber, 2000; McPhail, 2003; McPhail & DiNitto, 2005). Furthermore, police officers’ perceptions of gender-motivated hate crime have never received empirical attention. Surprisingly, no Canadian research has explored how police officers perceive gender-motivated violence, even though they are practitioners with discretionary authority to identify and investigate what is and is not deemed a hate crime (Bell, 2002, 2009). Thus, this study attempts to bridge a gap in the literature on gender-motivated violence, hate/bias crime, and policing hate/bias crime by exploring how police officers from a large police service in the southeastern region of Ontario, Canada perceive gender-motivated violence against women. In so doing, the following research questions were posed: Do police officers, the frontline practitioners with the discretionary power to identify hate crime, perceive violence against women as hate crime?

¹ The terms ‘hate crime’, ‘bias crime’, ‘gender-motivated violence’, ‘gender-motivated hate crime’, and similar terminology will be used interchangeably throughout this paper.

What factors and conditions influence their perceptions of gender-motivated hate crime against women? In addressing these questions, an in-depth qualitative approach was applied.

CONCEPTUALIZING VIOLENCE AGAINST WOMEN AS BIAS-MOTIVATED

The brutal murder of fourteen females from l'École Polytechnique de Montreal (Brennan, 2010) symbolizes the way in which hate crimes are used as a mechanism of power and oppression, fuelled by the need to reaffirm precarious hierarchies that characterize a given social order. This is evident because these hate crimes were intended to: (1) re-establish the threatened (real or imagined) hegemony of the perpetrator's group, while re-affirming the subordinate identity of the victim's group (Perry, 2001); and (2) intimidate and control a larger class of females, and not just the victim(s) (DeKeseredy, 2009). Indeed, many women and girls belong to "target groups" and their horrendous experiences are "part and parcel of a larger hate crime problem" (Jenness, 2004, p. 189) in Canada, the U.S., and internationally (DeKeseredy, 2009). Nevertheless, there has been tremendous resistance to recognizing female-directed violence as hate crime (Pendo, 1994), at the social, political, and legal level (DeKeseredy, 2009; Jenness, 2004), and most likely at the policing level as well. As Jenness (2004) reminds us,

...gender is best envisioned as a 'second-class citizen' in social, political, and legal discourse in the United States that speaks directly to the larger problem of violence motivated by bigotry and manifest as discrimination (i.e., bias-motivated violence). (p. 182-183)

Along these lines, the authors will first provide the historical, cultural, legal, and investigative context in which police officers are challenged to respond to hate crime and gender-motivated hate crime against women. In doing so, the legal concept of 'hate crime' and the arguments for and against gender-motivated hate crime against women will be addressed, not only to provide the rationales for or against the inclusion of gender in a hate crime paradigm, but also to bring to the fore the arguments that police officers may consider when investigating such cases. Next, the complexities and reluctance to police hate crime and gender-motivated hate crime will be discussed both from a theoretical and practical lens. Doing so will provide the much needed background to understand the nature of this study.

Hate crime laws in Canada

Under the Criminal Code of Canada, there is no specific criminal offense defined as 'hate crime.' Instead, police services in Ontario, Canada are trained to identify hate crimes as they are codified in the Criminal Code Section 718.2 (sentencing enhancements) (Ontario Police College, 2007). Here, officers are trained to understand hate crime as a criminal occurrence committed against a person or property where there is:

evidence that the offence was motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor. (Criminal Code, 1985, s. 718.2)

Rather than establishing a 'hate crime' offence, "Part VIII: Offences Against the Person and Reputation" of the Code encompasses an offence titled 'Hate Propaganda' (Department of Justice Canada, 2010), which is defined as:

any written, verbal, or electronic material that advocates or promotes genocide against any identifiable group or makes statements that are likely to promote hate against any

identifiable group because of colour, race, religion, ethnic origin or sexual orientation (Ontario Police College, 2007, p. 3)

Within this umbrella term, police officers are trained to enforce three criminal offences, which include: advocating genocide, public incitement of hatred, and wilful promotion of hatred. The Code also outlines mischief in relation to religious property (Dauvergne & Brennan, 2011), which could be deemed as a ‘hate crime’ offence.² Noticeably, the protected category of ‘gender’ is not included in Canadian hate crime legislation. The Code does however reference ‘sex’ as a protected status category, which is intended to protect women (and men) from bias-motivated violence. Still, even though women are protected under Canadian hate crime legislation, hate crime policy, both in Canada and the U.S., has historically excluded them from such statutes (see McPhail, 2003). This inconsistency is but one factor that challenges the policing of hate crime against women. Consider the following debates for and against the inclusion of gender in hate crime legislation.

Debating violence against women as hate crime

Historically, the majority of hate crime discourse has been gender-blind with most attention paid to crimes committed on the basis of one’s race, religion, sexual orientation, or ethnicity/national origin (McPhail, 2003; McPhail & DiNitto, 2005). As such, debates emerged around whether there is a connection between ‘gender’ and hate crime policy, as well as whether violence against women should be recognized under current hate crime policy. Arguments for and against including ‘gender’ as motivations for hate crime against women were revealed during these debates, all of which reflect arguments that police officers may consider when investigating such crimes.

Among the chief reasons that critics exclude ‘gender’ as a protected status category under hate crime legislation are that violence between men and women does not always occur between strangers, does not target a minority whom the perpetrator hates, and does not necessarily frighten beyond the initial target, thus instilling fear in other members of the group (Lynch, 2005; McPhail, 2003). Opponents of the inclusion of gender in hate crime law also claim that

² ‘Genocide’ is defined as:

...any of the following acts committed with intent to destroy in whole or in part any identifiable group, namely,

- (a) killing members of the group; or
- (b) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction. (Criminal Code, 1985, s. 318.2)

‘Public incitement of hatred’ is defined as:

...communicating statements in any public place, incites hatred against any identifiable group where such incitement is likely to lead to a breach of the peace. (Criminal Code, 1985, s. 319.1)

‘Wilful promotion of hatred’ is defined as:

...communicating statements, other than in private conversation, willfully promotes hatred against any identifiable group. (Criminal Code, 1985, s. 319.2)

‘Mischief in relation to religious property’ is defined as:

...commits mischief in relation to property that is a building, structure or part thereof that is primarily used for religious worship, including a church, mosque, synagogue or temple, or an object associated with religious worship located in or on the grounds of such a building or structure, or a cemetery, if the commission of the mischief is motivated by bias, prejudice or hate based on religion, race, colour or national or ethnic origin. (Criminal Code, 1985, s. 430 (4.1))

'gender' is too cumbersome to constitute a hate crime victim category. Another argument is that male crimes against women are so frequent that it may take the focus away from other hate crimes. It is also argued that gender should not be included in hate crime legislation because violence against women is already accounted for in special laws and legislation (Lynch, 2005).

First, in accordance with commonly understood attributes of hate crime, for a crime to be defined as such, the victim and perpetrator ought to be strangers (Gelber, 2000; Lynch, 2005; McPhail, 2003). Since crimes against women are often perpetrated by someone they know, opponents argue that gender does not qualify as a motivator for a hate crime because it is not consistent with the commonly held understanding of the dynamics of a hate crime (Gelber, 2000; McPhail, 2003).

Another argument frequently cited in the renunciation of gender as a protected status category is the belief that most instances of violence against women do not involve the targeting of a minority group whom the perpetrator hates (Lynch, 2005). Instead, critics argue that men in intimate relationships "love" their female victims or may come to hate that particular woman, but not all women (Lynch, 2005; McPhail, 2003). These critics also suggest that violence against women and rape are "crimes of passion," that intimate partner abuse is a "private family affair," and that women who are battered, raped, or killed "had it coming to them", and not because the male perpetrator "hates" or maintains a particular bias towards women in general (Copeland & Wolfe, 1991).

Resistance to the inclusion of gender in hate crime legislation also stems from the fear that its inclusion may stretch hate crime legislation too far, thus distorting hate crime statistics. In part, this is because critics argue that violence against women is so prevalent that its inclusion as a status category would make the other status categories (i.e., race, ethnicity, and religion) appear less important and less frequent in comparison (McPhail, 2003). As such, the collection of data on hate crimes may be overwhelmingly difficult to maintain if gender were to be added as a protected category.

Opponents of gender inclusion also argue that violence against women may involve variations and crossovers of criminal offenses, all of which make it more difficult for police officers to identify as hate crime. For example, a domestic violence situation may involve an assault, a sexual assault, and/or homicide, and thus minimize police officers' ability to identify or investigate the violence as bias-motivated (Gelber, 2000). In a similar vein, much of what could be classified as gender-based hate crime may be intersectional. Crimes motivated by race/ethnicity, religion, sexual orientation, and other categories typically overlap gender, given that "no one is just their gender separate from their race, class, sexual orientation, and beyond" (Lynch, 2005, p.4). That being said, the diverse and complex nature of such violence makes it a challenge to define domestic violence as a 'hate crime'.

Lastly, opponents argue that sexual assault laws, domestic violence laws, and special laws such as the Violence Against Women Act (VAWA) address the issue of violence against women (McPhail, 2003). The VAWA, for example, is U.S. federal legislation passed by President Bill Clinton on September 13, 1994. Supported by a number of advocacy organizations (e.g., the National Organization for Women, National Coalition Against Sexual Assault, National Coalition Against Domestic Violence, and Legal Momentum), the act provided \$1.6 billion to enhance the investigation and prosecution of violent crimes against women (U.S. Department of Justice, 2006). The act also imposed automatic and mandatory restitution on those convicted, as well as allowed for civil redress in cases that prosecutors chose to leave unprosecuted (U.S. Department of Justice, 2006). Due to the existence of such legislation,

opponents of gender inclusion argue that the VAWA already addresses the issue of violence against women.

In short, critics' reservations to the inclusion of gender as a protected category within hate crime legislation are wide ranging, running the gamut from legal to pragmatic to empirical counter-indications. In contrast, there are also strong arguments for the acknowledgement that women frequently experience violence similar to that experienced by other groups that are typically recognized as hate crime status groups. Traditional hate crime victims and female victims of gender-motivated violence experience similar forms of victimization; both result in serious psychological, physical, social, and economic impacts, not only for the victims, but for their families and society as well (Johnson, 2006; Perry, 2001). In this respect, gender-motivated violence is indistinguishable from hate crime because both are intended to intimidate and control a larger class of people rather than just the direct victims (DeKeseredy, 2009). Thus, consider the following arguments for the inclusion of gender in hate crime legislation.

First, gender fits within the hate crime paradigm because numerous instances of violence against women, similar to hate crime, are considered "motiveless crimes." For example, the random assault or murder of a woman without an "evident" motive (e.g., robbery or sexual assault) is consistent with the characteristics associated with a traditional hate crime. The brutal killing of fourteen females from l'École Polytechnique de Montreal is a key example of a "motiveless" crime (DeKeseredy, 2009), in the traditional sense. There was no reason for these attacks, other than the victims' shared identity (i.e., being women).

Second, "minorities" per se are not the only ones who experience hate/bias language; women worldwide endure similar forms of hate rhetoric by men (Perry, 2003). Women, a historically oppressed group, must also combat messages of inferiority, as the use of sexual innuendos, verbal humiliations, and threats of violence, for example, are used by men to terrorize or degrade women (Cowan & Hodge, 1996). Equally, bias language such as "bitch," "whore", and "slut" – terms which are often used in the context of violent attacks – are unquestionably hate/bias messages because they are intended to disgrace, intimidate, and harass women (DeKeseredy, 2009). Such remarks are constant reminders of gender significance and how a woman's behaviour is closely monitored and typified (DeKeseredy, Perry, & Schwartz, 2007; Perry, 2003). This form of expression targets a woman's femininity specifically and is common in cases of domestic abuse (McPhail, 2003).

Third, some men abuse women with the intention of maintaining women's second-class citizenship and subordinate status, all of which is equivalent to race-based crimes (Gerstenfeld, 2004; Perry, 2003). Scholars recognized that some men engage in gender-motivated violence to send a message and to keep women "in their place" (Perry, 2001). As a result of these messages of inferiority, the social impacts are far reaching (Jeness & Broad, 1997; Levin & McDevitt, 1993, 2002). For example, female victims of spousal violence are more likely than men to experience negative emotional consequences, fear for their lives, experience multiple assaults, and suffer lost productivity (Johnson, 2006). Similarly, hate crime victims also experience intense and prolonged forms of psychological and physical trauma (Copeland & Wolfe, 1991).³

³ Both victims of gender-motivated crimes and victims of hate crime experience similar psychological consequences. Consequences include, but are not limited to, the following: (1) lowered self-esteem and loss of confidence; (2) depression, anxiety attacks, and sleeping problems; (3) shame, guilt, and confusion; and (4) fearful for their lives and feeling vulnerable (Copeland & Wolfe, 1991; Craig-Henderson, 2009; Herek & Berrill, 1992; Iganski & Lagou, 2009; Johnson, 2006; Perry, 2001). Likewise, the physical consequences of gender-motivated violence are just as alarming as the physical consequences experienced by typical hate crimes groups. For instance, women, in comparison to male victims, are more than two times more likely to be physically injured by partner, six

Last of all, a key characteristic of hate crime is that the impact of such crime extends far beyond the direct victim. Indeed, gender-motivated violence affects women as a group, similar to the ways in which “traditional” communities are affected by hate/bias (Gelber, 2000) because they are deliberate acts of intimidation against a historically oppressed group (Cogan, 2002). Violence against women does not only affect one woman; it strikes entire communities of women – both nationally and internationally – because such violence is used as a tool to intimidate and challenge women’s identity and self-worth (Craig & Waldo, 2007; Rayburn, Mendoza, & Davison, 2003; Saucier, Brown, Mitchell & Cawman, 2006). In this sense, it is very common for women – whether they have been victims or not - to live their lives governed by the fear of being victimized or re-victimized (Copeland & Wolfe, 1991). Thus, gender-motivated violence can instill fear into the minds of numerous women, regardless of previous victimizations or the very private nature of such violence, as women may hear about violence against other women. Consequently, various forms of anxiety, paired with a constant threat of violence, may restrict women’s movement, given that they are told they should not go out alone at night, they should watch what they wear, and/or they should “act” like women (McPhail, 2003).

In sum, critics exclude ‘gender’ as a protected status category under hate crime legislation because male violence against women does not typically occur between strangers, does not target a minority whom the perpetrator hates, and does not necessarily frighten beyond the initial target, thus instilling fear in other members of the group. Opponents also argue that violence against women is so frequent that it may overshadow other hate crimes if included in such legislation, and that violence against women is already accounted for in special laws and legislation. On the other hand, those in favor of the inclusion of ‘gender’ in hate crime legislation argue that gender fits within the hate crime paradigm because: (1) numerous instances of violence against women, similar to hate crime, are considered “motiveless crimes”; (2) minorities” per se are not the only ones who experience hate/bias language, as women worldwide endure similar forms of hate rhetoric by men; (3) some men abuse women with the intention of maintaining women’s second-class citizenship and subordinate status, all of which is equivalent to race-based crimes; (4) both victims of gender-motivated crimes and victims of hate crime experience intense and prolonged forms of psychological and physical trauma; and (5) gender-motivated violence affects women as a group, similar to the ways “traditional” communities are affected by hate/bias. That said, the arguments for and against gender inclusion in a hate crime paradigm raise serious questions, both in terms of Canadian policy implications, as well how gender-motivated violence is policed. Most importantly, these particular arguments may or may not be considered by police officers investigating instances of gender-motivated violence, a complex criminal investigation.

Complexities of policing hate crime, and complexities of policing gender-motivated hate crime

As first responders to a potential hate crime, police services across Canada acknowledge the severity of such crimes, as well as the impact hate crime has on the individual victim and

times more likely to receive medical attention, five times more likely to be hospitalized due to injuries, three times more likely to have to take time off paid or unpaid work to deal with the consequences associated with such occurrences, and twice as likely to report chronic and ongoing assaults (Johnson, 2006). Thus, both victims of gender-motivated violence and victims of hate crime share similar psychological, emotional, and psychological consequences (McPhail, 2003).

their communities. The Ontario Police College (2007), for example, published a document, titled "Responding to Hate Crime: An Ontario Police Officer's Guide to Investigation and Prevention" describing the seriousness of hate crime.

Hate crimes are often especially brutal or injurious; victim(s) usually feel traumatized and terrified; families of victims often feel frustrated and powerless; others in the community who share the victim's characteristics may feel victimized and vulnerable; hate incidents can escalate and prompt retaliatory action, and; hate crimes and hate/bias incidents create community wide unrest. (Ontario Police College, 2007, p. 5)

While it is important for police services to acknowledge and understand the severity of such crimes and incidents, it must be noted that hate crime investigations are amongst the most complex and challenging police investigations (Bell, 2009). Not only is it difficult to establish a motive in such cases; collecting evidence to support such a specific and definite motive is even more of a challenge (Bell, 2002; Hall, 2010). Furthermore, given that hate crimes are not a routine police call, very few frontline officers may gain the investigative experience needed for such complex cases. Instead, they may investigate gender-motivated violence within the mandatory charging policy framework, a routine for most Canadian officers, and lay traditional charges (Johnson, 2006). Arguably, these complexities are further complicated by the addition of gender motivation into the mix.

In short, it is particularly trying for police officers to gather the necessary evidence to support a hate/bias motive (Bell, 2002; Hall, 2010). As Cronin, McDevitt, Farrell, & Nolan, III (2007) explain,

Most of the difficulties in identifying bias crimes stem from requiring department personnel to make judgments about motivation. Although the motivation for a crime is a part of many investigations, it is not necessary for police officers to identify motivation to report most crimes. For example, determining the motivation for a motor vehicle theft is not necessary for police agencies in recording and reporting that crime to the FBI. In the case of bias crime, however, identifying motivation is necessary for any such crime to be identified and reported, given that the motivation defines the criminal action as being bias motivated. The difficulties of determining motivation of a potential bias crime primarily relate to ambiguity, uncertainty, and infrequency associated with decision making. (p. 217)

In addition, although legislative definitions seem clear, concise, and easy to police (see s. 718.2, s. 318.2, s. 319.1, s. 319.2, and s. 430 (4.1) of the Criminal Code of Canada), the term 'hate' is a subjective human emotion that is difficult to operationalize, characterize, and thus prove. Undeniably, it is a challenge to prove that someone felt a particular sentiment when engaging in criminal activity (McPhail, 2003). And in the context of gender-motivated hate crime, it may be near impossible to prove that a husband was motivated by hatred while abusing his wife, given the very intimate nature of the relationship (Perry, 2008). Furthermore, the term 'hate' may be an inaccurate depiction of how an offender truly felt during the commission of an offence. For example, a perpetrator may not have been motivated by "hate" while assaulting an individual, but instead be sending a message to a person perceived as "different" (Perry, 2008). Equally, a man may not attack a woman because he hates her, but rather, to send a message and to keep her "in her place" (Perry, 2001). Police officers responding to such instances may simply overlook a bias-motivation, whether it be intentional or unintentionally, given the complex nature of gathering evidence to support such a motive. Additionally, since hate crimes are considered infrequent events (Bell, 2002; Perry, 2001), patrol officers rarely gain the experience needed to

investigate such incidents (Bell, 2001, 2009; Hall, 2010). Chances are they will have never developed a routine to identify and classify potential hate crimes as they may have with more common types of crime (Cronin, McDevitt, Farrell, & Nolan, III, 2007). Police officers may never develop a routine to know what they are looking for; they may not know what kinds of questions to ask victims, suspects, and witnesses, or what kinds of cues help identify bias motivation (Cronin, McDevitt, Farrell, & Nolan, III, 2007).

When officers arrive at a potential hate crime scene, or any crime scene for that matter, many details of the incident are not available to them. The perpetrator is not present, there are few (if any) eyewitnesses, and only the victim may be present.⁴ Here, frontline patrol officers are faced with the task of making an appropriate judgment, usually based on uncertainties or personal biases (Cronin, McDevitt, Farrell, & Nolan, III, 2007), and as a result, the victim and officer may *instead* identify several alternative motivations for the crime. Both the victim and responding officer may believe that a “reasonable” motive for a crime was that it was just opportunistic, that the perpetrator was simply intoxicated, or even that the offense was just a domestic assault (Bell, 2009).⁵ Furthermore, one could also argue that mandatory charging policies in Canada – that require police officers to charge perpetrators of intimate partner abuse – influence police officers perceptions of gender-motivated hate crime. That is, frontline officers may be more likely to lay traditional domestic abuse charges when responding to gender-motivated violence, given that their routine commonly consists of applying charges of assault, sexual assault, criminal harassment, threats of violence, forcible confinement, trafficking in persons, and homicide (Johnson, 2006). Consequently, police officers responding to such occurrences are faced with this additional challenge, as it is much more difficult to identify a bias-motive than it is to work within the framework of mandatory charging policies, a routine practice for police officers.

Reluctance to police hate crime, and reluctance to police gender-motivated hate crime

A wealth of literature suggests that police officers are generally reluctant to identify hate motivation in a criminal investigation (Bell, 2002, 2009; Boyd, Berk, & Hamner, 1996; Hall, 2010; Saucier, Brown, Mitchell & Cawman, 2006). Research suggests that police officers in North America hold stereotypical perceptions about minority groups, which results in over-policing, racial profiling, excessive use of police force, and/or under-policing (Bell, 2002). Likewise, studies have found that police officers from England, Wales, and the U.S. are reluctant to enforce hate crime legislation (Bell, 2002; John, 2003; Hall, 2005, 2009), as there is often a substantial “disconnect” between what police departments reported investigating and what was included in the official statistics (Cronin, McDevitt, Farrell, & Nolan, III, 2007; McDevitt, Balboni, & Bennett, 2000). This suggests that there is an under-classification of crimes as hate crimes and a reluctance to report crimes as hate crimes. Reasons for this reluctance are widespread (see Iganski, 2001; Perry, 2001; Roberts, 1995; Christmann & Wong, 2010), but

⁴ Research suggests that victims are reluctant to identify a crime as a hate crime because of feelings of future vulnerability (Christmann & Wong, 2010; Iganski, 2001; Roberts, 1995; Perry, 2001). This makes it increasingly difficult to identify and gather subsequent evidence to support the claim that the crime was in fact a hate crime (Bell, 2009).

⁵ An ambiguous motive may also be a result of a ‘multiple-motivation crime’ involving incidents where bias was only one of several motivations (see Cronin, McDevitt, Farrell, & Nolan, III, 2007).

beyond the scope of this paper. Arguably, this general reluctance is amplified in the context of gender-motivated hate crime against women.

This reluctance extends to violence against women, in that some police officers are reluctant to investigate ‘traditional’ instances of violence against women, let alone gender-motivated hate crime against women. For instance, while police services – in many countries – have adopted policies to lay traditional criminal charges in domestic violence cases, police officers are still under-enforcing the law (Huisman, Martinez, & Wilson, 2005; Kazarian, Crichlow, & Bradford, 2007). One reason for this discrepancy is that police officers generally perceive the criminal justice system as an extremely clumsy tool for dealing with domestic violence cases (Hoyle & Sanders, 2000). Another reason why some officers are reluctant to police violence against women, and most certainly gender-motivated hate crime against women, is because of the ideologies and practices within some police departments, all of which represent increased militarization, police culture (e.g., us-versus-them), lack of racial and gender diversity, and racial profiling (Huisman, Martinez, & Wilson, 2005). Furthermore, police departments, like many other male-dominated occupations, define themselves through masculinity and the subordination of women (Hunt, 1990; Martin & Jurik, 1996; Prokos & Padavic, 2002). In fact, masculinity is an ethos that lies deep within the fundamentals of policing itself (Waddington, 1999).⁶ These sexist ideologies typically reflect the mainstream notion that gender-motivated violence is a result of men’s assumed right to control and demand obedience from their female partners (Copeland & Wolfe, 1991), and not a symptom of hatred and bias towards women. Cultural support reaffirms this notion, in that “men who assault their wives are actually living up to cultural prescriptions that are cherished in Western society – aggressiveness, male dominance, and female subordination – and they are using physical force as a means to enforcing that dominance” (Dobash & Dobash, 1979, p. 24), not because men hate women in general. That being said, police officers, too, may perceive violence against women as a power struggle between intimate parties and not a hate crime, given that research suggests that male officers typically equate women with feminine moral virtues, the domestic realm, formal rules, administration, social service, cleanliness, and emotions (Hunt, 1990). Arguably then, the very fabric that makes up a police institution represents male masculinity and male domination over women (Hunt, 1990; Martin & Jurik, 1996; Prokos & Padavic, 2002), all of which may contribute to their perceptions of gender-motivated hate crime against women.

Police services in North America have traditionally been White, male dominated organizations reflective of society’s mainstream values and ideologies (Bell, 2001, 2009; Hall, 2005, 2010; Huisman, Martinez, & Wilson, 2005; John, 2003). Police officers are generally “ordinary” men or women who share the normative social ethos representative of sexism and

⁶ In support of this perspective, U.S. research suggests that hegemonic masculinity is a central defining concept in their culture of police work (Prokos & Padavic, 2002). Empirical research even suggests that police officer recruits are taught that dominant masculinity is necessary to perform their duties as cops. Specifically, as Prokos & Padavic (2002) note,

While there may be no law against women (or bitches) entering the police academy, the hidden curriculum there taught recruits that dominant masculinity is necessary to performing their duties as cops. Women’s presence at the academy facilitated these lessons by indicating the boundaries surrounding masculinity (accomplished through differentiation) and by highlighting masculinity’s superiority over things not-masculine. Specifically, male students learned that it is acceptable to exclude women, that women are naturally very different from men and thus can be treated differently, that denigrating and objectifying women is commonplace and expected, and that they can disregard women in authority. (p. 455)

racism (Hall, 2010; Prokos & Padavic, 2002). Police culture is not immune to pre-conceived biases about who are considered the typical perpetrators and victims of hate (Bell, 2009), nor is it free of misogynistic attitudes (Katz, 2006). Canadian hate crime statistics affirm this position, as they reveal that race or ethnicity, religion, and sexual orientation are the most commonly identified motivations for police-reported hate crime (Dauvergne & Brennan, 2011), and not gender-motivated violence. Thus, it may be the case that police officers are reluctant to investigate gender-motivated hate crimes as such because they are not the “typical” hate crime victims.

The “typical victim syndrome” may have a devastating effect on hate crime investigations because unlike most traditional crimes, police officers play a different role when responding to such crimes. Specifically, police officers have additional and preliminary discretion to identify what is and is not considered hate crime. This discretion may be problematic when policing violence against women under hate crime legislation, given that women are not considered the typical victims (DeKeseredy, 2009). Furthermore, as stated previously, some police officers are reluctant to investigate both hate crime *and* violence against women in general, let alone bias-motivated violence against women.

Although Canadian and U.S. hate crime legislation recognize women as a protected category, the fact of the matter is that hate crime laws do not enforce themselves; police officers do (Bell, 2009). Police officers, however, face numerous challenges when investigating hate crime. Among the barriers is the fact that hate crimes are typically more complex to investigate than other crimes. They are faced with the difficulty of identifying and gathering evidence to support a motive (Bell, 2002, Hall, 2010), all of which are further complicated by the addition of gender motivation into the mix. Moreover, there is a general reluctance within the White, male-dominated police culture to identify hate motivation (Bell, 2002, 2009; Boyd, Berk, & Hamner, 1996; Hall, 2010; Saucier, Brown, Mitchell & Cawman, 2006). Similarly, some police officers are reluctant to investigate violence against women in general (Huisman, Martinez, & Wilson, 2005; Kazarian, Crichlow, & Bradford, 2007). In the context of male violence against women as hate crime, police may be even more reluctant to investigate such crimes because women are not considered the ‘traditional’ hate crime victim, nor do police officers routinely investigate such matters (DeKeseredy, 2009). Still, despite the important roles police officers play in any hate crime investigation, Canadian research has not empirically examined police officers’ response to hate crime generally, or perceptions of gender-motivated violence against women specifically.

INVESTIGATING GENDER-MOTIVATED VIOLENCE: A POLICE PERSPECTIVE

In an effort to uncover police officers’ perception of gender-motivated violence, as well as what factors shape their perceptions, semi-structured interviews were conducted using vignettes, sentence completion tasks, and an interview guide. Interviews were conducted during the months of December, January, and February of 2010 and 2011 at four police stations in the southeastern region of Ontario, Canada. In order to recruit participants, the Superintendent of Police Operations was contacted. Shortly after, a convenience sample of nine middle-upper ranking police officers was attained through “word of mouth” tactics and a letter of invitation. Interviews were arranged via email communications, and interview sessions took approximately 45 minutes to complete.

In the first segment of the interviews, participants were asked to read five originally constructed vignettes featuring instances of violence against women and establish a criminal

motive (see Appendix I). Follow-up questions were administered after the first round of questions, all in an effort to understanding why each vignette was or was not considered a hate crime. Each vignette was slightly different, although traditional hate crime attributes (i.e., hate language, absence of motive, excessive violence, lack of provocation, long-term harm, and intimidation of an entire group) were present in each situation. Traditional hate crime variables were integrated with each vignette as a way of uncovering if participants could identify such traits in the context of violence against women. Vignettes were also chosen for this study because past research on perceptions of hate crime have used similar approaches, as it provides a strong methodological approach to understand perceptions of hate crime (see Cowan and Hodge, 1996; Marcus-Newhall, Blake, & Baumann, 2002; Miller, 2001; Rayburn, Mendoza, & Davison, 2003; Saucier, Brown, Mitchell & Cawman, 2006). Furthermore, a person-perception vignette method is particularly useful in the investigation of hate crimes because of the sensitive nature of such a topic (see Rayburn, Mendoza, & Davison, 2003). Vignettes also aid in capturing police officers' automatic response to gender-motivated hate crime against women. By manipulating hate crime variables in each vignette, a substantial understanding of hate crime perceptions was revealed (as per Cowan & Hodge, 1996). Likewise, hate crime variables that specifically influenced police officers' perceptions of gender-motivated hate crime against women were uncovered.

In the second segment of the interviews, sentence completion tasks were voluntarily completed by participants, all in an effort to establish their basic understanding of hate crime, as well as hate crime victims and perpetrators (see Appendix II). In so doing, Craig and Waldo's (1996) sentence completion tasks model was emulated in this study, and participants were asked to complete the following phrases: (1) the typical hate crime involves...; (2) the typical hate crime is committed against...; (3) the typical hate crime is committed because...; (4) the typical victim of a hate crime can be described as...; and (5) the typical perpetrator of a hate crime can be described as... (Craig & Waldo, 1996). Follow-up questions were administered, depending on how participants answered each open-ended question.

To finish, participants were asked a series of close-ended questions regarding hate crime, violence against women, direct experiences with hate crime and violence against women, and standard demographics (see Appendix III) (see Cowan & Hodge, 1996). Initially, police officers' demographics and policing experiences were uncovered, all in an effort to understand if and how these variables influence their perceptions of gender-motivated hate crime. Follow-up questions similar to the questions asked during the sentence-completion tasks were administered, depending on participants' initial responses.

After each interview was conducted, audio recorded interviews were transcribed. In order to uncover and develop themes from the interviews, data were analyzed by examining the transcribed notes and quotations from each participant. Here, the authors analyzed each response as it related to the research questions. A combination of the simultaneous and thematic coding techniques were then used, all of which involved applying multiple codes to data. For example, the first code was used to identify the general theme of the data, such as "violence against women cannot be hate crime". The second code identified the more specific or secondary theme, such as "hate crime victims are typically based on one's race, religion, and ethnicity, not gender or sex".

During the next stage of the analysis, the authors identified common overarching themes and sorted all of the data by general themes. The data was then organized into a two-column table. Column one included the original interview notes and quotations, and column two

included notes corresponding to participants' arguments for or against the inclusion of gender in hate crime legislation. Once the authors completed this stage of the analysis, they examined all themes to determine which ones were consistently surfacing. Once the common secondary themes were identified, they sorted the data based on those themes. Each interview was organized by major theme, secondary themes, supporting quotes, and side notes, and the authors identified how each theme was connected.

REVEALING POLICE OFFICERS' PERCEPTIONS OF GENDER-MOTIVATED VIOLENCE

In short, the results of this study suggest that police officers do not recognize violence against women as hate crime. In discussing their perceptions of gender-motivated violence, police officers revealed their rationales for or against the inclusion of gender in a hate crime paradigm, as well as exemplified which accounts stand tall in practice. An array of factors and conditions influenced their perception of gender-motivated violence. However definitional constraints with the legal terms was most influential in this study. That is, overreliance on the Canadian Criminal Code resulted in participants finding it difficult to meet the high thresholds outlined in hate crime legislation. As well, narrow legalistic definitions of the term "hate" challenged police officers' understanding of bias-motivation, all of which led to the perception of ambiguous motive in the cases of violence against women. Restrictive guidelines as to who are considered traditional hate crime victims – as outlined in the Code – also challenged police officers' perception of gender-motivated hate crime. These perspectives paralleled the arguments for the exclusion of gender in hate crime legislation (see Copeland & Wolf, 1991; DeKeseredy, 2009; DeKeseredy, Perry, & Schwartz, 2007; Gelber, 2000; Lynch, 2005; McPhail, 2003). Consider the following themes in more detail.

“What does it say in the Criminal Code?” Overreliance on hate crime legislation

During the interview sessions, it became apparent that police officers relied on legalistic definitions when investigating hate crimes, a non-routine call. As a result, they framed their concept of 'hate crime' in a manner similar to the narrow definition outlined in the Canadian Criminal Code, hindering their ability to conceptualize violence against women as hate crime. When asked about their perceptions of hate crime in general, participants instinctually turned to their Code for preliminary guidance. Participants then described how the Code was their main resource for investigating and identifying such crimes. As one participant noted,

Well, again, it would...you would have to, like...for us, as police officers, we would have to go to our...our Criminal Code. So...you know, the typical hate crime is...delineated, the actual hate crime...is delineated within our criminal code, so...it is codified, it says what a hate crime is. As far as what we would look for...for hate motivation, it's it is spelled out in...section 718. So there are sentencing principles that have to be considered during the sentencing phase. (Officer Harris, male)

Similarly, participants continued to discuss the term "hate crime" as it is codified in the Code, in that they discussed how evidence in a hate crime case should suggest a perpetrator's extreme hatred. Others noted that hate crimes involve the promotion of hatred in a public place, another codified offence. Consider the following perspectives:

In Canada, hate crime is defined as...extreme hate and fuelling indifference. (Officer Willis, male)

Hate crime is...inciting genocide, death...against another group or person. (Officer Watt, male)

These finding comes as no surprise, given that ‘advocating genocide’, ‘public incitement of hatred’, and ‘wilful promotion of hatred’ are criminal offenses under Canadian hate crime legislation. However, in relying on these provisions, officers may be neglecting the broader conceptualization implied in the sentencing enhancement clause. Nonetheless, In support of this important finding, one participant stated that police officers have to go by the literal definition of a hate crime as is outlined in the Code – S. 318 provisions specifically - making it a challenge to identify violence against women as hate crime.

...when you interview...police officers, because we deal with the...literal definitions...of the specific term, it makes it a little more difficult to...look at... violence, specifically violence against women, violence against anybody, as...as hate biased... (Officer Levy, male)

Participants also indicated that men may treat women differently, but such acts cannot constitute a hate crime because they occur within a relationship, and do not involve extreme hatred, and certainly don’t involve any sort of “incitement” to hatred among others.

In contrast, however, some participants did acknowledge that male violence against women is motivated by power and control, not hate. As one police officer put it,

I...look at this as a situation where a male subject, just so happens to be a male subject, demonstrates controlling behaviour, impulsive behaviour, violent behaviour, but to define it as a hate...crime per se, I just can’t make this correlation. (Officer Levy, male)

Here, “hate” crime is dissociated from control, power, and subordination. This suggests again a very narrow understanding of “hate” as intended in the context of this sort of violence, as does the following very explicit statement:

Violence against women is not hate. It would be a...disservice to hate crime legislation and only take away from the spirit of a hate crime...genocide and irrational contempt. (Officer Willis, male)

To exclude “crimes of control” from their definitions of hate crime reflects officers’ failure to comprehend the deeper underpinnings of hate crime. Recall the operating definition offered at the outset of this paper, which explicitly connected bias motivated crime to power and control. This contrasts dramatically with officers’ standard “dictionary” definition of hate crime. This trivializes and reduces this complex category of crime to its basest meaning, reflecting dislike, loathing, or animosity. Hate crime, then, comes to be seen in narrow, literal terms as an outcome of emotion or state of mind.

“To prove a hate crime, you have quite the case on your hands.” Establishing motive

Police officers were well aware of the procedures to investigate hate crime, given that the majority of them had responded to such incidents. They did however describe the difficulty of gathering evidence to establish a motive of hate - a symptom of meeting the high threshold outline in the Criminal Code – by discussing the difficulty of identifying a motive of hate in cases involving male violence against women. For example, when asked to explain why violence against women is not hate crime, participants discussed the challenges of gathering

substantial evidence to establish a motive of hate, a threshold outlined in the Code. Most participants agreed that it is difficult to establish a bias-motive in domestic violence cases because police officers are required to provide specific evidence to classify a crime as a hate crime. In other words, the evidence must substantiate a motive of the crime, and the evidence must also suggest that the crime was deliberately committed against an intended target and thus motivated by hate or bias. Officers Geller and Harris support this viewpoint as they provided the following statements:

Well you'll need evidence that...it was...perpetuated against the victim only because of that particular aspect. (Officer Geller, female)

...evidence that the offense was motivated by some sort bias or prejudice or hate...based on unidentified factors. (Officer Harris, male)

Accordingly, many participants were under the impression that they could not gather substantial evidence to meet the high thresholds outlined in the Code, especially in cases of male violence against women. Consider the following perspectives:

From a policing perspective, my experience has been...trying to...figure out...put the puzzle together in order to present it for a court in a specific...in a...fashion...that removes any kind of reasonable doubt...because...it's very formal...and the threshold in order to succeed is very...really quite high. So unless you can...and we use various techniques to try and establish that...whether through undercover investigations, wiretap investigations, just the collection of evidence, witness statements, all of these things factor into...our ability to...establish whether it was a hate crime or not...or whether it is just a crime or not, those are the things we have to do to establish any kind of crime. When you put it in the hate category, the threshold moves even higher. (Officer Levy, male)

To prove a hate crime, you have quite the case on your hands. (Officer Davis, male)

When asked to discuss why violence against women is not hate crime, participants described how police officers must consider the totality of any criminal investigation before laying a charge, given that they must meet the high threshold outlined in hate crime legislation.

Participants indicated that hate crime investigations are much more complex and time consuming than traditional crimes, and that it becomes an even greater challenge for officers to lay hate crime charges after one domestic incident, or at first glance. As Officer Davis put it,

If you want to...you know, to prove a hate crime, you would be certainly looking at a...at a bigger case, more involved case, more complex, more investigation...you have to prove it! And is there a judge that's gonna believe what you're saying? What would be the reason to go down the road of a hate crime? (Officer Davis, male)

Officer Levy also provided a noteworthy statement in support of this perspective.

...there is not enough background information in...in terms of we have one situation with...with some gaps, obviously in the information. I don't...see...enough information to...establish how long they have been in a relationship. I don't have any other...corroborating...facts that support...a leap and logic to suggest it is a hate crime. (Officer Levy, male)

Simply put, participants could not determine a perpetrator's mens rea of hatred based on one incident of domestic violence or case involving male violence against women.

We don't know his mindset so you can't say that [that it was a hate crime]. (Officer Gellar, female)

It's hard for me to draw the...to connect those dots in between the two [between the motive and crime] based on one incident. (Officer Davis, male)

Many participants noted that often times, there is not enough information to conclude with confidence that a crime was motivated by hatred or bias, especially in cases of violence against women.

“I’ve never thought of hate crime as crimes against...women before.” Typical victims of hate

Although participants had a solid understanding of the causes of hate crime, they consistently described how these crimes relate to race, religion, and sexual orientation. That is, the majority of participants noted that evidence in a hate crime case should point towards some cultural or racial bias and not gender animus. As Officers Shaw and Levy noted,

...we [as a society] always view hate crime as maybe something against race... (Officer Shaw, female)

Well it certainly depends on...on circumstances. A lot of...hate crime is based on religion, colour...sexuality. (Officer Levy, male)

The majority of participants also expressed their difficulty with defining violence against women as hate crime. Instead, they generally perceived such crimes as attacks against racial or religious groups. As Officer Carter put it,

I've never thought of hate crime as crimes against... women before. I've never viewed it that way before. Hate crime to me, when I think of hate crime, I think of graffiti against... cultures, against Jewish people, against Blacks, against, you know...synagogues... (Officer Carter, female)

Understandably, participants found it difficult to define violence against women as hate crime because they identify race, ethnicity, and religion as core victim groups, not gender or sex.

Consider the following statements:

...we always view hate crime as maybe something against race... (Officer Shaw, female)

I still see a hate crime as a religious type of...you know, like an attack against a religion and an attack against a group of... people from a certain...ethnicity. (Officer Davis, male)

These findings come as no surprise because section 318(4) of the Criminal Code defines “identifiable groups” of hate crime as those distinguished by colour, race, religion, ethnic origin, or sexual orientation. Again, participants’ overreliance on the Code influences their perception of hate crime and gender-motivated hate crime. Naturally, participants understood hate crime as it is codified in hate crime legislation. As one participant put it,

...I would have to look at the criminal code to be 100 percent sure, but I am guessing...race...racial slurs, slander in a newspaper or...graffiti...that's derogatory towards that group. (Officer Carter, female)

In sum, participants were bound by the Criminal Code, in that they found it difficult to meet the high thresholds outlined in hate crime legislation. Similarly, narrow legalistic definitions and constricting guidelines as to who are traditional hate crime victims challenged police officers’ perception of gender-motivated hate crime, as they did not perceive violence

against women as hate crime. Their general understanding of the typical hate crime victim and motive for male violence against women shaped their perceptions of gender-motivated violence, all of which stems from: (1) the broader cultural interpretations of hate crime and gender; and (2) the police culture which is a reflection of society's sexist and racist values.

CONCLUSION

Based on these police narratives, hate crime laws have a considerable influence on how police officers perceive hate crime in general and gender-motivated hate crime specifically. Police officers' commitment to selective provisions of the Criminal Code of Canada has a major influence on their perception of gender-motivated violence. Unfortunately, these perspectives represent narrow and legalistic hate crime definitions, all of which reflect police officers' inability to recognize that biased beliefs are entrenched in the structural and cultural milieu in which groups interact (Perry, 2003). That being said, the majority of police officers in this study do not recognize the socio-cultural contexts within which these crimes occur, nor do they understand how hate crimes act as a mechanism of power, especially in the context of gender-motivated violence – in spite of the fact that some recognize violence against women as a crime of control. They are apparently unable or unable to also see hate crime as a crime of control. As a consequence, since the Code is narrow in scope, police officers find it difficult to equate violence against women with hate crime, and appear less likely to investigate instances of violence against women as such. Furthermore, it appears as though police officers use the Code to support frequently cited arguments in the renunciation of gender as a protected status category. For example, officers presented the idea that for a crime to be defined as a hate crime, the victim and perpetrator ought to be strangers (Gelber, 2000; Lynch, 2005; McPhail, 2003). They then noted that crimes against women are often perpetrated by someone the victim knows, thus arguing that gender does not qualify as a motivator for a hate crime because it is not consistent with the definition of a hate crime (Gelber, 2000; McPhail, 2003). Lawrence (1999), however, provides a valuable rebuttal for this exclusion of gender as he said,

The existence of a prior relationship between victim and perpetrator, moreover, is not incompatible with the existence of a bias crime. The lack of prior relationship may be a description of most bias crimes, but it is not a *sine qua non* [an indispensable and essential action, condition, or ingredient] for all bias crimes. (p. 16)⁷

Participants also indicated that most instances of violence against women do not involve the targeting of a minority group whom the perpetrator hates, and that the inclusion of gender in hate crime legislation may stretch hate crime legislation too far (Lynch, 2005). In part, this is because participants argue that violence against women is so prevalent that its inclusion as a status category would make the other status categories (i.e., race, ethnicity, and religion) appear less important and less frequent in comparison (McPhail, 2003). Goldscheid (1999), however, responded to this argument by noting:

⁷ Certainly many hate crimes are committed against neighbours or coworkers. For example, Juan Varela, a Mexican-American male, was gunned down by his White Anglo-Saxon neighbour on May 6, 2010 after screaming at him, "You fucking Mexican, go back to Mexico". Varela's brother and mother watched the murder happen right outside of the victim's home (Tucson Citizen, 2011). With this example in mind, making a prior relationship a disqualifying factor of hate crime status would exempt these types of crime (McPhail, 2003). Similarly, men who hate or maintain bias towards women can be in heterosexual relationships (Lynch, 2005). Thus, even though many women know the men who hurt them, the victim-perpetrator relationship should not take away from the fact that women experience similar forms of victimization to "traditional" hate/bias crime victims (Gelber, 2000).

Perhaps the principal or underlying objection to treating domestic violence and sexual assaults as civil rights cases is the staggering number of those crimes committed each year. Yet it would be an absurd perversion of our justice system if the prevalence of a problem became the justification for ignoring it. (p. 151)

Still, these officers fail to understand that gender-motivated hate crimes against women are part and parcel of the issues raised by opponents of gender inclusion, in that such violence may constitute “crimes of passion” for example. However, some instances of male violence against women coincide with the theoretical underpinnings of hate crime: domination, subordination, patriarchy, hyper-erotic nationalism, White supremacy, and a predatory corporate capitalism (DeKeseredy, 2009). Equally, participants fail to recognize that some men abuse women “for being uppity, for getting out of line, for failing to recognize ‘one’s place’, for assuming sexual freedom, or for behaving no more provocative than walking down the wrong road at night in the wrong part of town and presenting a convenient isolated target for group hatred and rage” (Brownmiller, 1975, p. 281). In this respect, and as stated previously, both hate crimes and some instances of male violence against women are used as mechanisms of power and oppression, as well as used with the intention of re-establishing the threatened (real or imagined) hegemony of a perpetrators’ group, all while re-establishing the subordinate identity of the victim’s group (Perry, 2001).

Although legislative definitions may seem clear, concise, and easy to police, police officers are faced with the challenge of gathering sufficient evidence – as outlined in the Criminal Code – to support a bias motive (Bell, 2009). That said, police officers in this study are challenged with the task of meeting the high threshold outlined in the Code. They too believe the term ‘hate’ is a subjective human emotion that is difficult to operationalize, characterize, and thus prove, as they discuss the challenges of proving that someone felt a particular sentiment when engaging in criminal activity (McPhail, 2003). Since gender-motivated hate crimes are considered more complex and even rarer than traditional hate crimes (DeKeseredy, Perry, & Schwartz, 2007; DeKeseredy, 2009), the results of this study suggest that there is a high probability that frontline officers will find it difficult to establish a gender-biased motive. This may inhibit police officers from classifying gender-motivated violence as hate crime, given that they may not believe that they can gather substantial evidence to meet the high threshold outlined in the Code. And since participants do not know a perpetrator’s mindset in potential hate crime situations, they find it difficult to establish a motive of hate. These perceptions highlight what is often seen as a key challenge of policing hate crime (see Bell, 2001, 2009). Hate crime literature discusses how the term ‘hate’ is rather difficult to enforce, given the difficulties associated with determining motivation of a potential hate crime, all of which relate to ambiguity, uncertainty, and infrequency associated with decision making (Cronin, McDevitt, Farrell, & Nolan, III, 2007; Hall, 2010; Perry, 2001). Nevertheless, as Lynch (2005) noted,

Yes, gender is a complex category for crime motivation, but just because gender-based hate crime is a difficult category to deal with does not make its prevalence any less, and since when was the presence of too many crimes good reason to not address it? To say that having hate crime laws for gender bias would overwhelm the system merely indicates the urgency of confronting such hate violence... (p. 4)

Lastly, participants’ understanding of the “typical” hate crime victim, as is defined under section 318(4) of the Criminal Code, affects officers’ ability to identify women as hate crime victims. That is, the majority of police officers in this study have trouble identifying violence against women as hate crime because they perceive hate crime as race or religious-based crime.

This finding comes as no surprise because the majority of hate crime discourse has historically been gender-blind (McPhail, 2003; McPhail & DiNitto, 2005). Likewise, participants frame their ideas in much the same way as the hate crime literature, in that: (1) the triad of race, ethnicity, and religion are considered the “standard” or “core” status attributes of a hate/bias crime (Perry, 2001; McPhail, 2003); and (2) hate crimes are typically committed on the basis of one’s race, religion, sexual orientation, or ethnicity/national origin (McPhail, 2003; McPhail & DiNitto, 2005; Perry, 2001). Many participants also noted that male violence against women is motivated by power and control, not hate. This perspective may be a symptom of the masculinist structure inherent in police culture, all of which reflect society’s sexist and racist ideologies (Bell, 2009; Hall, 2010). Ironically, participants’ understanding of violence against women as “crimes of control” actually contradicts their inability and unwillingness to see it as a hate crime. Theoretically and conceptually, participants’ description of these incidents fall within the definition of a hate crime (i.e., participants describe violence against women as a symptom of male domination, female subordination, patriarchy, hyper-erotic nationalism, White supremacy). Participants, however, fail to recognize that correlation, due primarily to the fact that they must adhere to restrictive legislative definitions outlined in the Code. Both Gelber (2000) and Lynch (2005) provide helpful rebuttals to these assertions,

...many crimes involve a crossover of categories. For example, if a black gay man is attacked in a hate crime, it may be impossible to determine to what extent the attack occurred because he was black and to what extent the attack occurred because he was gay. (Gelber, 2000, p. 278)

In sum, North American police officers are typically “ordinary” men and women who have grown up in a misogynistic and sexist society. We all have (Katz, 2006). Throughout our personal lives, social settings, and institutional arrangements, men have historically maintained the economic, social, and political power (Katz, 2006) to control, through physical or coercive force, women’s sexuality, labour, and civic participation (Daly & Chesney-Lind, 1988). Consequently, since male violence against women is statistically normal (DeKeseredy, 2009; Katz, 2006), it appears that police officers do not perceive such instances as hate/bias-motivated, all of which is justified by Canadian law (i.e., the Criminal Code).

RECOMMENDATIONS

As simple as it may seem, more research is needed to better understand all aspects of violence against women as hate crime. As DeKeseredy (2009) noted less than five years ago: ...it may seem painfully obvious, but worth stating again nonetheless: more empirical, theoretical, and political work on gender-bias hate crime is needed. Of course, the same can be easily said about any given type of hate crime throughout the twentieth century (Perry, 2006). Nevertheless, as is the case with all types of social scientific inquiry, regardless of how much attention is devoted to hate crime, the study of any variant of this social problem will always be incomplete. (p. 166)

Researchers, academics, and government officials should continue to document the nature and frequency of hate crime in Canada, all as a way of justifying police officers’ response to such disturbing occurrences. Similarly, to better understand the causes and consequences of hate crime in general and gender-motivated hate crime specifically, McPhail (2003) reminds us that:

Better data collection must be mandated to enable researchers and advocates to track the number of hate crimes reported, the number of hate crimes charged, and the subsequent

number of prosecutions, both successful and unsuccessful, including the category of gender. (p. 141)

Research could include surveys of police and prosecutors as a way of determining their level of knowledge and commitment to prosecuting gender-motivated hate crime (McPhail, 2003). Equally, more research is needed to better understand the multiple status categories necessary to determine the intersectionality between gender and other status categories such as race, religion, and sexual orientation (McPhail, 2003). Research will aid in educating women's advocacy groups about gender-motivated violence in hate crime policy as a way of monitoring such policy implementations, as well as the training of law enforcement officials (McPhail, 2003), all of which are beyond the scope of this paper.⁸ Furthermore, more research may help educate staff of battered women shelters and sexual assault programs. This is important because they often train police officers about the connections between hate crime and violence against women (McPhail & DiNitto, 2005). Lastly, more empirical, theoretical, and political work on gender-bias hate crime will enable scholars, policymakers, practitioners, and laypersons to write editorials and educate the public about how violence against women can be viewed through a hate crime lens (McPhail & DiNitto, 2005).

From a very general perspective, the results of this study suggest that the legal definition of 'hate crime' must be universalized in Canada. In particular, in place of the narrow and restrictive definitions of hate crime, a more comprehensive sociological definition is needed. Thus, hate crime must be acknowledged, understood, and policed as:

...any act of intimidation, harassment, physical force directed against any person, or family, or their property or advocate, motivated by either in whole or in part by hostility to their real or perceived race, ethnic background, national origin, religious belief, sex [and gender], age, disability, or sexual orientation, with the intention of causing fear or intimidation, or to deter the free exercise, or enjoyment of any rights or privileges.

(California Department of Justice, 1986, as cited in Copeland & Wolfe, 1991, p.8)

If scholars, practitioners, and policymakers can agree on a universal hate crime definition similar to the aforementioned, police officers, like other people, may be less confused about what constitutes 'hate crime'. Equally, police officers may be less reluctant to investigate the already ambiguous and fluctuating term if one universal definition can establish itself over time. If police officers are less reluctant to investigate hate crime in general, they may also be less reluctant to investigate male violence against women as hate crime. Likewise, for police officers to better recognize that *some* crimes against women constitute hate/bias crimes, 'gender' or 'sex' as a protected category must be included in all facets of Canadian hate crime legislation. That is, there must be consistency in how hate crime are defined, both under the Code's sentencing enhancements and "classification" of hate crime identifiable groups. If these requirements have been met, police officers may be more willing to investigate instances of violence against women as hate/bias crime. The results of this study parallel these recommendations.

STRENGTHS AND LIMITATIONS

Like any qualitative or quantitative examination, this study is not without limitations. That being said, the following are a detailed list of the limitations of this study, all of which have been taken into consideration during the analysis of the results:

⁸ The authors are currently developing a manuscript that investigates hate crime training for police officers in Canada.

- This study is not generalizable, nor is it representative of police officers' perceptions of hate crime, violence against women, and gender-motivated hate crimes against women in Canada. Nevertheless, quantifying such a dynamic and theoretical research project was unfitting, given that: (1) 'hate crime' is a complex term with multiple meanings; (2) different people provide different meaning to *any* experience, term, and object, to name a few; and (3) such meanings are dynamic and constantly changing (Cho & Trent, 2006; Denzin & Lincoln, 2008). Thus, since 'hate crime' is difficult to define, operationalize and ultimately codify (Perry, 2001; McPhail, 2003; Copeland & Wolfe, 1991), unraveling police officers' perceptions of gender-motivated hate crime against women via quantitative methods would have been an inappropriate method of explaining the three-dimensional intersectionality between the nature of human interactions, meaning that they assign, and their own personal experiences (Braithwaite, 1993; Young, 2004).
- Participants were attained through "word of mouth" tactics and a letter of invitation via email. This may have been problematic for the following reasons: (1) upon completion of an interview, participants may have told other potential participants – who may also maintain similar beliefs and perspectives as their colleagues/friends – about the nature of the study, how they responded to questions, and the overall purpose of the study; and (2) since a high-ranking police official disseminated a letter of invitation to his colleagues, other lower-ranking officers may have felt obligated or compelled to participate in the study, and/or a select few officers may have received an invitation. Nevertheless, the participant sample was relatively diverse.
- As a way of recruiting police officers for the study, the authors had an in-depth conversation with one of the participants prior to conducting the interview. For that very reason, this particular officer was well aware of the nature of the study. Not only did he seem more prepared than other participants for the interview, his responses may have actually skewed the results. While this may be true, the fact of the matter is that his responses did not affect the overall results of the study because the majority of participants, unlike this particular participant, did not perceive violence against women as hate crime. On the upside, drawing attention to this issue can have an impact on participants' interpretations.
- From theory to methodology, the author's research agenda was not impartial, nor was it bias free. However, in an effort to forewarn the reader of such biases, the theoretical framework and analysis summaries were organized in a manner that illustrated subjectivity through use of transparency. That is, the authors provided the theoretical framework to investigate police perceptions of gender-motivated hate crime against women (Becker, 1995; Denzin & Lincoln, 2008).

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APPENDIX I

Vignette One

Edward took the day off work to be with long-time girlfriend Sheila. Edward planned a romantic day of walking along the waterfront, enjoying a picnic lunch, and going to a fancy restaurant for dinner. Up until dinner, the couple was having a wonderful time. But as the two sat down in the restaurant, Edward ordered a few drinks. This was problematic because he was known as an aggressive drinker. Sheila didn't say anything though. She felt that Edward had given her an amazing day and was allowed to have a drink or two.

After numerous drinks, Edward became belligerent. He began commenting on Sheila's body, and even told her that he wanted to have sex with some of her girlfriends. Sheila was enraged! She got up and walked right out of the restaurant. Edward soon followed. Outside, Edward grabbed Sheila by the arm and yanked her towards his car. "Who the fuck do you think you are? You're just some stupid bitch, just like every other broad I know!" At this point, Edward gripped Sheila by the throat. "Don't you ever leave me like that! I own you!" Sheila suddenly felt a punch to her face; Edward had just broken her nose.

For the next few months, Sheila was in considerable pain and didn't leave her house much. When her friends came over to visit, they saw her in pain. Although Sheila never told them what really happened, they had their suspicions. And as a result of this traumatic event, Sheila's friends began to question the very decency of men. For months, the fear of being victimized was in the back of their minds.

Vignette Two

Evan and Rita had been married for nine years. Over the course of their marriage, Evan became abusive. Similar to other women in abusive relationships, Rita thought that the aggression might stop. Sadly though, it only got worse.

One night, Evan came home after a terrible day at work. Dinner wasn't ready for him. Immediately, Evan screamed at Rita. "Hurry the fuck up and make me dinner. I shouldn't even be saying this. You should just know your role! If you can't make dinner, what the fuck are you good for?" Rita sat silently at the dinner table while Evan began to eat. Suddenly, Evan stood

up, flipped the table over, and roared, “You call this dinner? What the fuck is this shit? I work long days to provide for us and this is all you can make? Typical of you housewives!” In a fit of rage, Evan grabbed a steak knife and stabbed his crying wife in her chest.

Evan fled the scene while Rita dragged her body to a phone. Luckily, Rita survived, but her life would never be the same again; for months, Rita lay in stable condition. And just as unfortunate, police never found Evan. As her story made frontline national news, Rita and other women felt very unsafe.

Vignette Three

At approximately 1:30AM on a Sunday morning, Fiona got into an argument with her boyfriend. As a result, Fiona decided to walk home. As she passed by a dark city park, she was suddenly attacked at knifepoint. Trying to scream for help, the man dragged Fiona’s struggling body into the park. The hooded man then beat her within inches of her life. In the morning, the woman’s unconscious body was found by two joggers. Police were called to investigate the crime scene.

During an interview with Fiona, police discovered that she was not sexually assaulted. As well, none of her personal belongings were taken. It appeared as though the attack was a motiveless crime. Fiona also told police officers that the perpetrator kept referring to her as a “fucking bitch” and a “dirty whore” during the attack.

As a result of the attack, Fiona suffered tremendous pain in her lower spine. Doctors told her that her back would never be the same again. And not only was Fiona fearful of her own wellbeing, women in the neighbourhood were also afraid of walking through the park at night. Overall, the whole community was affected by this random act of violence.

Vignette Four

On a Monday afternoon, Jerry lost his job. After ten years of loyal service, Jerry was another victim of company downsizing. On his way home, Jerry didn’t know how he would break the news to Ann, his long-time cohabiting partner. Instead of going home, Jerry drove around the snowy streets to think. When Jerry finally built up the courage to come home, he walked through the front door with his head down. Ann instantly asked what was wrong. Jerry wouldn’t reply. She became worried and continued asking what was wrong. But the more she asked, the more he became irritated. Finally, Jerry lashed out and told her that he just lost his job.

“I lost my goddamn job! Now we’re going to lose everything! And it’s all your fault we have no money to fall back on! You’re just like every other woman! Spending all of us men’s hard earned money on bullshit!” Ann was speechless. As she tried to speak, nothing came out. All she could do was cry. “Don’t you fucking cry! It’s your fault we have nothing!” shouted Jerry as he opened the front door. “Get out! Get out of my house. I never want to see you here again!” Jerry then grabbed Ann by the hair, heaving her out the door. Ann slipped down the icy steps and broke her leg in two places. A neighbour saw the occurrence and immediately called 9-1-1.

Police later arrested Jerry while Ann lay in the hospital. Neighbours were outraged by the brutality of the incident. Women in the neighbourhood were traumatized by the fact that Ann

had to be in a wheel chair for five months. This incident affected women in the community because Ann did nothing to provoke the attack.

Vignette Five

Tom and Susan had been in an intimate relationship for about a month and everything was going well. Even though Susan recognized that Tom was misogynistic at times, she just shrugged it off. One night, after a long day of work, Tom showed up at Susan's home with anger in his eyes.

"I tried calling you five times! Why didn't you pick up?" shouted Tom with assertiveness in his tone. "I'm having trouble with my phone connection today" replied Susan with confusion. "Are you stupid? You should've tried calling from another phone! You're just like the rest of them! Chicks like you can never do anything right! You are so conniving. For all I know, your phone is fine!" Tom then pushed Susan with so much force that she fell back, hitting her head on the hallway table.

Susan spent the rest of the night in the hospital with a serious concussion. And not only did she have headaches for months, she had to take a leave of absence from work due to psychological stress.

APPENDIX II

Sentence Completions Tasks

1. The typical hate crime involves...
2. The typical hate crime is committed against...
3. The typical hate crime is committed because...
4. The typical perpetrator of a hate crime is...
5. The typical victim of hate crime can be described as...

APPENDIX III

Interview Guide

1. What is your official title?
2. How long have you been a police officer?
3. What types of calls do you most frequently deal with? What experiences have you had with identifying bias crimes?
4. What is your working definition of a bias crime/hate crime?
5. What resources are available to you as a police officer for the identification of bias crimes?
6. Has there been special training for identifying bias crime/hate crime? If so, have you attended any?
7. What is your own position on the inclusion of gender (into the definition of bias crime/hate crime)?
8. What offenses would you classify as gender-biased? How easy or difficult is it to define gender-motivated crimes?

9. Are domestic assault cases considered gender-biased offenses? Why or why not?
10. What kind of evidence is needed to classify a crime as gender-motivated bias?
11. What kind of reaction (positive or negative) have you encountered in trying to identify bias/hate crimes? What about gender-biased crimes?
12. Does the political climate of the region influence whether bias crime (or gender-biased crime) cases are investigated? If yes, how?
13. Does the media influence whether bias crime (or gender-biased crime) cases are investigated? If yes, how?
14. What affects whether a police officer identifies a crime as bias-motivated?
15. Is there anything else you would like to add in regard to bias crimes/hate crimes and gender-bias crimes?

