

RACE HATE CRIME AND THE CRIMINAL JUSTICE RESPONSE

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Abstract

The paper refreshes our understanding of the established definitions of race hate crime, before reflecting on the impact on victims and reviewing criminal justice responses. It explores the nature and context of offences, in order to look at the characteristics of perpetrators and their rehabilitation. It considers briefly whether the criminal justice response would be complemented by more emphasis on deterrence, before drawing to a summary and conclusion.

Keywords

Hate crime; hate crime perpetrators; hate crime offender rehabilitation

What is Race Hate Crime?

The spectrum of race hate crime stretches from minor offences such as graffiti to - at the extreme - genocide. To address rehabilitation across the whole range of possible offences is unrealistic and the paper covers offences associated primarily with race, and to some extent religion or belief, of a seriousness likely to attract a community order or short custodial penalty. Focus on these types of hate crime is timely in view of the impetus created by the Black Lives Matter movement following the death of George Floyd, which has brought into clearer focus a sense of the discrimination faced by members of minority ethnic communities including in contact with the Criminal Justice System.

The paper does *not* explore those forms of hate crime that would be described as terrorist, which do not feature routinely in centrally monitored hate crime recording (Home Office 2019).

In terms of how we define hate crime, commentators (Jacobs and Potter 1998, Hall 2005, Iganski 2008a) note the linguistic and conceptual confusion that the term creates. They point out that in statute and authoritative definitions of hate crime the word hate is not actually used, with words such as hostility and prejudice deployed instead.

Perry (2003) argues that most hate crimes stem from an historically-entrenched hierarchy within which some groups are systematically disadvantaged. She describes individual acts of hate crime as symbolic, salutary reminders to members of minority groups to - in effect - 'know their place' within the social order (see also Tomsen 2009, Sibbitt 1997). Even so, she recognises the limitations of the term 'hate crime' in that it implies the kernel of the act is within the perpetrator's pathology rather than the society of which they are part. She questions how well the term gets across the structural realities that perpetuate and 'permit' such behaviour. Allied to Perry's viewpoint, a distinctive feature of hate crime is that, with the marked exception of terrorism, it can be seen as the hostile and amplified expression of prejudice found within society (Cunneen, Fraser & Tomsen 1997, Sibbitt 1997, Tomsen 2009, Hall 2013, Levin 2007). Perpetrators of hate crime may find common ground in their *thinking* with a non-offender, who may express his or her own biases in less conscious and direct ways.

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It can be suggested that, historically, this commonality has limited an empathic understanding of the impact of hate crime (Sibbitt 1997, Jacobs and Potter 1998) and influenced the collective response.

It would seem, then, that the term 'hate crime' may evade clear definition, which in turn adds to the challenge of gauging its extent. Estimating the amount of race hate crime is hampered further by under reporting (Home Office 2016). Lack of faith in authorities to act (Perry 2003; Dick 2008; Herek, Gillis & Cogan 1999; Paterson, Walters, Brown & Fearn 2018) can deter reporting, especially within communities with experiences of systemic discrimination (Hall 2005). This may be exacerbated by the inconsistent way that relevant legislation, intended apparently to protect them, has been applied (John 2003, Hall 2005, Bowling 1999). McDevitt at al. (2001) highlight the distorting feature of differential reporting patterns amongst targeted groups. Of those hate crimes reported, race hate crimes predominate. For example, the 2018-19 Hate Crime annual statistics for England and Wales (Home Office 2019) show that of the 103,379 hate crimes reported by the police in 2018-19, 76% were race hate crimes.

As addressed more broadly above, some criminal justice responses may have been influenced by lack of insight into the impact of hate crime, which commentators associate with wider societal prejudices (Cunneen et al. 1997, Sibbitt 1997, Tomsen 2009, Hall 2013, Levin 2006). This could be compounded by a relative lack of diversity within the police force, feeding into the cycle of under reporting.

Impact on Victims and Communities

Iganski (2008a) emphasises that hate crime imposes painfully upon the victim the perpetrator's judgement of a personal, meaningful characteristic. Chahal and Julienne (2000) and McDevitt, Balboni, Garcia, and Gu (2001) found that negative consequences experienced by victims of hate crime were longstanding and various.

Bowling (1993, 1999) notes that whilst an offence may not be seen as particularly serious, it can be greatly significant when experienced as part of wider or perpetual abuse. Herek et al. (1999) and Bowling (1999) describe the concept of a 'victim community', members of which contend routinely with negative evaluations of them, including through hate crime, which gradually affect the collective psyche.

The Criminal Justice Response

The Stephen Lawrence Inquiry and the Macpherson report (1999) were the catalyst for racially aggravated offences brought into law through the Crime and Disorder Act 1998, amended in 2001 to create new, specific, religiously aggravated offences. Racially and religiously aggravated offences relate to four areas of criminal activity: Assaults, Criminal Damage, Harassment and Public Order. They attract a greater penalty than the basic offence without a racial or religious motive.

Section 145 of the Criminal Justice Act 2003 imposes a duty upon courts to increase the sentence for *any* offence where the offender has:

- Demonstrated hostility towards the victim based on the victim's membership or presumed membership of a racial or religious group; or
- The offence being motivated (wholly or partly) by hostility towards members of a racial or religious group based on their membership of that group.

The Racial and Religious Hatred Act 2006 forbids threats and other intimidating statements intended to stir up hatred against people because of their religious beliefs. Incitement to Racial Hatred was formerly established as an offence through the 1986 Public Order Act Part 3. Alternative sentencing powers are conferred through Section 145 of the Criminal Justice Act 2003.

The Macpherson report introduced the term 'institutionalised racism', defined as 'the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture and ethnic origin' (Macpherson 1999:34). The report suggests that institutionalised racism gives context to the insensitivity, biased assumptions and lack of thoroughness which were shown to have characterised police behaviour in the aftermath of Stephen Lawrence's murder.

Implementation of the legislation was initially piecemeal. Burney and Rose (2002) and John (2003) found inconsistency in how the legislation was understood and implemented, with prosecutors and courts too ready to reduce the charge to the basic offence. John (2003) found a tendency for the Crown Prosecution Service (CPS) not to take forward charges of racial aggravation and that, in some cases, racial aggravation was overlooked by the Police and the CPS.

Limited understanding of racist offending patterns was seen to affect the way such criminal activity was dealt with by the Criminal Justice System, with implications for risk assessment and interventions to reduce risk (Bowling 1999). McLaughlin (2002) draws attention to members of the white indigenous community apparently exploiting the legal definition of hate crime by reporting improbable amounts of this type of offending, allegedly perpetrated upon them by individuals from minority ethnic communities. Researchers felt that the media coverage encouraged white people to report incidents, whilst those from minority ethnic communities doubted the fairness of the systems set up to protect them and did not, therefore, report attacks.

In 2004, the CPS committed to improve practice through new approaches, including multi-agency Hate Crime Scrutiny Panels with 'community stakeholders' from minority groups. The first CPS annual Hate Crime Report, published in 2008, noted an upward trend in convictions from 62 percent in 2005/6 to 71 percent in 2007/8 (CPS 2008), which may indicate the increased rigour with which relevant legislation was applied. That trajectory continues, with the proportion of cases with an 'announced and recorded' sentence uplift standing at 76.3% in 2018-19 for combined racially and religiously aggravated offences. The CPS has expressed confidence in its governance and assurance systems, exposed to scrutiny through annual reporting (CPS 2019), and the CPS response is anchored through the UK Government's refreshed plan for tackling hate crime (HM Government 2018).

Nature of Offences

In shaping a rehabilitative response, we must first understand the types of offence that perpetrators commit. The Home Office (2019) notes that the majority (54%) of reported hate crime - across all strands - constitutes public order offences, with a further third (36%) for violence against the person. These, in combination, account for 91% of hate crimes recorded by the police in 2018/19. Hall (2005) highlights that most hate crimes in the United Kingdom may not be considered extremely serious in terms of risk to the victim, which is not to deny that they can be experienced as vicious in their execution and impact (Iganski, 2008a).

Particular minority groups appear to become more vulnerable in response to specific events. There were consistent reports of an upsurge in the targeting of Asian people in the aftermath of the 9/11 and 7/7 terrorist attacks. So too, the targeting of Jews, primarily by white British perpetrators, appears to worsen at points of increased Arab Israeli unrest (Iganski, Kielinger & Paterson, 2005).

Social media has enabled growth of online hate crime, with profound consequences for victims and their communities. The online environment is complex in terms of policing and responding to abuse. The immediacy, disinhibiting effects and anonymity afforded by social media technology act as a vector for extreme narratives targeted at minority communities (Williams, Burnap, Javed, Lui & Ozalp, 2019). The challenges associated with legislating on-line hate crime have been capitalised upon to establish virtual groups, within which hate crime perpetrators endorse and bolster each other's views. The influence of social media hate speech upon the volume and nature of face-to-face hate crime is not fully understood, yet a 2019 study indicated a correlation between online hate speech and offline racially and religiously aggravated offending, independent of the compounding temporal effect of a specific event (Williams et al, 2020). The study reinforces Bowling's established analysis of race hate crime as occurring within a continuum, rather than being a distinct event (1993).

In the UK, the surge of hate speech on social media has led to a series of CPS measures, including 2017 guidance for prosecutors and a commitment to treat online hate crimes as seriously as those which are face-to-face. More broadly, work is underway to forge an alliance between authorities and social media companies, with pressure to introduce hate crime policies from bodies such as the German government and European Commission (Williams et al 2019).

Context of offences

Anderson, Dyson and Brooks (2002) consider the relevance of social learning theory, which maintains that individuals' beliefs and behaviours are shaped by what they observe and experience at formative stages in their lives. Someone with a dysfunctional background may be especially susceptible to peer influence and attracted to the sense of participation felt through adhering to the group's ideology. This is an important pointer for guiding interventions with perpetrators.

Symbolic interactionism is cited as a further factor in hate crime. Symbols communicated within a group provide meaning, to which the individual can respond with behaviour appropriate to shared group norms (Collins & Gable 2003). This implies that any rehabilitative approach should recognise the investment the perpetrator may have in the sense of belonging this affiliation creates.

Strain theory maintains that at times of economic deprivation, perpetrators react with violence against those they hold responsible (Agnew 2002). Allied to strain theory, Billig and Cochrane (1990) suggest that support for 'far right' parties increases during times of socio-economic difficulty. Simplistic understandings of how to resolve economic hardship, for instance the curtailment of immigration, are seen as attractive solutions.

Green, McFalls and Smith (2001), and Brimicombe et al. (2001) doubt a systematic link between economic deprivation and increased hate crime. They think that other things may influence behaviour, such as the relative size of the hegemonic/counter hegemonic communities. Iganski (2008a) found that in an urban environment with a dense population, minority ethnic individuals were targeted more in areas where the white community was relatively large in comparison to other parts of the city.

Hall (2015) is unconvinced by the strain theory argument. He refers to Perry (2001), who asserts that those under most strain are the minority groups who are, in fact, the usual targets for hate crime. This invites us to consider a more nuanced relationship between hate crime commission and strain theory; in that those who commit hate crimes may use perceptions of strain - arguably promulgated by the media - to permit themselves to target groups they consider 'other' or subordinate. This inner sense of permission provides pointers for our rehabilitative response.

As we have established, hate crime tends to happen when the victim is maintaining their day-to-day routines. Conceivably therefore, hate crime is open to interpretation by way of routine activities theory (Hall 2013). The paradigm that underpins routine activities theory is threefold. Firstly, it requires the presence of a 'likely offender'. Secondly, a 'suitable target'; suitability being determined by what the offender perceives s/he stands to gain from the violation, what it is about the target that makes them suitable, and by the target being visible and within 'reach' (Hopkins Burke 2005). Thirdly, the absence of a 'capable guardian', whose presence would otherwise disrupt the flow of events and prevent the act occurring. Hence, the 'capable guardian' only becomes significant when they are not there. The demographics of an area, for instance one that is urban and densely populated, can increase the likelihood of someone being both spotted and 'reached' by the likely offender. As Hall (2013) points out, nearness is one possible explanation for the existence of 'hate crime hot spots'. Yeung and Duncan (2016) note the prevalence of race hate crimes on railways, with staff a frequent target.

Routine activities theory invites us to understand some hate crime as opportunist and impulsive, which leads us towards self-management as a feature of any rehabilitative approach. Exactly who the likely perpetrator may be is explored further (below) in the input on perpetrator typology. We have noted, however, that those towards the 'lower' end of the hate crime spectrum may have prejudicial attitudes in common with many members of the non-offending public (Cunneen et al. 1997, Sibbitt 1997, Tomsen 2009, Hall 2005, Levin 2007). It seems that there must, therefore, be an additional ingredient, or ingredients, that determine 'likelihood' to commit a hate crime. On the other hand, that individuals from minority groups have heightened experiences of hate crime would suggest many 'likely offenders' and that such offending is not especially exclusive or specialist. Illustrating this point, Iganski (2008b) draws attention to the common presumption that anti-Jewish incidents are perpetrated by young people of 'Arab' or 'Muslim' background in conveyance of an anti-Jewish viewpoint. As we noted above, anti-Jewish incidents are known to multiply with media reporting of increased tension in the Arab-Israeli conflict and/or other Middle Eastern conflicts. Yet Iganski's research suggested that perpetrators of most anti-Semitic acts recorded by the police were not associated with an extremist group, with many incidents being context-driven and unplanned. This takes us back to routine activities theory and the concept of individuals predisposed to anti-social behaviour 'latching on' to current events.

Perpetrator Typology

To shape a response to hate crime perpetration we must understand not just the context in which it occurs but the typology of those who commit it, and the relationship between the two. The CPS (2019) provides a starting point in understanding perpetrator characteristics. Combined data on defendants prosecuted for racially aggravated crime and religiously aggravated crime (CPS 2019) show that in 2018-19, of the 12,828 prosecuted, where gender was recorded 10,441 (81.6%) of defendants were male and 2,348 (18.3%) were female. Where ethnicity was recorded, 57.9% of defendants were categorised as White (with 52.6% being identified as White British), 6.4% as Black and 4.5% as Asian. Of those defendants where age was recorded, the majority were aged 25–59 (72.2%) and 18–24 (16.7%). 24.2% of defendants (3,097) were aged 24 and under, with 833 (6.5%) of defendants being 14–17 years old and 127 (1.0%) aged 10–13.

A review of hate crime literature from 1993-2003 concluded that most hate crime perpetrators are young males, unaffiliated to organised hate groups (Steinberg, Brooks & Remtulla 2003). Similarly, Iganski (2008a) found that perpetrators tend to be local youths/neighbours, under twenty-four and especially under twenty. The perpetrators often act together and outnumber the victim. Wilcox, Smithson, Christmann, Monchuck & Wong (2008) found that despite a high proportion of younger racially motivated perpetrators there was scarce research on these age groups. That which existed focused on white perpetrators.

Anderson et al. (2002) concluded that perpetrators typically appear socially isolated, unwelcome within 'conventional' society, having low self-esteem and wanting to belong to a group and establish a sense of their own place. Those who present as more stable, and who are better educated, typically take on leadership roles whilst their less well-educated peers more openly display violent and anti-social behaviour.

In contrast, Sibbitt (1997) identified that perpetrators of racial harassment and violence were of all ages, both male and female, and (as with other studies) often acted in groups. Hewitt (1996) and Sibbitt (1997) found, in separate but parallel studies, that perpetrators' racist views reflected opinions held within their communities. Expressions of racism seemed to distract the perpetrator and their 'audience' from profound obstacles such as a limited sense of their own identity, unease about the future, or health problems. These findings would suggest that any intervention could usefully work to strengthen a sense of individual purpose and help shape a more positive personal narrative.

Research by Ray, Smith & Wastell (2002) indicated that offenders convicted of (apparently) racist crimes were typical of the client group with whom the Probation Service engaged. Most were 'generalist' offenders, living in run down areas with almost exclusively white populations and widespread racist attitudes. They commonly denied or played down the racist element to the offence, rationalising their action through reference to 'triggers' such as a dispute over payment in the context of a transaction. The offences were, according to the perpetrators, situationally specific rather than emerging from an ideological standpoint. Many used violence routinely (in various contexts) as a perceived means of resolution.

The interviewees saw themselves as lacking in identity, overlooked, and alienated from any strong community tie, compared with their victims who were mainly of South Asian origin and who proudly and visibly celebrated their heritage. The researchers became aware of an important distinction between a cognitive disavowal of racist beliefs (common to most interviewees and often expressed in terms of friendships with minority ethnic peers) and the emotional state that may drive the offence. They refer to the work of Scheff (1997) and Retzinger (1991) who explore the concept of *shame* as an emotional state leading to powerlessness and a feeling of abandonment. The state of shame can translate into irrational, harmful behaviours towards those individuals perceived as contributing to the unhappy situation one is in.

The study suggests that the probable personal history of perpetrators is one in which they have grown used to blame, lack of respect and condemnation (contributing to and shaping their sense of shame). The researchers caution that further treatment of this kind, whether intended or perceived, could intensify the negative emotions that led them to offend, with obvious consequences.

To sum up, research indicates that known hate crime perpetrators are generally young, male, predisposed to committing other types of offences and markedly 'at sea' in terms of their own sense of place, purpose and potential. From what we know, we can speculate that hate crime functions to deflect them from a perception of personal irrelevance and a fear that they lack what it takes to improve their lot. The sense of dislocation found

commonly amongst hate crime perpetrators is expressed through further alienating minority groups. Within this construction, a shared sense of grievance towards an 'out' group reinforces a sense of being part of the 'in' group, providing the individual with a gratification not experienced elsewhere (Beck 2000).

This underlying personal sense of 'disconnect,' in conjunction with generalised anti-social ideas, seems more relevant to perpetrators' offending than their attitudes and beliefs, some of which may be racist in nature, and which, as we have established, may be shared by many individuals who do not offend. This inevitably calls into question the rationale for interventions that address prejudicial attitudes and beliefs. Empowering the perpetrator to achieve their potential could, research suggests, be more effective in reducing race hate crime than trying to address prejudice that features in the offence but may not - after all - lie at its heart.

In that much race hate crime appears to be committed by 'generalist' offenders, it can be considered with reference to established explanations for crime. From a psychological perspective, a literature review commissioned by the Home Office (Hollin and Palmer 2001) concluded, with reference to racially motivated offenders, that many 'risk factors' amenable to change, such as limited emotional control, are similar to those of general offenders. This is consistent with an argument made by Walters (2011) who found that the determination of who commits a hate crime has more to do with levels of self-control than to attitudes or beliefs. From the research outlined above, it is reasonable to conclude that increasing the perpetrator's ability to manage day-to-day situations and control their responses may lessen the impulse to offend.

Internal risk factors associated with racially motivated offending (white perpetrators) were defined in 2001 (Perry 2002) by a sub group of the Home Office accreditation panel, made up of specialist practitioners and academics. These remain relevant and are set out below:

- *Poor and problematic moral reasoning* - the process of de-humanisation as part of the justification for offending.
- *Cognitive deficits* - limited ability to distinguish between fact and myth, rigid thinking.
- *Distorted victim perspective* - they may struggle to empathise with the victim, whom they have consigned in their mind to the 'out' group.
- *Predisposition to violence as a means of conflict resolution* - violence and generalised aggression may be the habitual way that the perpetrator responds to tense or frustrating situations.
- *Conflict of an individual's cultural identity* - limited sense of their own heritage and its value, which can generate resentment when faced with overt expressions of others' cultural identity (such as symbols, dress or festivals).
- *A perception of territorial invasion* - a sense of other cultures in some way undermining their own. This leads to possessive loyalty to a particular geographical area, as a means of shoring up their identity.
- *A distorted worldview* - prone to accept myths and distortions as fact, which they then act on.
- *Individuals draw on the social support in perpetrator communities* - within 'perpetrator communities' beliefs are reinforced by the idea of a hierarchy of social/ethnic groups and a sense of belonging to an 'in' group.
- *The erosion of traditional characteristics associated with gender identity* - a reduced sense of what it means to be a man or woman in today's society (in that, for previous generations, gender boundaries were more clearly defined).

Each of these risk factors bears some relationship to our earlier exploration of relevant theory and provides a starting point for evidence-led interventions.

A typology of hate crime perpetrators (McDevitt, Levin & Bennett 2002) expanded an earlier analysis (Levin & McDevitt 1993), which had reviewed the sample of police files from Boston, Massachusetts between 1990/91. The revised analysis generated four types of hate crime perpetrator: 'thrill seekers' motivated by the excitement of the act including the exercising of relative power; 'defensive', incentivised by a sense of threat from perceived intruders; 'retaliatory', whereby hate crime is perpetrated in response to trigger events, often in an irrational way; and 'mission offenders', defined as operating from an ideology of hatred and more likely, therefore, to present a significant risk to the target group/s. Of the 169 cases reviewed, only 1 fell into this latter category.

There is common ground between these definitions and the findings of the Home Office sub group. For example, 'thrill seekers' appear spurred on by a sense of the mundanity of their own lives, with 'defensive' perpetrators driven by a perception of invasion, underscored by a distorted world view. The concept of irrational retaliation ('retaliatory offenders') resonates with the refined analysis associated with strain theory provided by Hall (2015) whereby *perceptions* of strain appear to legitimise the commission of hate crime in the perpetrator's mind.

Rehabilitation of Perpetrators

With a theoretical backdrop as set out above, we can now consider some rehabilitative approaches utilised to date, the circumstances in which they have been introduced, and their likely efficacy.

In terms of historic approaches, Wilcox et al (2008) found that Youth Offender Team (YOT) practitioners, working with younger perpetrators, tended to identify lack of education (on diversity and equality) as causal. The practitioners judged interventions based on how well they filled the perceived educational gap. Evidence does not support the practitioners' view, yet this prevailing belief may explain why many interventions used by YOT teams are educational.

Sibbitt (1997) noted the small number of offenders defined as 'racially motivated' by the Probation Service. She found that the Probation Service's anti discriminatory ethos may have discouraged perpetrators from acknowledging this aspect of their offending. Denial of racist attitudes was sometimes apparently welcomed by probation officers unsure how best to respond. Some portrayed racist offenders as political activists, so fixed in their beliefs that they were bound to be unresponsive to probation intervention. Sibbitt (1997) raises the disquieting question of whether an apparently complacent attitude to acknowledging the racist element is because some practitioners may latently identify with attitudes held by the perpetrator. This takes us back to our earlier reflections on an initially piecemeal criminal justice response to racially aggravated legislation.

Both Ray et al. (2002) and Sibbitt (1997) found limited engagement with the particulars of the offence by probation officers. Both studies indicated that probation officers sometimes went along with the perpetrator's selective account, thereby avoiding work on a challenging but vital aspect of the offence. In part, Ray et al. (2002) put this down to practitioners feeling unsure how to work effectively in this complex arena. The study emphasised the importance of practitioners striking a balance between consistently and clearly modelling that racism is unacceptable whilst at the same time conveying respect, thereby enabling perpetrators to acknowledge underlying negative emotions relating to self.

The above studies took place before a transitional stage in the Probation Service's history. At the turn of the century, there was increased focus on embedding 'evidence based' practice, manifested in predictive assessment tools and a suite of national accredited offending behaviour programmes grounded in theory as to 'what works' in reducing offending (Home Office 2000).

The challenge issued through the Macpherson report permeated the Probation Service, with the need for an effective approach identified. The importance of prioritising this area of work was further highlighted in a report by Her Majesty's Inspectorate of Probation (2005), which found a lack of coherence in how racially motivated offending was addressed. Wilcox et al. (2008) found limited focus on developing interventions within the youth justice system. Of those interventions in use, few, if any, met the standards required of national accredited programmes and most lacked an underpinning model of change.

As a starting point, the (then) recently established Home Office Probation Directorate reviewed relevant research (Hewitt 1996, Sibbitt 1997, latterly Ray et al. 2002). Excluding the minority of racially motivated offences assessed as extremely serious, commonalities were noted between generalist and racially motivated offending and between the typologies of those who committed them. On this basis, the need for specialised

intervention was questioned. Group work was discounted, in that perpetrators could reinforce each other's anti-social attitudes and be inhibited by the presence of peers from exploring the offence and associated personal factors. With these aspects in mind, the strengths-based Priestley One to One programme, an established general offending behaviour programme, delivered individually, came into the spotlight. With reference to evidence on the characteristics of perpetrators, it was decided that an adapted version of the programme would be the nationally approved intervention with racially motivated offenders.

Some practitioners, who were invested in established, localised, interventions which focused largely on addressing perpetrators' attitudes to race, questioned the basis for approving an (adapted) accredited general offending behaviour programme for use with race hate perpetrators. This was compounded by a broader unease within the Probation Service about the introduction of accredited offending behaviour programmes more generally.

Notwithstanding, the Priestley One to One programme (Priestley 2001) (hereafter OTO) was adapted to suit racially motivated offenders (Davis 2005) but retained its core structure. Inherently motivational, the programme concentrated upon the participant 'owning' and navigating their own route away from offending. It encouraged the participant to recognise their strengths and improve their problem-solving abilities, with impulsive responses to perceived fact particularly highlighted. This resonates with the concept of a 'retaliatory [hate crime] offender' (McDevitt et al. 2002) who irrationally targets members of a group following a crime or perceived slight for which those group members were not responsible.

Unlike some earlier interventions, the adapted OTO programme did not risk defensive disengagement by focusing explicitly on diversity or exposing lack of knowledge about minority groups. Nor did it address directly the participant's prejudiced cognitions. Rather, it enabled the participant to review and re-define their own beliefs and sense of self and strengthen their abilities to solve problems.

A Rogerian thread - 'physician heal thyself' - ran clearly through the programme, with a strong emphasis upon empowering the participant to make positive changes. As we have seen, this approach is consistent with what research suggests is most likely to be effective. Of course, similar characteristics are found in many 'general offenders', which is why a programme for general offenders was the starting point for an intervention (Home Office, 2005).

Prior to the Transforming Rehabilitation reforms (2014), the adapted OTO remained the Home Office approved approach in work with racially motivated and - from 2005 - with all hate crime perpetrators. Practitioners found the content relevant and impactful, however, the programme was operationally challenging due to length and associated cost. Both length and resource-intensity were factors in non-completion rates.

Partly in response, 'Think Again', a ten session non-accredited intervention, was developed (Davis 2010). Highly attentive to the risk factors identified by the Home Office subgroup (above), it draws on theoretical knowledge of perpetrator characteristics and the strengths-based content of the OTO programme (Davis 2010). Piloted by West Yorkshire Probation Trust, it became the intervention used by several Probation providers.

Faithful to the ethos of OTO, Think Again avoids a style that might feel paternalistic; a risk associated with approaches that provide information to challenge the perpetrator's views. Participants are, instead, enabled to review the reliability of *any* information we (all) absorb as fact, allowing them to make - for themselves - an association with the beliefs associated with their offending. The study conducted by Ray et al. (2002) underscores the value of this approach. It indicates the likely background of the perpetrator as one in which blame and condemnation strongly featured, hence further treatment experienced as critical or accusatory could stir up the negative emotions that informed their offending.

Qualitative research suggests that both hate crime perpetrators and their victims have some interest in restorative justice, whereby victim and perpetrator have a structured discussion focused on repairing the harm caused by the crime (Paterson, Walters, Brown & Fearn 2018). Such an approach is compelling in that it may provide some therapeutic benefit for the victim. Yet it runs counter to the evidence on the pathology of perpetrators, which indicates that interventions focused on how they see themselves bear more promise. Beneath outward co-operation, inner discomfort generated through a restorative encounter could stoke up the very feelings of inadequacy and 'shame' (Scheff 1997; Retzinger 1991) that influenced the offending.

The Transforming Rehabilitation reforms (2014) introduced major changes to the Probation Service and had the effect of reducing central regulation over the approaches recommended for hate crime perpetrators. As well as Think Again, there are other non-accredited interventions used with hate crime perpetrators, including some mediated through group work. None has a sufficiently robust evaluation to determine conclusively their impact on reoffending. On this basis, some commentators have questioned what progress has been made since the Macpherson report challenged the Criminal Justice System to strengthen its response to racist offending, and Her Majesty's Inspectorate of Probation (2005) identified a lack of coherence in how racially motivated offending was addressed.

The current position put forward by Her Majesty's Prison and Probation Service (HMPPS) recognises the common criminogenic ground between hate crime perpetration and general offending. All accredited programmes have a theoretical framework which draws on desistance theory; an assessment of risk, need and motivation; collaboration between practitioner and participant ('therapeutic alliance'); working to the individual's strengths; and cognitive behavioural methods. What is more, all accredited programmes now place limited focus on *directly* challenging beliefs and attitudes, which - as has been shown - is likely, at best, to be unhelpful with race hate perpetrators. On this basis, HMPPS recommends that hate crime perpetrators are allocated onto a suitable intervention underpinned by these broad theoretical brushstrokes. Most commonly, that will be a general offending behaviour groupwork programme. (HMPPS 2018, Ministry of Justice, 2018).

This is a considered policy position and the material used is likely to be of relevance, yet it lacks the opportunities presented through an individual approach. There are grounds to suggest that hate crime perpetrators have especially marked and specific characteristics, over and above those shared with general offending peers. Some could even be from minority communities and have a particularly complex relationship to this type of criminal activity. As we have established, group participation may inhibit the perpetrator from fully exploring the emotions and self-perceptions that informed the offence. Nonetheless, whilst evidence would indicate that race hate perpetrators are likely to be more responsive to a tailored, individual approach, finite resources may limit the extent to which this can be achieved.

A whole-system approach

Growing understanding of perpetrator characteristics does not extend to those who escape justice. Despite a sustained CPS commitment, a wide gulf remains between the prevalence of hate crime and those convicted. Those perpetrators who go undetected may rely upon outward respectability, and an assumption of witness' fear or indifference, to press home a point through unpremeditated hate crime when near a 'suitable' target. This brings us squarely back to our earlier reflection on the relevance of routine activities theory (Hall 2013, Hopkins Burke 2005). Untroubled by the Criminal Justice System, non-convicted perpetrators seize their opportunity in the absence of a capable guardian. In this way, a perpetrator who picks their target carefully may commit multiple, routine, hate crimes, impulsively and without fear of apprehension, emboldened by experience.

As there are grounds to indicate that most race hate crime does not lead to conviction, we cannot depend on rehabilitation as the central means of reducing it. Whilst continuing to strengthen the criminal justice response by increasing conviction rates, and drawing on evidence to shape our approach, there is scope to apply some of the same knowledge to environmental factors.

We have established that many race hate crimes occur in communal environments, such as public transport (Yeung and Duncan 2016, Hall 2013). In practical terms, simple, inclusive and insight-driven messaging on public transport and other shared spaces - constituting a capable guardian - could stifle the impulse of a would-be perpetrator. This type of deterrent approach does not reduce the societal importance of instilling and fostering inclusive attitudes and behaviour, nor reduce the need to convict and rehabilitate perpetrators. It is an additional strand of activity, grounded in realism, which could complement existing initiatives and serve to inhibit hate crime and reduce the impact upon communities most affected.

Despite the historic and current challenges associated with responding to hate crime, we can demonstrate the gradual if imperfect development of relevant statute and strategic responses post-Macpherson. Whilst race hate crime can be hard to define, legislation is well established with a continued focus on ensuring that judicial responses reflect the nature of the offence. How best to rehabilitate perpetrators has been subject to historic debate but research points consistently towards a person-centred, strengths-based response and away from

engaging directly with prejudicial attitudes. The absence of a tailored, individual response may limit impact, however, the content of accredited groupwork programmes reflects much of what we know is likely to be relevant. Our growing understanding of perpetrator typology, including the significance of impulsivity and opportunity, brings scope to extend that knowledge to 'hate crime hot spots' through introducing practical deterrents. Overall, a focus should be maintained on seeking out and acting on new learning and monitoring the criminal justice response with rigour. By doing so, we can strengthen the route from reporting to conviction and, from there, consolidate an effective form of rehabilitation. This will mark the significance of these types of offence and enable confidence that our approach to rehabilitation will reduce the frequency with which they occur.

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