

Hate Crime

**A follow-up inspection of the management
of hate crime by the criminal justice
system in Northern Ireland**

July 2010

Criminal Justice Inspection
Northern Ireland
a better justice system for all





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List of abbreviations

ACPO	Association of Chief Police Officers in England, Wales and Northern Ireland
CJI	Criminal Justice Inspection Northern Ireland
DoJ	Department of Justice
DSD	Department of Social Development
DSM1	Data Sharing Mechanism 1 (in Causeway)
NI	Northern Ireland
NICTS	Northern Ireland Courts and Tribunals Service
NIO	Northern Ireland Office
OFMDFM	Office of the First Minister and Deputy First Minister
PBNI	Probation Board for Northern Ireland
PPS	Public Prosecution Service for Northern Ireland
PSNI	Police Service of Northern Ireland
UK	United Kingdom





Chief Inspector's Foreword

Criminal Justice Inspection Northern Ireland (CJI) conducted a thematic inspection of the management of hate crime by the criminal justice system in Northern Ireland during 2006 and published a report in January 2007. This follow-up review assesses the progress made against the 19 recommendations contained in the initial report.

Like all thematic inspections, the report was a snapshot at a particular time. We found that different agencies had different approaches as to how they managed hate crime. The clear need identified by the 2007 inspection report was to provide a more consistent, integrated and systematic approach to the recording, investigation and prosecution of hate crime in Northern Ireland. In addition, agencies needed to develop their outreach programmes in working with other public, voluntary and community sector bodies on preventative measures.

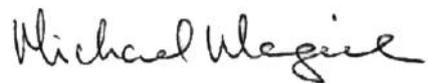
This follow-up inspection found that of the 19 recommendations in the original report 12 had been achieved, three were partly achieved and four were not achieved. Most progress had been made in relation to the development of partnerships and in policy and procedural issues, such as the agreement on a common set of hate crime definitions. The Police Service of Northern Ireland (PSNI) is to be commended for the implementation of the five recommendations aimed specifically at them.

Three years after the publication of the report it is of concern however, that a hate crime strategy has yet to be developed. A number of recommendations had only recently been implemented, which suggests that progress has been slow. In addition, of the five recommendations aimed at improving the management information on the recording and prosecution of hate crime, only one had been fully implemented. There is much work remaining to be completed in this area. In particular, it is important that prosecutors ensure the courts are made aware, in appropriate cases, of such aggravating circumstances, so that enhanced sentences can be imposed.



In the last 12 months the intimidation of Polish and Eastern European residents in the 'Village' area of South Belfast, a sectarian murder in Coleraine and the intimidation of Roma families in South Belfast, demonstrates that Northern Ireland is still a troubled society. These events projected a negative image of Northern Ireland onto a world stage. There is much to be done and it is essential that the criminal justice system plays its part in dealing with the problems of hate crime in Northern Ireland.

This follow-up inspection was led by Brendan McGuigan and I would like to thank all those who participated in the inspection process.



Dr Michael Maguire

Chief Inspector of Criminal Justice in Northern Ireland
July 2010

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Section



Follow-Up Review

CHAPTER 1:

Background and the current situation



Criminal Justice Inspection Northern Ireland (CJI) conducted a thematic inspection of *the management of hate crime by the criminal justice system in Northern Ireland* during 2006 and published a report in January 2007.¹ The inspection reviewed the effectiveness of mechanisms across the criminal justice system to combat hate crime perpetrated against the increasingly diverse Northern Ireland community. It also looked at the demographic changes that had occurred in Northern Ireland following the political settlement, and the increase in stability and normalisation of society, and how this might impact on vulnerable and marginalised groups.

Inspectors examined the responses of the criminal justice agencies to these new challenges and made a number of recommendations to support the Northern Ireland Executive's *Programme for Government*. The *Programme for Government* was a vision for society in which equality, human rights, mutual trust and respect were core values, and all citizens could realise their full potential and live free from fear and prejudice.

The inspection sought to raise the profile of hate crime with the main criminal justice agencies particularly in terms of strategy and policy development. The report made 19 recommendations which were divided

into the following four categories. They were:

- partnerships;
- strategy, policy and procedural development;
- management information; and
- PSNI specific recommendations.

Three years on, this review assessed the continuing relevance of the original recommendations and the progress made by the criminal justice agencies in delivering the Action Plan developed by the Criminal Justice Board. In establishing the current environment in which this review was conducted, Inspectors also reflected on the wider political context and how this impacted on the criminal justice agencies.

Inspectors conducted an examination of relevant reports, reviews, statistical reports and conducted interviews with officials in the:

- Department of Justice (DoJ);
- Office of the First Minister and Deputy First Minister (OFMDFM);
- Northern Ireland Statistics and Research Agency;
- Community Safety Unit of the DoJ;
- Northern Ireland Courts and Tribunals Service (NICTS); and
- Probation Board for Northern Ireland (PBNI).

¹ Copies of the 2007 inspection report are available via the CJI website - www.cjini.org



Inspectors also visited four PSNI Districts and conducted interviews with:

- Community Safety Superintendents;
- Crime Managers;
- Occurrence and Case Management Team staff; and
- Hate Incident Minority Liaison Officers.

Inspectors also interviewed a senior member of the Public Prosecution Service for Northern Ireland (PPS) and both directing and prosecuting lawyers in two regional offices. In addition, Inspectors spoke to the Community Relations Council for Northern Ireland, the Northern Ireland Council for Ethnic Minorities and the Institute for Conflict Research.

Despite good progress being made in terms of political consensus in tackling racism, in practice the drive from the centre to implement the Racial Equality Strategy had been stayed, pending agreement on a replacement for the Shared Future Policy. Following on from the Hillsborough Agreement in January 2010, the OFMDFM announced consultation on the policy paper *Cohesion, Sharing and Integration*.

The total numbers of recorded hate crimes has remained steady, and continues to represent less than 2% (approx 2,000 crimes) of all recorded crime in Northern Ireland (approximately 100,000 crimes). It is widely recognised that hate crime is under-reported throughout the United Kingdom (UK) and consideration is being given to the establishment of a national reporting service in response to this problem. In the past 10 years there has been a substantial increase in the numbers of migrant workers coming to Northern

Ireland. It could be argued that with an increased focus by the criminal justice agencies, an increase in the numbers of reported incidents and crimes could be expected. The statistics, do not support this view.

Sectarianism continues to account for over 50% of all hate crime in Northern Ireland. It manifests itself in a variety of crimes which have been associated with interface tensions, disputed parades, football matches and paramilitary violence. Racism is the second most frequent type of hate crime at just under 39% with homophobia 7%, and faith, disability and transphobic the remaining 4%.

In the past 12 months there have been three critical incidents which projected a negative image of Northern Ireland on a world stage. They were:

- the intimidation of Polish and Eastern European residents in the 'Village' area of South Belfast following the behaviour of football supporters attending the Northern Ireland vs. Poland football match in Belfast;
- a sectarian murder in Coleraine; and
- the intimidation of Roma families in South Belfast and the exodus of some 100 Roma back to Romania.

Inspectors, when conducting this review in full, found excellent examples of initiatives undertaken by the PSNI, the Northern Ireland Office (NIO) now DoJ² Community Safety Unit, the Department of Social Development (DSD), the OFMDFM, Belfast City Council, and the Northern Ireland Housing Executive in the wake of these critical incidents, to ensure that there

² Following the devolution of policing and justice matters on 12 April 2010, responsibility for these functions passed from the NIO to the Department of Justice (DoJ).



would be a better, more effective response to any future incidents. They included:

- the establishment of a Tension Monitoring Group within Belfast Community Safety Partnership, and the appointment of a Hate Crime Officer to collate information and co-ordinate actions in response to identified trends. The Tension Monitoring Group exists to understand local community dynamics and identify potential or actual tensions; minimise the potential negative effects of tension; prevent escalation and reduce conflict; consider and plan interventions – short, medium and long-term; inform and support the management of critical incidents; and to support and promote community cohesion;
- the commencement of the Unite Against Hate campaign aims to raise awareness of hate crime and challenge the attitudes of people. Unite Against Hate is supported by local celebrities, sports organisations and others, with the Gaelic Athletic Association, Irish Football Association, Ulster Rugby and Northern Ireland International soccer team all supporting the campaign. The campaign raises public awareness of hate crime and encourages victims to come forward and report hate crime; and
- the development of the *Thin Edge of the Wedge* training course to counter increasing racial and existing sectarian tensions within loyalist working class areas focussing on young men and local civic leaders. The course has been developed in association with the Lower Shankill Community Association and the Polish Association to deal directly with these issues focussing on the Holocaust as an example of racism taken to its extreme. The course deals directly with the causes and effects of racism and sectarianism through understanding the history of the Holocaust and its causal

roots. Having attracted European Union funding, the course is now being extended across the communities in Northern Ireland.

As with many initiatives of this type, the critical question is have they made a difference on the ground? To date there has been no systematic evaluation of these initiatives. This should be undertaken as the initiatives become embedded. It is important to share good practice and to understand what does and does not work.



Progress against recommendations



Partnerships

Recommendation 1

It is recommended that more cohesive interchange links need to be developed across government bodies. The NIO (now DoJ) should lead on behalf of the criminal justice agencies to establish better co-ordination and assessment of strategies with others to combat hate crime.

Status: Achieved

Sub-Group Response:

A sub-group of the Community Safety Forum, chaired by the DoJ, has been established to consider the response to the CJI report. The group includes representation from the PSNI, the PPS, the NICTS, the Northern Ireland Policing Board, the PBNI and the OFMDFM. This group provides an appropriate mechanism for a more co-ordinated approach to hate crime.

Inspectors Assessment:

Inspectors welcome the establishment of the hate crime sub-group and the twice yearly meetings chaired by the head of the DoJ's Community Safety Unit. Inspectors examined the minutes of each of the meetings and can confirm that the group

has been monitoring the progress made against each of the recommendations. The DoJ and the OFMDFM work together on a range of strategic policy areas in tackling hate crime, including some of the following key areas:

- contributing to the strategic aims of the Racial Equality Strategy;
- working in partnership in developing, promoting and supporting the Unite Against Hate campaign, with other key partners;
- both departments acting as key partners on Belfast's Community Safety Partnership's Tension Monitoring Group, which brings statutory and voluntary partners together to collate, analyse and assess information from community level and frontline services, to introduce interventions that prevent the escalation of the tensions that can lead to hate crime, interface violence and fear of crime; and
- working in partnership with the PSNI and the Northern Ireland Housing Executive in developing an intercultural awards programme for 2010 which aims to recognise and celebrate the role that ethnic minorities play in their communities.



Recommendation 2

It is recommended that the DoJ (formerly the NIO) on behalf of the criminal justice agencies, should co-ordinate census information needs with the Northern Ireland Statistics and Research Agency, on the most appropriate methods to provide accurate population data on the numbers and trends within the minority communities in Northern Ireland to aid criminal justice policy development.

Status: Achieved

Sub-Group Response:

The Northern Ireland Statistics and Research Agency is currently preparing for the 2011 census and is likely to include questions on religion, community background, health (limiting long-term illness), country of birth and ethnicity. However, it is not currently intended to include questions on sexual orientation. The Northern Ireland Statistics and Research Agency Demography and Northern Ireland Statistics and Research Agency Northern Ireland Neighbourhood Information Service websites produce a range of information showing up-to-date estimates on migration into Northern Ireland. However, this tends to be on an aggregate basis (for example A8 countries, which is an aggregation of the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia). The Northern Ireland Crime Survey also collects and publishes information based on religion, nationality (British, Irish, Northern Irish, Other) and disability. Although it also asks ethnicity and sexual orientation questions, very small numbers for non-white and non-heterosexual make meaningful, robust analysis unlikely.

Inspectors Assessment:

Inspectors have examined the proposed census form to be used for the 2011 census. It is a product of consultation amongst Government departments including the DoJ and is co-ordinated through the Northern Ireland Statistics and Research Agency Census Office. The form was used in a 'rehearsal' in October 2009 in West Belfast and Dungannon. The new form contains a number of new questions which are designed to record ethnicity, passport information, national identity, language, country of birth and length of time in the UK. Officials within the Northern Ireland Statistics and Research Agency hope that these questions will elicit more information on short-term migrant workers and returning migrant workers, about which very little is known.



Recommendation 3

(This relates to the marking of those files where prosecution is directed and where there is evidence that the offence was 'aggravated by hostility' and that the courts are informed of the motivation).

It is recommended that the PPS adopt this approach across all regions so that prosecutors will ensure that all instances of hate crime are prominently marked on files and brought to the attention of the court.

Status: Partly achieved

Sub-Group Response:

The PPS will reinforce this message to staff. In all cases where the prosecutor considers that based on the evidence, the offence has been aggravated by hostility, this will be clearly marked on the prosecutor's brief.

Inspectors Assessment:

The PPS issued internal guidance to directing and prosecuting lawyers informing them of the procedures to be followed when the appropriate prosecution files had been identified. Lawyers were aware of the guidance but many spoken to in this review reported little need to refer to the document because of the low number of relevant cases. PPS data shows that prosecutors had identified 317 cases where there was evidence that the crime had been aggravated by hostility. Directing lawyers mark the file as 'aggravated by hostility' for the attention of the prosecuting lawyers, who in turn should 'open' the case as 'aggravated by hostility'. Some of these cases may have been subject to a 'caution' or youth conference. Inspectors welcome the progress made by the PPS in responding to this recommendation.

The NICTS records show that there have been only 13 occasions when the prosecutor has brought the courts' attention to the 'aggravated by hostility' motivation, and 11 occasions when the Judge imposed an enhanced sentence under the Criminal Justice (No.2) (Northern Ireland) Order 2004. The NICTS and the PPS officials had undertaken to review the disparity in the recorded figures to determine why this should be so. However, as no transcripts are taken in the District (formerly Magistrates') Courts (not being courts of record), only Crown Court Transcripts could be inspected (and then only 24). This confirmed the low requests for the application of the legislation. Inspectors are aware of the work being done to ensure more effective recording by developing a facility for electronically recording outcomes of hate crime offences 'aggravated by hostility' at court. Inspectors conclude that the PPS should, in the meantime, review the guidance to prosecutors on this matter to ensure that strict compliance is achieved. The PPS have re-issued the guidance and training of all relevant staff was due to take place by June 2011. In addition, the proposed enhancement of the Causeway Data Sharing Mechanism 1 IT system should highlight the requirement to open cases in court as 'aggravated by hostility' where it is considered there is sufficient evidence to do so.

Strategy, Policy and Procedural Development

Recommendation 4

It is recommended that the Criminal Justice Board should co-ordinate the development of a Criminal Justice System Hate Crime Strategy for communication to all staff and the public.

Status: Not achieved

Sub-Group Response:

Of key importance is agreeing an approach to defining what constitutes a hate incident. When common definitions are agreed, this will help determine the need for a Criminal Justice System Hate Crime Strategy. A common definition was agreed in December 2009 and has subsequently been endorsed by the Criminal Justice Board.

Inspectors Assessment:

There has been limited progress in this area and from discussions with both officials and senior managers, it is unlikely that a Hate Crime Strategy will be developed in the foreseeable future. Inspectors believe that the successful implementation of this recommendation would have provided the foundation for a more consistent response to hate crime and are disappointed that this key recommendation has not received the attention it deserved. We hope that the recent developments from the OFMDFM towards the implementation of a Racial Equality Strategy, and the development of the programme for Cohesion Sharing and Integration, will provide renewed impetus to this recommendation.

Recommendation 5

It is recommended that there needs to be agreement of a common set of hate crime definitions for use within the criminal justice system and that they be communicated clearly across all agencies.

Status: Achieved

Sub-Group Response:

A common definition has been agreed by the sub-group and has been endorsed by the Criminal Justice Board on 15 April 2010.

Inspectors Assessment:

Inspectors found a good understanding from all those interviewed within the PSNI of the different categorisations of hate incidents/crime. These now include sectarian, racist, homophobic, religion, disability and transphobic, and the perception test that governed their recording as such. There was a good level of awareness of the evidential test that had to be applied by the PPS in marking the files 'aggravated by hostility' and the courts responsibility in applying the enhanced sentences. Inspectors welcome the criminal justice system definition of a hate crime endorsed by the Criminal Justice Board on 15 April 2010 which is: "Any incident which constitutes a criminal offence, perceived by the victim or any other person as being motivated by prejudice or hate towards a person's race, faith or religion, sexual orientation, disability, political opinion, or gender identity; or a persons perceived race, faith or religion, sexual orientation, disability, political opinion, or gender identity."



Recommendation 6

We further recommend the development of hate crime training programmes within and across agencies.

Status: Achieved

Sub-Group Response:

The criminal justice agencies have put in place significant training programmes on diversity. These are detailed in the report of the Northern Ireland Affairs Committee (The Work of the Committee in 2006 Second Report of Session 2006-07). The need for any additional programmes in relation to hate crime will be kept under review in light of the development of a criminal justice system hate crime strategy. Agencies have agreed to sharing and developing training packages.

Inspectors Assessment:

The PSNI provide diversity training as a module in foundation training for new Student Officers, in addition the Institute for Community have been engaged to provide training for PSNI officers and staff. Community safety branch in the PSNI has collated a good practice guide based on the local initiatives to combat hate crime, this has included training delivered by organisations and individuals representing the ethnic minority and vulnerable groups most impacted by hate crime. Specialist training has also been arranged for Hate Incident Minority Liaison Officers and Hate Crime Investigators. All other criminal justice agencies refer to their diversity training as the most common medium for educating and informing staff about the various types of hate crime and how they are perpetrated.

Recommendation 7

It is recommended that the necessary legislative and procedural framework should be enacted to introduce an Intermediary Service to Northern Ireland.

Status: Partly achieved

Sub-Group Response:

Legislative provision for the introduction of intermediaries to assist vulnerable witnesses in Northern Ireland was made in the Criminal Evidence (Northern Ireland) Order 1999 and this provision replicates that made in the Youth Justice and Criminal Evidence Act 1999. The development of an accredited intermediaries service to provide specialist assistance to enable vulnerable witnesses to give their best possible evidence, has been included within the five-year Victims and Witness Strategy – Bridging the Gap – which was issued in September 2007 and will be considered together with other proposals as part of the five-year strategy.

Inspectors Assessment:

There has been some progress in this area with an evaluation and review of special measures conducted in 2009 and the DoJ publication of a draft consultation paper in March 2010. Amongst the recommendations is the establishment of an Intermediary Service for Northern Ireland modelled on that which exists in England and Wales. Since legislation will have to be enacted to enable the establishment of this service, it is unlikely that this will happen in the foreseeable future.

Recommendation 8

It is recommended that the PPS should develop its own hate crime policy with links to those of the other agencies.

Status: Achieved

Sub-Group Response:

A hate crime policy was published for public consultation in July 2009. The consultation period is now over. However, the PPS is meeting with some consultees to discuss issues raised. The PPS will publish a summary of issues and responses on its website. The final version of the policy will be launched in early 2010. The training of all relevant PPS staff will be completed within one year of launch.

Inspectors Assessment:

The draft policy has completed its period of consultation. Submissions have been received both orally and in writing, and the PPS has followed up with all the groups affected including Disability Action, the Northern Ireland Council for Ethnic Minorities, and the Northern Ireland Human Rights Commission. The PPS has published a full summary of the responses received to the hate crime consultation on its website and plan to launch the policy in June/July 2010. The draft policy is a comprehensive document which covers the investigative and prosecutorial journey and the services that are available to support victims and witnesses of hate crime through this process.

Recommendation 9

It is recommended that prior to extension of the project, the Recording Incidents Of Hate working group should review and develop guidance and an Action Plan, as to how the data gathered is to be used and ensure that any duplication in the recording system is identified and removed, so that strategy and policy development will have best available quality information.

Status: Achieved

Sub-Group Response:

The Recording Incidents Of Hate pilot project was evaluated and the working group agreed that it would not be feasible to extend the roll-out of the project. Consideration will be given to identifying new means of improving hate crime reporting. The Hate Incidents Practical Actions scheme is jointly supported by the Community Safety Unit, the PSNI and the Northern Ireland Housing Executive. The scheme provides practical support measures to victims of hate crime and all incidents must be confirmed by the police to be eligible for support thus encouraging reporting. Newly commissioned research into hate crime against persons with a disability will inform thinking on the way forward.

Inspectors Assessment:

Inspectors have examined the evaluation report and accept that, on the basis of the overall findings, the scheme had not delivered significant increases in reporting. Despite the successful establishing of reporting centres and the publicising of the project, it failed to provide any significant additional data to that already being collected by the PSNI. In the wake of this decision, the Community Safety Unit of the DoJ, the PSNI and the Northern Ireland



Housing Executive established a Northern Ireland pilot project to provide personal and home protection measures to victims of hate incidents. The Hate Incidents Practical Actions scheme is now established and is held in high regard by both the statutory agencies and ethnic minority and other minority community support groups. Following successful evaluation, the Hate Incidents Practical Actions scheme is now available to persons living in their own home, Northern Ireland Housing Executive-owned properties, and other housing association-owned properties or renting from the private sector. Recent developments to encourage the reporting of hate crime and dealing with emerging trends include the appointment of the Polish and Chinese Advocates, the appointment of a Hate Crime Officer in Belfast City Council and the work of the Tension Monitoring Group within the Belfast Community Safety Partnership.

Management Information

Recommendation 10

It is recommended that all clearance rate targets in respect of hate crime should be reviewed to ensure that they are both robust and challenging.

Status: Achieved

Sub-Group Response:

Targets are set by the Northern Ireland Policing Board in consultation with the community and the PSNI. The draft Policing Plan 2010-11 includes the target "to increase the clearance rate for hate crime."

Inspectors Assessment:

The Policing Plan for 2008-11 gave three specific performance targets in relation to hate crimes/incidents. They were:

- to increase the clearance rate for sectarian crime;
- to increase the clearance rate for racist crime; and
- to increase the clearance rate for homophobic crimes.

The draft Policing Plan for 2010-11 has now consolidated these three categories into a single target for increasing the clearance rate for hate crime. The PSNI analysis centre has produced bi-annual reports for the PSNI community safety branch reviewing current performance in respect of hate crime since 2007. The report includes a review of the six hate crime motivations and the relevant Policing Plan performance indicators. The report also explores social attitudes towards minority groups and provides an overview of initiatives aimed at tackling hate crime carried out at District level in the reporting period. Inspectors commend this initiative.



Recommendation 11

It is recommended that all agencies including the NICTS and the PBNI should record key statistics at local and corporate level in relation to the processing of hate crime cases. Some examples of key information are outlined at Appendix 3 [in the original CJI report].

Status: Partly achieved

Sub-Group Response:

The Data Sharing Mechanism 1 module of the Causeway IT system will support the collection and recording of information. The PBNI are alerted to cases with a hate crime motivation via court papers. The current electronic case management system does not enable the collation of key statistics on the processing of such cases. This is a requirement to be considered in the specification of requirements for the next electronic case management system. The NICTS now records the outcomes of cases presented in court as hate crime offences 'aggravated by hostility,' the possible outcomes being acquittal, conviction and the court accepted the aggravating factor and increased the sentence on conviction, or the court did not accept the aggravating factor.

Inspectors Assessment:

Inspectors acknowledge the work that has been ongoing between the PBNI and the NICTS to identify hate crime cases, although the overall numbers are still in single figures. Inspectors are aware of the inter-agency work being done with the Causeway IT system to develop an electronic facility for passing hate crime flags right through the duration of the case. The PBNI managers indicated that it is normally only when Pre-Sentence Reports are being completed that they get an opportunity to broach the issue of

motivation with offenders. To date there have been four Pre-Sentence Reports completed where the offender had been convicted of 'aggravated by hostility' offences. The performance standards for the completion of Pre-Sentence Reports were updated in April 2009.

Recommendation 12

It is further recommended that the information recorded by all agencies should be capable of illustrating the transparent flow and timeliness of business between agencies.

Status: Not achieved

Sub-Group Response:

Criminal justice partner agencies are continuing to work together in relation to data sharing on hate motivated offences.

Inspectors Assessment:

CJI has recently completed and published a further thematic inspection of avoidable delay within the criminal justice system in Northern Ireland. Fieldwork showed that there has been no improvement in the timeliness of business between agencies and that processes developed to serve the needs of one agency can have a negative influence on another. The delay in the implementation of Causeway Data Sharing Mechanism 1 from 2007 to November 2009 has undoubtedly limited the progress made on this recommendation. At the time of the original inspection, Data Sharing Mechanism 1 was planned for 2007-08 and there was also, at that time, a concern that the overall numbers of hate crime might increase. Inspectors are aware of the recent discussions between the criminal justice agencies and the Causeway



Programme Board to integrate the data that exists within the PSNI, the PPS and the NICTS onto Data Sharing Mechanism 1. There have been recent discussions between the agencies and consultants working on Causeway to enhance the existing functionality of Data Sharing Mechanism 1. These changes are designed to improve the accuracy of the recording based on the definitions of hate crime and hate crime offences ‘aggravated by hostility.’ In tandem with these improvements, there is a further proposal to amend the NICTS Integrated Court Operating System to display both the PSNI perceived motivations and the PPS ‘aggravated by hostility’ indicators on appropriate screens, and for the PPS to also record the cases which were opened in court as ‘aggravated by hostility’ and the outcome of such cases.

Recommendation 13

It is recommended that henceforth any case presented to a court as having been ‘aggravated by hostility’ and/or where the Criminal Justice (No.2) (Northern Ireland) Order 2004 has been applied, should be recorded as such by both the PPS and the NICTS. Consideration should also be given to monitoring the use made of the legislation since its implementation in 2004.

Status: Not achieved

Sub-Group Response:

This information will be automatically recorded by Causeway in the future. Work is also underway to monitor the use of the legislation since it was introduced. The NICTS will record cases on conviction as being ‘aggravated by hostility’ where the court so indicates and

where the court does so, will record when the court passes an increased sentence. The PBNI Pre-Sentence Reports where appropriate, will clearly identify cases where hate is a motivating factor.

Inspectors Assessment:

The limited use of the enhanced sentencing has been addressed at Recommendation 3. Inspectors also accept that there is still room for human error if:

- the prosecutor does not clearly present the case as ‘aggravated by hostility’ especially in guilty pleas;
- the court does not direct on the issue at sentencing; or
- the court clerk fails to correctly record the direction.

The proposed enhancement of Causeway Data Sharing Mechanism 1 should highlight the requirement to open cases in court as ‘aggravated by hostility’ where it is considered there is sufficient evidence to do so. Inspectors will be seeking in a future inspection of Causeway, to assess its ability to deliver timely monitoring reports to quickly identify disparities and allow swift remedial action.

Recommendation 14

It is recommended that the monitoring mechanism outlined by the Northern Ireland Affairs Committee - that the PSNI, the NIPB and the DoJ closely monitor the effectiveness of the new legislation (Criminal Justice No.2 (Northern Ireland) Order 2004) - should be actioned and reported.

Status: Not achieved

Sub-Group Response:

When common definitions of what constitutes a hate incident are agreed, this will help determine the need for monitoring the effectiveness of the new legislation (Criminal Justice No.2 (Northern Ireland) Order 2004). Discussions are continuing to agree an appropriate method of recording.

Inspectors Assessment:

According to the NICTS records, there have been only 13 occasions when prosecutors have opened cases 'aggravated by hostility' and out of those 13 only 1 where the Judge applied an enhanced sentence. The use of the enhanced sentences provided in the Order is one of the ways of measuring how the criminal justice system identifies and deals with hate crime. Inspectors acknowledge that the decision as to whether an enhanced sentence should be imposed is one for the court to make. However, the public need to be assured that all appropriate cases are being identified and brought to the court's attention.

PSNI Specific Recommendations

Recommendation 15

It is recommended that the PSNI need to clarify for their officers that the hate incident definitions used for recording purposes are solely perception-based and not evidence-based.

Status: Achieved

Sub-Group Response:

The matter will be raised at PSNI training and additional information made available. The issue has been raised at Minority Liaison Officer conferences in order to disseminate to District personnel and to arrange suitable front line officer training. The re-issue of the Hate Crime Policy March 2008 provides specific guidance on the issue and it is reinforced in the Service Policy Directive and is addressed in hate incident training.

Inspectors Assessment:

The 2006 Policy Directive and subsequent Annual Reports, statistical reports and reviews relating to hate crime all refer to the perception-based tests which are applied to the classification of incidents and crimes. The PSNI Hate Crime Service Procedure is reviewed and re-issued annually following consultation with Independent Advisory Groups. Regular meetings are held between community safety branch and the Head of the Police College in relation to Student and Probationer Officers and those front line officers who receive District training. Inspectors found that all those officers spoken to were clear on the 'perception' test and how it differed from the evidential standards required by the PPS. The PPS



draft equality policy also refers to the PSNI perception-based tests and explains the difference with this and the evidential tests associated with 'aggravated by hostility'.

Recommendation 16

It is recommended that the PSNI undertake a formal review to identify further methods to address how the reporting system can be further enhanced to minimise under-reporting of hate crime.

Status: Achieved

Sub-Group Response:

This is currently being reviewed and a new advertising/awareness campaign has been launched. The area of under-reporting is subject to discussion at three Independent Advisory Groups. This is a national issue and not just limited to the PSNI. The existing Association of Chief Police Officers (ACPO) guidance on this matter is being followed. To date the discussions with Independent Advisory Groups and environmental scanning have not produced solutions (the national on-line reporting system has come under criticism and the PSNI continue to use their own system). The PSNI launched an anti-hate crime campaign in May 2008. The PSNI third party reporting system has been assessed as one of the best in the UK. ACPO is currently reviewing its guidance on hate crime.

Inspectors Assessment:

The PSNI has developed an on-line reporting mechanism and has certainly encouraged third person reporting on-line, through the use of advocates and the increasing number of ethnic minority representative/support groups. A Deloitte review recommended a more consistent

approach to the quality assurance and validation of hate crime/incident performance statistics at District level, to minimise any possible under recording of hate crime/incidents. The acceptance of the review findings and commitment by PSNI leadership to re-drafting and issuance of a revised service directive will help maintain focus on the correct categorisation and recording of hate crime. Inspectors commend the PSNI for the high profile media campaigns highlighting the unacceptability of all categories of hate crime and the organisation's continuing commitment in seeking new ways of reaching out to victims.

Recommendation 17

It is recommended that initial and subsequent entries keyed onto the police systems in relation to hate crime are regularly reviewed; subject to evidenced management checks and that categorisation based on the policy definitions are confirmed as being accurate, to ensure integrity of the management information system.

Status: Achieved

Sub-Group Response:

The updated Hate Crime Policy requires supervisors to regularly review entries. The policy has been issued and provides clear guidance to supervisors and Minority Liaison Officers. Discussions will take place with the Causeway Strategic Board and the Horizon Team regarding the best use of new technology. The internal review conducted by Deloitte has produced a number of strategic recommendations for consideration by the leadership of the PSNI.

Inspectors Assessment:

Inspectors observed that in each District visited there was a mechanism for the screening, quality assurance, validation and prioritisation of investigation for hate crimes. Each District had instructions on how the crime/incident should be recorded and an investigation checklist. In all areas visited as part of this follow-up review, the time period for reviews by the Hate Incident Minority Liaison Officers was 14 days and 28 days by the relevant PSNI Inspector. However, the internal review has reinforced the need for the PSNI to retain adequate records of hate crimes/incidents reported and the related responses undertaken by officers.

Recommendation 18

It is recommended that the PSNI reviews how it can communicate more clearly the type of clearances being used and also identify opportunities to educate the public as to what clearance rates actually mean.

Status: Achieved

Sub-Group Response:

The types of clearance rates are clearly identified in the PSNI annual statistics report and on the PSNI website. The PSNI will continue to seek opportunities to further educate the public in this matter. Clarification was provided in the Chief Constable's Annual Report in 2008 and this should be done in subsequent statistical reports.

Inspectors Assessment:

A comprehensive explanation of what clearance rates mean is now included as part of the annual statistical report prepared by the PSNI. The accompanying

press releases now include within the Notes for Editors a full explanation of Clearances and the changes made to the counting rules issued by the Home Office. The PSNI report that the overall clearance rate and its sanction clearance rate are now virtually one and the same.

Recommendation 19

It is recommended that Hate Incident Minority Liaison Officers resourcing in terms of available numbers, appropriate support/facilities and event budgets need to be re-examined by the PSNI to further develop this critical role.

Status: Achieved

Sub-Group Response:

Hate Incident Minority Liaison Officers will continue to be part of the District Command Unit community safety teams. The restructuring of District Command Unit's will allow District Commanders to utilise Hate Incident Minority Liaison Officers resources to meet operational demand. Their role has been reviewed as part of the hate crime policy review.

Inspectors Assessment:

The structural changes to create the smaller number of much larger Districts has been completed and the Hate Incident Minority Liaison Officers role appears, for the time being, to have survived though further reviews are underway. Inspectors visited four Districts and spoke to Community Safety Superintendents, Occurrence and Case Management Teams, Crime Managers and both Hate Incident Minority Liaison Officers and in 'B' District, Hate Investigation Officers. These officers were aware of the importance of dealing



effectively with hate crime and maintaining good contacts with ethnic minority groups, lesbian, gay, bisexual and transgender groups and the advocates for other vulnerable groups. The community safety branch in the PSNI has provided leadership and support to operational officers in combating hate crime. Their co-ordination of high profile public events, organising Hate Incident Minority Liaison Officers conferences and commissioning the preparation of statistical reports on service-wide/District performance in relation to recorded incidents/crimes all help in keeping this a priority issue.

Conclusion

After the publication of the original CJI report on hate crime, the Criminal Justice Board established a sub-group to prepare an Action Plan in response to the recommendations. The sub-group first met in June 2007 and since then has held twice yearly meetings to monitor progress against the recommendations. It is disappointing that the functioning and outcomes of the sub-group have never featured at any subsequent meetings of the Criminal Justice Board.

Inspectors are concerned that three years after the report was published the Criminal Justice Board has only recently agreed a common definition of what a hate crime is, and the development of a hate crime strategy is not on the agenda. The absence of this level of strategic focus is worrying and has the potential to undermine the progress that has been made in reaching out to minority groups and victims of hate crime. PSNI officers at service delivery level, are being supported by some good initiatives and Inspectors commend the PSNI's community safety branch and the Northern Ireland Policing Board for the support being given to District officers in communicating with minority communities and their support groups.

Of the original 19 recommendations, 12 have been achieved, three were partly

achieved and four were not achieved. Of the three partly achieved:

- the PPS has circulated guidance to prosecutors however, the figures suggest that they are not following through by ensuring that the court is made aware of the motivational factors surrounding the case;
- there has been some progress in respect of the establishment of an Intermediary Service, it is projected that this element of the Victims Strategy could be achieved within the next 12-18 months; and
- progress has been made between the NICTS and the PBNi in identifying hate crime motivation, however there have only been a handful of such cases to date.

Of the four which are not achieved, the limited progress on the Racial Equality Strategy and delay in achieving Data Sharing Mechanism 1 in Causeway may well have been contributory factors. Inspectors are concerned that while the letter of the recommendations has been followed, the spirit in which they were made has been lost and as a result, the issue has not been given the priority it deserves.

The three critical incidents in 2009 provided a timely reminder of the need for agencies and departments to work co-operatively to tackle these issues in a



more holistic way. The recording of hate incidents/crimes is a big issue for the criminal justice system and the nature of Northern Ireland is such that any complacency can have catastrophic consequences far beyond what the original incident might indicate.

Steps are being taken to enhance the accurate recording of hate crime offences 'aggravated by hostility,' through the enhanced functionality of Causeway. However, the importance of this subject cannot be under-estimated and Inspectors believe that hate incidents and crimes will continue to provoke public outrage. It is vital that the criminal justice system reacts to such incidents in a pro-active and timely manner thereby reflecting societal abhorrence and the complete unacceptability of such behaviour.



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