

VIOLENCE BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY

ISSUE BRIEF

In Canada, any criminal offence committed against a person or property which is motivated by hate, bias or prejudice based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor, can be deemed a hate crime at the time of sentencing. Hate crimes tend to be more violent than other crimes and are often committed with the intention of scaring an entire community. They increase feelings of vulnerability, victimization and fear for everyone. They are particularly horrible because they often occur in places where you feel safest: at home, school or religious institutions. Left unchallenged, hate crimes can easily lead to copycat incidents.

Statistics Canada has collected annual information on hate crime in Canada since 2006, which includes hate crimes motivated by sexual orientation. This data only includes incidents that are reported to police, and reflects the information that was collected at the time of the report. Depending on the level of evidence at the time of reporting, police can record an incident as either a “suspected” or “confirmed” hate-motivated crime. In 2012, hate-motivation was confirmed at the time of reporting for 75% of police-reported hate crimes.

While methods of data collection and analysis have improved over the years, a significant portion of hate crime in Canada still goes unreported. The 2004 and 2009 General Social Surveys found that only a little more than a third of those who believed they had been the victim of a hate crime had reported the incident to police (40% and 34% respectively). In addition, rates of reporting can change significantly year over year, reflecting both a police service’s effectiveness in investigating and recording hate-motivated crimes and the comfort level of community members in reporting victimization to their local police service. This can be influenced by a variety of factors:

- Dedicated hate crime investigation and prevention units.
- Hate crime-specific training programs.
- Cultural diversity training programs.
- Public awareness programs.
- Community-specific police outreach initiatives and recruiting programs.
- Youth crime-prevention initiatives.
- Victim assistance programs and other supports.

HATE CRIMES MOTIVATED BY SEXUAL ORIENTATION

Despite these challenges, consecutive annual reports between 2006 and 2012 have clearly demonstrated a number of general trends regarding police-reported hate crimes motivated by sexual orientation:

- Police-reported hate crimes motivated by sexual orientation have generally increased since 2006, peaking in 2011 at 240 incidents, representing 18% of all hate crime.
- Crimes motivated by hatred against lesbian, gay and bisexual people are by far the most violent form of hate crime in Canada. Sexual orientation is the only motivating factor for which the majority of offences are classified by police as violent (between 65% and 75% of incidents), with between 39% and 63% resulting in injury to the victim.
- Most hate crimes in Canada are classified as mischief, whereas assault is the most common form of hate crime against LGB people.
- Male youth under the age of 25 are consistently over-represented among both the accused and the victims of hate crimes motivated by sexual orientation.
- Between 1991 and 2012, there were 22 hate-motivated homicides in Canada. About half of all victims were killed because of biases related to sexual orientation and half due to race or ethnicity.

<i>Hate crimes motivated by sexual orientation</i>	2011		2012	
	Victims	Accused	Victims	Accused
<i>Male</i>	85%	92%	80%	77%
<i>Under 25</i>	50%	70%	56%	66%
<i>Both male and under 25</i>	N/A	N/A	42%	50%

HATE CRIMES MOTIVATED BY GENDER IDENTITY

Canada's *Criminal Code* does not explicitly recognize hate crimes motivated by gender identity or expression. However, many have speculated that the phrase "or any other similar factor," which is included in the hate crime sentencing provisions, is broad enough that crimes targeting trans people could be recognized. While this argument makes sense in theory, it has not translated into reality. In the history of Canada's hate crime sentencing provisions, enacted in 1996, there is no apparent evidence of a case in which the provisions have been applied to a hate crime based on gender identity, even where such evidence has been presented to the court and recorded in the ruling.

As a result of the *Criminal Code* not explicitly listing gender identity as a potential motivating factor for hate crime, police services across Canada do not routinely collect data on the number of hate-motivated crimes targeting trans and gender variant people, and no such data is collected or analyzed for Statistics Canada's annual hate crime reports. However, independent studies by Egale Canada Human Rights Trust and Trans Pulse indicate high rates of violent hate-motivated incidents targeting trans and gender variant people in Canada:

- 49% of trans students have been sexually harassed in school within the past year.
- 37% of trans students have been physically harassed or assaulted because of their gender expression.
- 20% of trans Ontarians have been targets of physical or sexual assaults because they are trans.
- 34% of trans Ontarians have experienced verbal harassment or threats because they are trans.

"Definitely I fear for my life every moment that I'm outside of my house; in my house. I've overheard my neighbors at one point in a drunken rage yell that the freak upstairs ought to be knifed. These were previous neighbors, but since that moment and while they were there, I slept with my doors barricaded. I didn't even feel safe in my own home. I didn't feel safe leaving my home; I didn't feel safe in my home."

(Trans Women's Experiences of Violence, 2014)

IMPACTS

The General Social Survey collects information on the impacts of crime, including the emotional consequences of victimization.

- Victims of hate crimes are more likely to report that they were emotionally impacted by the incident than victims who did not perceive the incident to have been motivated by hate (91% vs. 81%).
- The most common emotional reactions for victims who perceived the crime to be motivated by hate were anger (38%), feeling upset, confused or frustrated (25%) and fear (20%).

In addition, Egale's *Every Class in Every School* report on homophobia, biphobia and transphobia in Canadian schools found that discrimination and harassment in school, often rising to the level of hate- or bias-motivated crime, had significant impacts on academic performance and school connectedness:

- Over 30% of LGBTQ students had skipped school because they felt unsafe at or on the way to school, in comparison to 11% of non-LGBTQ students.
- 15% of trans students had skipped more than 10 days because of feelings of unsafety, in comparison to 5% of LGB students, and 1% of non-LGBTQ students.

"I've heard some of the angry, you know, "You f'in tranny" and those types of things, right? Now, it's already disconcerting that you hear that; you just get worried if that's how they're talking—and it's talking in a very hateful angry way. They're angry about something, it kind of, my perception is that if they let that anger carry over, it's going to get a lot worse on me."

(Trans Women's Experiences of Violence, 2014)

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