2019 REPORT

The responsibility of effective, fair, humane and accountable criminal justice systems in preventing and countering crime motivated by intolerance or discrimination of any kind – *theme of the United Nations Commission on Crime Prevention and Criminal Justice (2019)*

This report was prepared by Criminologists Without Borders, a scientific collaboration between criminologists and criminal justice practitioners around the world, and the International Sociological Association, both non-governmental organizations in consultative status with ECOSOC.[1] The report primarily summarizes recent research published in scientific journals. The research selected for the current report is in line with the theme: *The responsibility of effective, fair, humane and accountable criminal justice systems in preventing and countering crime motivated by intolerance or discrimination of any kind*. The report is prefaced by a summary of what is known and what is unknown in this area, as well as recommendations.

Knowns:

- Globally, minority and marginalized populations frequently are perceived to suffer from discrimination by agencies of the government.
- Intolerance and discrimination is a continuing problem in many places, which requires vigilance to address. This vigilance takes the form of legal protections, enforcement of those protections, and monitoring by government and civil society to ensure protections are implemented in practice.
- Individual and social attitudes underlie instances of unfair, inhumane, or discriminatory practice in criminal justice. These attitudes must be addressed in any comprehensive effort to reduce intolerance or discrimination.
- Criminal justice systems do not always recognize immigrant populations using a multi-cultural approach to ensure efficient and equitable service.
- Criminal justice systems do not uniformly incorporate a worldview that takes into consideration human rights issues beyond their traditional, parochial perspective.

Unknowns:

- Best practices to motivate more tolerant behavioral change are not well-measured, although public education that promotes tolerance and a free press are important to keeping issues of fairness and accountability open and public.

- Better monitoring of instances of unfair, inhumane, intolerant, and discriminatory practices in the criminal justice system is needed so that changes and improvements can be monitored and featured where appropriate.
- The lack of transnational standardized reporting practices prevents practitioners and researchers from accurately determining levels of discrimination and hate actions.
- While there is a global consensus that minorities and the marginalized suffer from discrimination, there are no standard practices employed to address this issue where it occurs.

Recommendations:

- There is no consistent legal definition of hate crime. As a result, these crimes are often under- or over-inclusive in identifying perpetrators. A standard, accepted legal definition is an important first step.
- The creation of policy addressing discrimination and hate crime is fueled largely by anecdotal accounts and shocking incidents. Systematic analysis is required to permit a more robust and accurate understanding of the nature and causes of theses incidents in order to inform prevention and intervention strategies.
- Criminal justice systems at the regional and national levels should be encouraged to incorporate a multicultural approach that recognizes and responds to the challenges that confront minorities and the marginalized in societies everywhere.

Research Review:

Chakraborti, N. (2018). Responding to hate crime: Escalating problems, continued failings. *Criminology & Criminal Justice, 18*(4), 387–404.

The need for fresh responses to hate crime has become all the more apparent at a time when numbers of incidents have risen to record levels, both within the UK and beyond. Despite progress within the domains of scholarship and policy, these escalating levels of hate crime – and the associated increase in tensions, scapegoating and targeted hostility that accompanies such spikes – casts doubt over the effectiveness of existing measures and their capacity to address the needs of hate crime victims. This article draws from extensive fieldwork conducted with more than 2000 victims of hate crime to illustrate failings in relation to dismantling barriers to reporting, prioritizing meaningful engagement with diverse communities and delivering effective criminal justice interventions. It highlights how these failings can exacerbate the sense of distress felt by victims from a diverse range of backgrounds and communities, and calls for urgent action to plug the ever-widening chasm between state-level narratives and victims' lived realities.

Woods, J. B. (2010). Policing hatred: A case study of an English police force. *Journal of Hate Studies, 9*(1), 127–148.

The article presents a case study on hate crime policing within the Community Cohesion Unit (CCU) of a police station in England. It notes the critical responsibility of police officers to enforce hate crime laws. It also cites the significance of proper management and communication to ensure that hate crimes conform to the unit's agendas. Furthermore, it suggests the use of police resources to include general community cohesion work in the role of hate crime units.

Chalmers, I. (2017). Countering violent extremism in Indonesia: Bringing back the Jihadists. *Asian Studies Review, 41*(3), 331–351.

While Indonesia's efforts at countering violent extremism have enjoyed some successes, a section of its Islamist community remains committed to militant jihadism. This article asks how successful official efforts have been at disengaging those convicted under Indonesia's Anti-Terrorism Law from violent extremism**.** This article finds that disengagement is a gradual process shaped by social networks. Consequently, it is suggested that a variety of methods be used to promote disengagement both before and after inmates leave prison.

Lalić, V., & Đurić, S. (2018). Policing hate crimes in Bosnia and Herzegovina. *Policing & Society, 28*(9), 1065–1083.
Hate crimes often lead to ethnic and religious homogenization, polarization, intolerance, overt hatred and violence. This paper provides an overview of research findings relevant to policing hate crimes in post-conflict Bosnia and Herzegovina. The general findings indicate that crime control is influenced by an apparent lack of political will to tackle the problem. The findings revealed the absence of any systematic approach to deal with hate crimes.

Human Security Collective (2018). A community-based preventive and remedial measures to prevent violent extremism: A human security approach to help transform conflicts, improve social cohesion and improve local security. *International Annals of Criminology, 56*(1/2), 198–219.

The analysis is based on the Human Security Collective (HSC)'s work in Palestine, Libya, Tunisia and the Netherlands where local communities and the professionals who work with them are supported to address systemic causes that lead to exclusion, alienation and potential radicalization leading to violent extremism. Through the process of facilitated dialogue "safe spaces" are created where persons from different backgrounds and interests are able to meet and exchange practices and policies. This dialogue leads to a mutual understanding of and improvement in security-related policies.

Perry, B. (2010). Counting - and countering - hate crime in Europe. *European Journal of Crime, Criminal Law & Criminal Justice*, *18*(4), 349–367.
The article offers the author's insights on the increase of hate crimes in Europe and how to prevent them. Hate crimes persist because of social and cultural differences while many European Union (EU) countries have not established effective strategies to collect data due to limitations in public reporting and police recording. The relationship between the police and the communities they served should be enhanced to improve official data gathering.

Trappolin, L., Gasparini, A. & Wintemute, R. (Eds.) (2012). *Confronting homophobia in Europe: social and legal perspectives.* Oxford; Portland, Or. : Hart Publishing.

Homophobia exists in many different forms across Europe. Member States offer uneven levels of legal protection for lesbian and gay rights; at the same time the social meanings and practices relating to homosexuality are culturally distinct and intersect in complex ways with gender, class and ethnicity in different national contexts. The essays in this volume illustrate the findings of a European project on homophobia and fundamental rights in which sociologists and legal experts have analysed the position in four Member States: Italy, Slovenia, Hungary and the UK. The first part of the book investigates the sociological dimensions of homophobia through qualitative methods involving both heterosexual and self-defined lesbian and gay respondents, including those in ethnic communities. The aim is to understand how homophobia and homosexuality are defined and experienced in the everyday life of participants. The second part is devoted to a legal analysis of how homophobia is reproduced 'in law' and how it is confronted 'with law'. The analysis examines statute and case law; 'soft law'; administrative practices; the discussion of bills within parliamentary committees; and decisions of public authorities.

García García, R. & Docal Gil, D. (Eds). (2012). *Grupos de odio y violencias sociales*. Madrid: Rasche.

Este libro ha sido realizado por los profesionales de mayor prestigio en el estudio y tratamiento de Violencia Social en todas sus vertientes. Se pretende hacer llegar al lector esta realidad social y jurídica para concienciar de la necesidad de atajar comportamientos que no sólo implican la comisión de delitos o faltas en el ámbito penal y/o administrativo sancionador y que podemos denominar "delitos de Odio", sino que su caracterización más irracional implica la humillación de la víctima y de un colectivo singularizado de personas a los que se extiende la acción delictiva en forma de amenaza desde la irracional "incitación a la violencia" contra determinados colectivos. [This book is a compilation of prestigious professionals involved in the study and treatment of all aspects of social violence. This legal and social reality is presented in order to raise awareness of the need to counter behaviors that not only comprise crimes and misdemeanors in the penal code or administrative sanctioning system, that we can call hate crimes, but also those that in their most irrational form involve the humiliation of the victim and of an identified collective towards which violence is incited in the form of threat.]

Nielsen, M. O. & Jarratt-Snider, K. (2018). *Another type of hate crime: Violence against American Indian women in reservation border towns*. Tucson: University of Arizona Press. The special legal status of Native Americans and the highly complex jurisdictional issues resulting from colonial ideologies have become deeply embedded into federal law and policy. Crime and Social Justice in Indian Country calls to attention the need for culturally appropriate research protocols and critical discussions of social and criminal justice in Indian Country. Topics include stalking, involuntary sterilization of Indigenous women, border-town violence, Indian gaming, child welfare, and juvenile justice.

Li, S.D. & Xia, Y. (2018). Understanding the link between discrimination and juvenile delinquency among Chinese migrant children. *Journal of Contemporary Criminal Justice, 34*, 128-147.

Prior research has identified discrimination as a cause of delinquency among migrant children. This study posits that discrimination facilitates delinquent behavior because it reduces social support, generates negative emotions, and erodes social bonds. This study collected data from 1,300 migrant children who attended secondary schools in one of the largest cities in China. The results show that perceived discrimination reported by the students corresponded to delinquency, suggesting that strengthening social support may provide an effective strategy to reduce delinquency among migrant children in a short and intermediate term while ending discrimination represents a more long-term solution.

Gavrielides, T. (2012). Contextualizing restorative justice for hate crime. *Journal of Interpersonal Violence, 27*(18), 3624–3643.

The application of restorative justice (RJ) with hate crime remains an underdeveloped field of research, policy, and practice. This article aims to advance the understanding of these two areas of inquiry: RJ and hate crime. It is known that while most hate incidents involve minor, punishable offenses, their impact can be long lasting and detrimental to victims and affected communities. The article investigates how RJ is conceptualized within the hate crime context. The findings are based on a 3-year research program, which combined theoretical analysis, literature review, and U.K.-focused field research that was carried out through a combination of qualitative methods. These included semistructured interviews with an expert sample of practitioners and policy makers as well as focus groups with young victims and offenders of hate incidents. Direct observation was also carried out with two RJ practices.

Hall, N., Corb, A., Giannasi, P. & Grieve, J. G. (2015). *The Routledge international handbook on hate crime*. New York: Routledge.

This edited collection examines key international issues in the field of hate crime. Collectively it examines a range of pertinent areas with the ultimate aim of providing a detailed picture of the hate crime 'problem' in different parts of the world. The book is divided into four parts: (1) An examination, covering theories and concepts, of issues relating to definitions of hate crime, the individual and community impacts of hate crime, the controversies of hate crime legislation, and theoretical approaches to understanding offending. (2) An exploration of the international geography of hate, in which each chapter examines a range of hate crime issues in different parts of the world, including the UK, wider Europe, North America, Australia and New Zealand. (3) Reflections on a number of different perspectives across a range of key issues in hate crime, examining areas including particular issues affecting different victim groups, the increasingly important influence of the Internet, and hate crimes in sport. (4) A discussion of a range of international efforts being utilised to combat hate and hate crime.

Whine, M. (2019). Cooperation between criminal justice agencies and civil society in combating hate crime. *Crime, Law and Social Change, 71*(3), 1-15.

This chapter examines the relationship between criminal justice agencies and civil society in efforts to combat hate crime. It notes the difficulties faced and co-operation required in attempts to recognise the rights of hate crime victims. This involves an analysis of the work being done at a European level to encourage the involvement of civil society experts and how this might lead to better recording of hate crimes. As such this has meant a recognition of the unique knowledge and expertise that civil society organisations possess and how this can be effectively utilised.

Junuzović, A. (2019). To what extent have international organizations triggered responses/actions at national levels to address hate crime? *Crime, Law and Social Change, 71*(3), 261-273.

This article looks at how international organizations supported increased response and actions at national level through to address hate crime based on practical experience. It argues that, while international organizations may support actions at national level and facilitate exchange of good practices, change occurs only when there is a genuine political in a country. The article also lists four major factors which may contribute to change at the national level and which may also overlap. These include: actions following public pressure after a hate crime case(s) that has stirred the public; international reputation and positioning of the government in multilateral affairs; internal factors – caused by events that may have significant impact on the security situation, and pressure from civil society groups and international organizations to respond to hate crime challenges.

Schweppe, J. & Walters, M.A. (Eds.) (2016). *The Globalization of hate: Internationalizing hate crime?* Oxford: Oxford University Press.

This book brings together researchers, policy makers and practitioners from across the world to scrutinize the concept of hate crime as a global phenomenon. The book seeks to examine whether hate crime can, or should, be conceptualized within an international framework and if so how this might be achieved. Part I of this book examines the global dynamics of hate. Whether hate crime can be defined globally, whether universal principles can be applied to the phenomenon, how hatred is spread, and how it impacts upon our global society. Part II moves to jurisdictional examples of how globalization impacts understanding and responses to hate crime. It is here that the book explores what is happening around the world and how the international concepts of hate crime are being operationalized locally, as evidenced by

a number of jurisdictions from Europe (West and East), the US, Asia, and Africa. Part III examines the different ways in which hate speech and hate crime are being combated globally. International law, internet regulation, and the use of restorative practices are evaluated as methods of addressing hate-based conflict.

Gielen, A.J. (2018). Exit programmes for female jihadists: A proposal for conducting realistic evaluation of the Dutch approach. *International Sociology*, *33*(4), 454–472.

Europe has seen an increase of women joining or sympathizing with the terrorist organization ISIS. Exit programmes to deradicalize, disengage, reintegrate or rehabilitate are often part of a broader programme to prevent and counter violent extremism (CVE). Little is known about the effectiveness of such exit programmes, in particular in relation to female violent extremism. Drawing on municipal exit programmes in the Netherlands as a case study, the article researches how evaluation can be used to measure the effectiveness of exit programmes.

Mason, G., McCulloch, J., & Maher, J. (2016). Policing hate crime: markers for negotiating common ground in policy implementation. *Policing & Society*, *26*(6), 680–697.

This article considers the implementation of police hate crime policy. Victoria, a state in Australia, provides a case study of a jurisdiction where police have introduced a Prejudice Motivated Crime Strategy without an animating hate crime offence. The article identifies the organisational, relational and operational challenges and opportunities that arise in the implementation of this strategy. The literature reveals that successfully policing hate crime is impeded where the approach to defining and categorising hate crime is over- or under-inclusive. Over-inclusive approaches focus on community expectations while under-inclusive approaches are oriented towards prosecution. The absence of a legally bounded definition of hate crime in Victoria provides an opportunity to develop an approach that meets public expectations and operational needs of police, thus avoiding the pitfalls of over- or under-inclusive approaches. The article draws upon the results of a research partnership between Victoria Police and a consortium of Australian universities.

Naidoo, K. (2017). The shaping, enactment and interpretation of the first hate-crime law in the United Kingdom - an informative and illustrative lesson for South Africa. *Potchefstroom Electronic Law Journal*, 20, 1–28.

This article examines the historical, social and political factors that influenced the shaping and enactment of the first British hate-crime law. The South African context is also considered since the Department of Justice has recently released the Prevention and Combatting of The Crimes of Hate and Hate Speech Bill for public commentary and input. This article posits that the enactment of a hate crime law is a constitutional imperative in South Africa in terms of the right to equality and the right to freedom and security of the person.

Sayan, P. (2019). Enforcement of the anti-racism legislation of the European Union against antigypsyism. *Ethnic & Racial Studies*, *42*(5), 763–781.

The European Union (EU) became a pioneer of the promotion of human rights and democratic values especially during the last decades. However, the members of the EU are not immune from the human rights violations including the areas of "equality" and "non-discrimination" that are related to racism, discrimination and xenophobia. "Antigypsyism", a form of racism, is among the most challenging human rights areas for the member states despite all recent initiatives. In this research, the use of EU competences to combat antigypsyism is analyzed with case studies.

Whalen, K., Alqadi, N. & McInerny, L. (2013). *Building stronger, safer communities : A guide for law enforcement and community partners to prevent and respond to hate crimes.*Washington, D.C.: Department of Justice, Office of Community Oriented Policing Services. https://ric-zai-inc.com/Publications/cops-p270-pub.pdf

This short publication describes initiatives that the police and community organizations can take to prevent and react effectively to hate crime.

Allison, & Harris. (2018). Predicting bias homicide across victim groups: A county-level analysis. *Social Science Research, 74*, 108-119.

Few studies have examined variations in bias crime occurrences across American communities, and how community-level factors may shape violent and non-violent bias crimes across victim groups. Drawing from ecological theories of crime, this study asks, (1) what are the structural predictors of the likelihood of bias homicide occurrences? and (2) how do structural predictors differ across bias victim groups? To answer these questions, data on bias homicide are derived from the United States Extremist Crime Database (ECDB) for the years 1990 through 2014 and paired with socio- structural variables from the US Census Bureau. Results are discussed relative to the goals of understanding where fatal bias crimes are more likely to occur in order to inform law enforcement and policymakers interested in preventing and responding to this specific form of crime.

Levin, J. & Nolan, J. (2017). *The violence of hate: Understanding harmful forms of bias and bigotry.* Lanham, Maryland: Rowman & Littlefield.

This book presents a systematic introduction to issues related to the sociology and social psychology of hate and violence as they target people who are different in socially significant ways. It offers an integrated perspective on the causes and consequences of hate-motivated violence and the reasons we have not always been effective in stopping it. The authors address the experiences of racial, ethnic, and religious groups under attack, and also those who are victimized because of their sexual orientation, gender, gender-identity, age, or disability status. Chapters include the exploration of hate crimes as an evolving legal concept and public policy domain, as well as approaches that may be effectively applied collectively to the reduction of hate violence. The authors conclude that support for hate-motivated violence originates not in the ranting and raving of extremists at the margins of society but in the tacit approval of ordinary people who are in the mainstream.

Mason, G. & Stanic, R. (2019). Reporting and recording bias crime in New South Wales. *Current Issues in Criminal Justice*, online.

This article presents the findings of the first study of official bias crime data held by the New South Wales Police Force. The purpose of this study was to unearth the institutional policies, procedures and practices that frame the response of the New South Wales Police Force to the reporting and recording of bias crime. While several overall patterns and trends are discernable in the bias crime data, their significance lies in what they tell us about challenges for law enforcement in the dual process of reporting and recording bias crime. The article draws on qualitative interviews with New South Wales Police Force personnel to argue that a sustained program of capacity building and community engagement is needed if bias crime data is to provide meaningful intelligence on the nature of the problem and inform law enforcement responses.

Dwyer, A., Ball, M., Bond, C., Lee, M. & Crofts, T. (2017). Exploring LGBTI Police Liaison Services: Factors influencing their use and effectiveness according to LGBTI people and LGBTI police liaison officers. Report to the Criminology Research Advisory Council. http://crg.aic.gov.au/reports/1718/31-1112-FinalReport.pdf

This report outlines the results of a research project that explored why LGBTI people seek support from LGBTI police liaison officers across three Australian states (Queensland, New South Wales, and Western Australia). An internet-based questionnaire was conducted with LGBTI people about how they engage with LGBTI police liaison officers. Follow up interviews were then conducted with LGBTI people and LGBTI police liaison officers to document key issues influencing whether or not LGBTI people choose to seek support from these liaison officers. The data suggests that: there are fairly high levels of awareness of liaison officer programs; when LGBTI people know about these liaison officers, they report low levels of interaction with them and are still reluctant to seek them out for support; for those aware of the programs, the most important functions of the liaison officers are supporting LGBTI victims, building relationships between the communities and the police, and working towards reducing homophobia and transphobia within the policing organisation; if an LGBTI police liaison program is not advertised or overtly supported by a police service, LGBTI people do not know it exists and they will not draw on it; and there are a number of barriers to the access of liaison services, including the organisational structure of the programs, past negative experiences with the police generally, and perceptions of access to liaison services.

Mason, G., Maher, J., McCulloch, J., Pickering, S., Wickes, R. & McKay, C. (2017). *Policing hate crime: Understanding communities and prejudice.* London: Routledge.

This book interrogates the complexities of prejudice motivated crime and effective policing practices. Hate crime has become a barometer for contemporary police relations with vulnerable and marginalised communities. Contemporary police are expected to be active agents in the pursuit of social justice and human rights by stamping out prejudice and group-based animosity. At the same time, police have been criticised in over-policing targeted communities as potential perpetrators, as well as under-policing these same communities as victims of crime. Despite this history, the demand for impartial law enforcement requires police to change their engagement with targeted communities and kindle trust as priorities in strengthening their response to hate crime. Drawing upon a research partnership between police and academics, this book entwines current law enforcement responses with key debates on the meaning of hate crime to explore the potential for misunderstandings of hate crime between police and communities, and illuminates ways to overcome communication difficulties.

Blakemore, B. & Awan, I. (2012). *Policing cyber hate, cyber threats and cyber terrorism*. London: Routledge.

This book brings together a diverse range of multidisciplinary ideas to explore the extent of cyber threats, cyber hate and cyber terrorism, providing a comprehensive understanding of the range of activities that can be defined as cyber threats. It also shows how this activity forms in our communities and what can be done to try to prevent individuals from becoming cyber terrorists.

Comisión Interamericana de Derechos Humanos (2015). *Violencia contra Personas Lesbianas, Gay, Bisexuales, Trans e Intersex en América Latina.* http://www.oas.org/es/cidh/informes/pdfs/violenciapersonaslgbti.pdf

Report on violence against LGBTI persons in Latin America, analyzing the prevalence of this phenomenon, the effect of laws that criminalize LGBT people on the violence they experience, State obligations to investigation, judge and punish these crimes and barriers to access to justice.