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## Why aren't more hate crime charges being laid in Canada? A Globe and Mail analysis examines police performance across the country

Police forces solve cases at varying rates, but in general, those that devoted more resources like full-time investigators and community liaison officers lay charges more often

MIKE HAGER, CHEN WANG AND IAN BAILEY  
VANCOUVER  
PUBLISHED 50 MINUTES AGO



Imam Syed Soharwardy has long considered his local police's response to hate crimes a "black hole." He and his congregation still report when they are threatened or victimized, but they have given up much hope for justice. SHANNON VANRAES/THE GLOBE AND MAIL

4 COMMENTS

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The ominous orange message stunned Brett Alford-Jones as he pulled into his driveway one summer afternoon and parsed the threat spray-painted across his garage: "We Don't Like Fagot ... Time to Move ... 30 Days ..."

Brett shuffled his five-year-old daughter inside their house, just outside Pickering, Ont., and called his husband, Paul Alford-Jones. Then he dialled the Durham Regional Police Service, who told him an officer wouldn't be able to attend the scene until morning.

That night, the family huddled together in the same bed and barely slept.

A patrol officer came early the next morning, a few hours before friends gathered to put a fresh coat of paint on the garage.

A detective in the criminal investigations branch eventually took over the case. The family set up security cameras, and – for about three weeks – officers parked in their driveway to stand sentry whenever they could. By the time the 30-day deadline set by

their anonymous tormentor had passed, it was clear it had been an empty threat. It was also clear that the police hadn't made much progress on the case.

Eight months later, the investigator on the case finally called back to break the bad news to the couple: Their file would be closed.

The family's experience is typical of what happens when Canadians call the police to report a hate crime. In the majority of these cases across Canada, charges are not being laid – despite police reporting an overall spike in hate-crime offences during the pandemic – and there is a wide range of how agencies approach hate crimes and secure justice for victims.

A Globe and Mail analysis examined the performance of the country's 13 largest municipal and regional forces, six of which had multiple officers dedicated full-time to solving hate crimes. The average rates at which individual forces solved a hate crime by charging someone – or “cleared” it, in police-speak – varied widely, ranging from six per cent to 28 per cent. But, in general, those forces that devoted more resources, such as full-time investigators and community liaison officers – like Montreal, which had an overall rate of 27 per cent through The Globe's data period – tended to lay charges more often.

Those that did not fared the worst. Winnipeg, which has long had only a part-time coordinator reviewing their colleague's hate crimes cases, ranked lowest in the Globe analysis at six per cent.

The federal government publishes the national clearance rate for hate-crimes cases, but The Globe's investigation offers the first public look at the detailed records of different forces in this relatively nascent area of law enforcement (the first Canadian hate-crimes unit was created in Ottawa in 1993).

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High school students demonstrate outside the London Muslim Mosque before a vigil for the victims of the deadly vehicle attack on five members of the Canadian Muslim community in London, Ont. in June 2021. NATHAN DENETTE/THE CANADIAN PRESS

Some of the hate-crime teams were stand-alone units with detectives working any case flagged by patrol as being motivated by hate and constables spending most of their shifts counselling victims and visiting with communities to build trust in police. Peel Regional Police Service, which tied neighbouring Halton for the highest charge rate at 28 per cent, has a specialist reviewing any incident with a hint of hate before forwarding it to one of five experienced investigators with extra training, each of whom is stationed in one of the force's five districts. Meanwhile, Ottawa's five-person unit was quietly disbanded midway through the eight-year period covered by The Globe's data before it was rebuilt in 2020.

Five departments had one person dedicating all of their time to hate crimes, often analyzing the case work of others to weigh in on whether hatred was motivating an incident, and doing as much outreach with the public as they could.

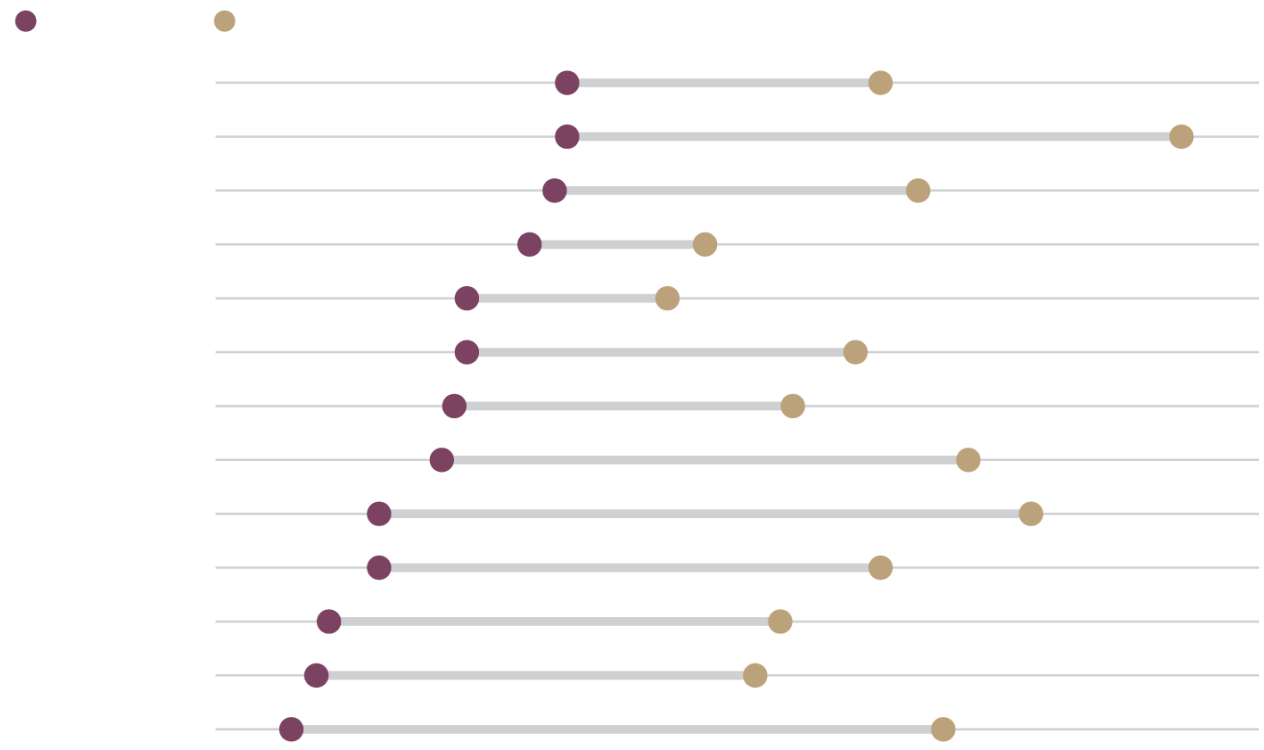
Barbara Perry, director of Ontario Tech University's Centre on Hate, Bias and Extremism, said it is dismaying that even the best forces charged a suspect in less than a third of these cases.

“To be under 25 or 30 per cent is stunning to me,” said Dr. Perry, who began studying Canada’s hate crimes almost two decades ago.

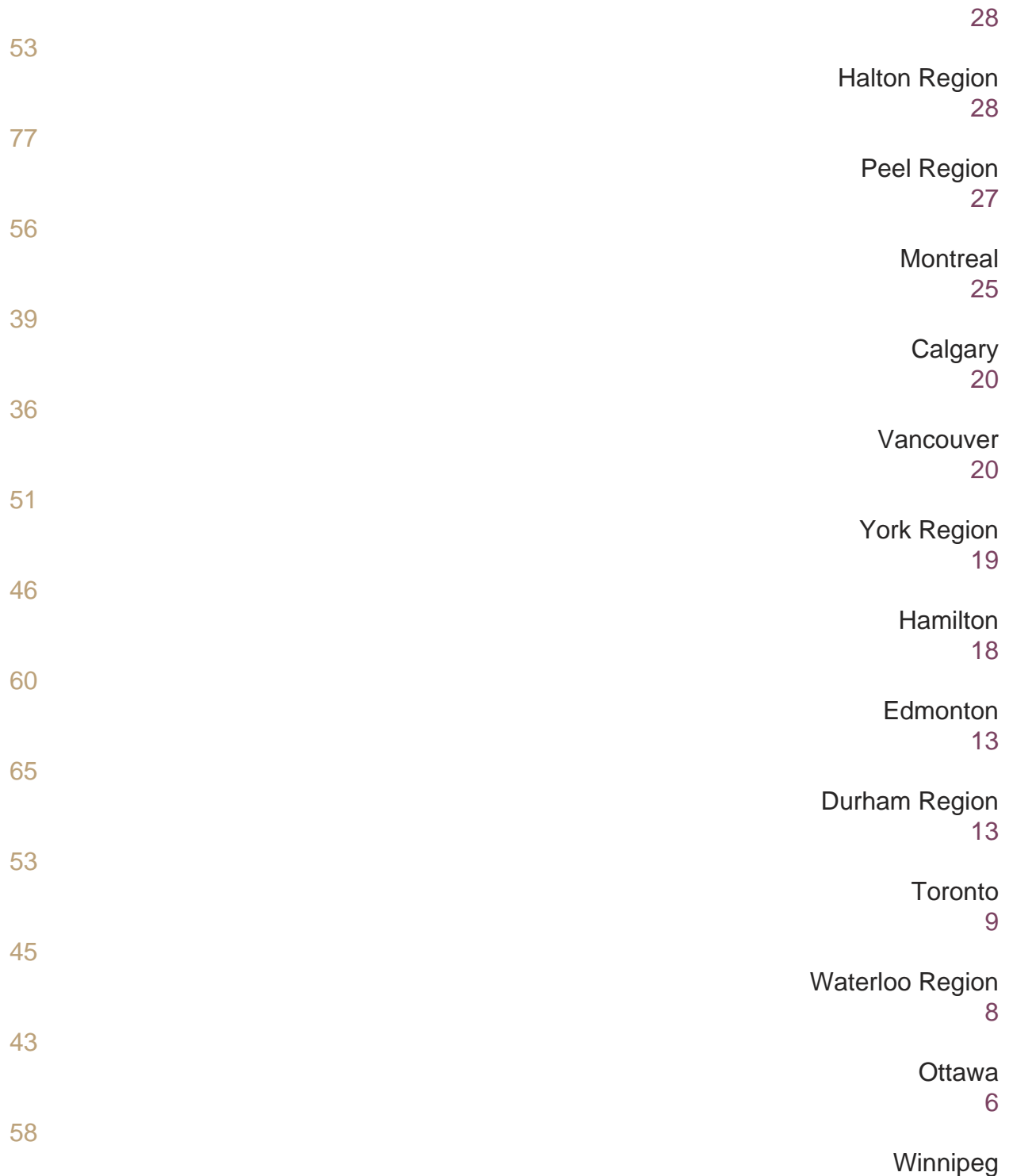
She said these low charge rates may indicate a lack of training, or that hate crimes are not a priority. “It might well show a dismissal of hate crime as something really worthy of attention,” she said.

To put it another way, anyone dialling 911 to report a hate crime in many major Canadian cities is about half as likely to see charges laid as someone calling to report an assault. Instead, the likelihood of charges being laid is more on par with a standard mischief case.

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Percentage of hate crimes cleared by charge compared to assaults, by police service  
2013–2020 overall average  
Hate crime  
Assault



Notes: Quebec City is excluded because of a gap in data from 2013-2015. 2013 data missing for Toronto.  
 THE GLOBE AND MAIL, SOURCE: STATISTICS CANADA

Over the period covered by The Globe’s data – 2013 to 2020 – the number of Canadian crimes involving hatred or bias more than doubled, to a historic high of 2,669 offences during the first year of the pandemic. Police across Canada reported an eight-per-cent

decline in overall crime during 2020, yet hate-motivated offences increased by 37 per cent. Statistics Canada attributed this spike largely to the tripling of attacks against East or Southeast Asian people, and the near doubling of crimes against Black people, whom police perennially say are the most frequently targeted race of people.

Hate-crime survivors, advocates, academics and many working investigators agree a lack of proper funding and the absence of a standardized approach to policing these crimes is further damaging vulnerable communities in a country where celebrating diversity and providing equal treatment for every Canadian is enshrined in the Charter of Rights and Freedoms.

Policing experts also said that the cases reported to the federal government vastly undercount the scope and scale of the country's growing hate-crime problem – there is a dramatic gulf between the hate people say they experience across the country and what police end up investigating.

Statistics Canada's General Social Survey on victimization found nearly 250,000 Canadians may be subjected to hate-motivated incidents during a given year, according to the most recent report carried out in 2019. Victims said that more than half – 130,000 – of these events were violent. Still, only about a fifth of these people – 48,000 – said they ended up calling local police. Experts chalk this overall reticence to report up to a variety of reasons.

Across Canada in recent years, only a couple thousand of these reports become active cases, often because they don't constitute a crime (such as when someone murmurs a slur but not a distinct threat) or because front line officers miss – or ignore – that a suspect may have been motivated by hate, and don't tag the file as hate-related. Owing to these factors, there is no way to know the breakdown of how many of these reports fail to become hate crimes cases each year.

The Globe analysis focused on the 13 municipal and regional forces that serve the biggest populations in Canada. This eliminated the 100 or so smaller forces that averaged a dozen or fewer cases annually, which leads to massive swings in their rates between years. (The rates for the B.C. RCMP, the Sûreté du Québec and the Ontario Provincial Police were excluded because they each serve dozens of communities spread across vast swathes of territory, a policing landscape that is tougher to compare with their counterparts patrolling more densely populated areas. The Globe also omitted Quebec City because the force did not submit complete data.)

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In January 2017 six people were killed and 19 were injured when a gunman attacked the Centre Cultural Islamique de Quebec, targeting Muslims, in Quebec City. THE CANADIAN PRESS

The data do not separate out how hate crimes involving property – like the Alford-Jones’s graffiti incident – were solved versus crimes targeting people. The Canadian Association of Chiefs of Police told The Globe that those hate crimes are taken particularly seriously by investigators “if they involve violence against a person.”

Just over half of all hate crimes investigated by police in 2020 were non-violent, and the clearance rate for these offences from forces across the country was 14 per cent compared to 51 per cent of violent hate crimes, according to a Statistics Canada report released in March. (This report only detailed overall clearance rates, which include instances where police can solve a case by identifying a suspect but do not lay charges, either because a victim declines to proceed, because the police decide to give the accused only a warning, or because they don’t have enough evidence to secure a charge).

A lack of clarity over what, exactly, constitutes a hate crime is another reason why charges don’t get laid. Dr. Perry said even front line officers are often confused by how hate crimes are defined by the Canadian Criminal Code. The law only identifies four actual hate crimes: three hate propaganda offences (advocating genocide, publicly inciting hatred and wilfully promoting it) as well as mischief at religious or cultural sites. Police need their provincial attorney general to sign off on any charges of advocating genocide or wilfully promoting hatred, and only a handful of these cases have made it to court over the past decade.

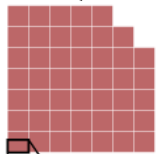
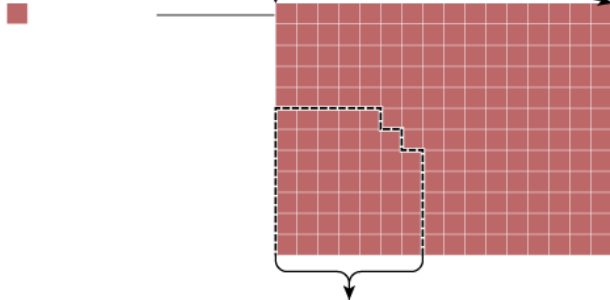
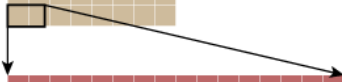
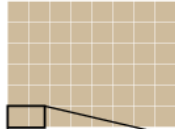
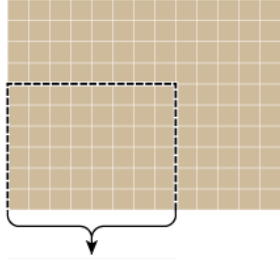
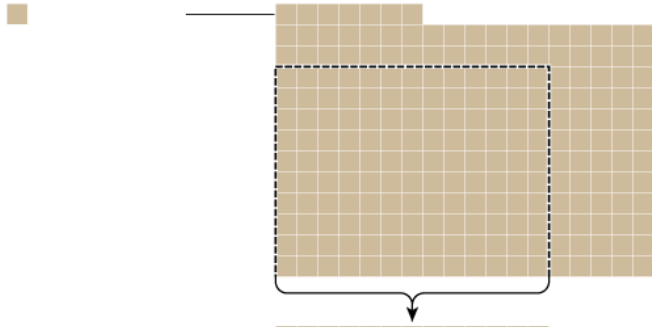


In 1996, a number of criminal reforms were brought in, including amending the law to make hate or bias an aggravating factor at sentencing. That made policing these crimes more complicated: Officers can investigate and charge someone with a standard crime and then – if the system functions as it’s intended to – a judge will decide later if the suspect’s bias should net them a heavier punishment. The Code now states that this hate can be aimed at a wide array of victims, including those targeted based on their “race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or gender identity or expression, or on any other similar factor.”

To justify these harsher penalties, police must first uncover the hate motivating a suspect to commit a standard crime and take the extra step of ensuring the prosecutors will argue to include it as an aggravating factor in court. A dozen current and former investigators have told *The Globe* that most hate-crimes cases – upwards of 90 per cent in some cities – involve first charging someone with a core offence, and not one of the four hate crimes defined in the Code.

Dr. Perry said the nuance of uncovering any hatred motivating a criminal act can be frequently lost on front line officers, whose jobs often require them to act as street-level bureaucrats filing paperwork on events that have already taken place. And, these incidents frequently involve two strangers, or have no witnesses at all.

But if hate crimes are stripped of their hate motivation and only investigated as “regular” crimes, she said, then they fail to bring extra punishment when a case goes to trial. These incidents aren’t added to an offender’s file, and then police miss out on more information if the offender goes on to commit more crimes motivated by bias or hate.



## Life cycle of hate crime in Canada

Numbers are based on 2019 data

Too often, studies have found, hate crimes go unreported to police and - even when officers open a case - this bias motivating the suspect is “filtered out” of the criminal process. The Canadian Criminal Code gives investigators the ability to lay charges for four specific hate-motivated offences, three of which relate to hate speech and a fourth that deals with mischief at religious or cultural sites.

But the majority of so-called hate crimes cases actually involve police investigating someone with a standard crime and then having a judge decide later whether the suspect’s bias merits a heavier sentence. This is rare.

=1,000 incidents

223,000  
incidents  
130,000  
incidents that victims  
said were violent  
48,000  
incidents were  
reported to police

=10 incidents

1,922  
incidents were labelled  
as hate- related crimes  
459  
hate-related offences  
where charges were laid

= One incident

6

people were sentenced to one of four hate crimes or given harsher sentence for another offence, according to published case law

MURAT YÜKSELİR / THE GLOBE AND MAIL, SOURCE: STATISTICS CANADA; DEPARTMENT OF JUSTICE CANADA

A 2018 European Union study of the “life cycle” of hate-crimes cases in Sweden, England and Wales, Ireland, Latvia and the Czech Republic may hold clues for Canada as to how a suspect’s bias is often “filtered out” during the criminal justice process. The study found that this happened at the beginning, when police initially recorded the incident, but failed to tag the hate motivation behind it.

Researchers in England and Wales noted from interviews with prosecutors that many officers were well-versed in the nuances of racial or religious discrimination, but they often missed a suspect’s bias against other protected groups, such as those with disabilities. Prosecutors too often relied on the words uttered by a suspect as they committed a hate crime, and may not be as adept at proving this bias when prosecuting incidents where nothing was said at all.

“They talk about hate disappearing as you move through – and that’s clearly what is happening here [in Canada],” said Dr. Perry.

A Department of Justice review of all criminal judgments across the country from 2007 to 2020 found judges discussed or considered laying a harsher sentence because of hate just 48 times, according to the report that used a number of keywords to search for cases published on the country’s four main legal databases. Of those judges who considered hate to be a motivating factor in the actions of the defendant, two-thirds handed down a stiffer penalty, with an average length of prison time extended about 70 per cent. (Statistics Canada has consistently stated that most of those accused of hate crimes in recent years are younger white men.)

“Prosecution is simply ineffective,” said Irwin Cotler, a former federal justice minister who serves as Canada’s Special Envoy on Preserving Holocaust Remembrance and Combatting anti-Semitism. There’s a “lack of proper investigation, proper training and proper understanding of the law,” he said.

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In Canada and the U.S., new police recruits typically receive anywhere from three to six months of training, according to research by Dr. Perry and Kanika Samuels-Wortley, a criminologist at Carleton University. Their 2021 study found Ontario officers are lucky if they receive more than 20 hours on diversity issues and up to an hour on hate crimes. Once they’re on the job, a regular police officer may get an hour-long seminar from a colleague in charge of hate crimes, 38 officers from eight Ontario forces told the pair in interviews for their study.

A 2020 report by the Ontario Association of Chiefs of Police noted that, on the whole, these hate-crimes officers in the province wanted more “buy-in” from their bosses to increase education, support and the number of officers dedicated to this area of policing.

Staff Sergeant Feras Ismail, a former head of the Peel Regional Police Service’s hate-crimes unit who now works in its general training department, helped launch Canada’s first specialized course on this type of crime at the Ontario Police College four years ago. The week-long class is now offered to two dozen officers three times a year and has a waiting list stretching to more than 100 people. The college also offers a 45-minute online module for any officer to gain more awareness of hate crimes.

Staff Sgt. Ismail, whose Palestinian family left Kuwait to settle in Mississauga when he was 10, said many officers arrive eager to learn more about how to uncover bias and end up getting a crash course in the geopolitical and historical currents that animate hatred against various groups of people.

Only eight per cent of Canadian police identify as a person of colour, and four per cent say they are Indigenous, which is below the national averages of 22 per cent and five per cent for these groups, according to a 2020 Statistics Canada report.

In 2015, Peel opted out of creating a stand-alone hate-crimes unit in favour of a decentralized approach, whereby a lone co-ordinator monitors cases across the region and assists special investigators who are housed within each of the force's five divisions. In addition to the internal seminars about hate crimes, these experts in each division also help educate more of its front line officers about the nuances of hate.

Spreading this knowledge throughout the force has been central to Peel's relative success in solving hate crimes, said Staff Sgt. Ismail, whose force has secured charges in more than 35 per cent of their hate-crimes cases in recent years.

"Our front line officers ... certainly have a tonne of support and capacity within Peel because of what we've built," he said, adding even call takers have been trained to recognize when a victim may be unknowingly reporting an incident that could be motivated by hate.

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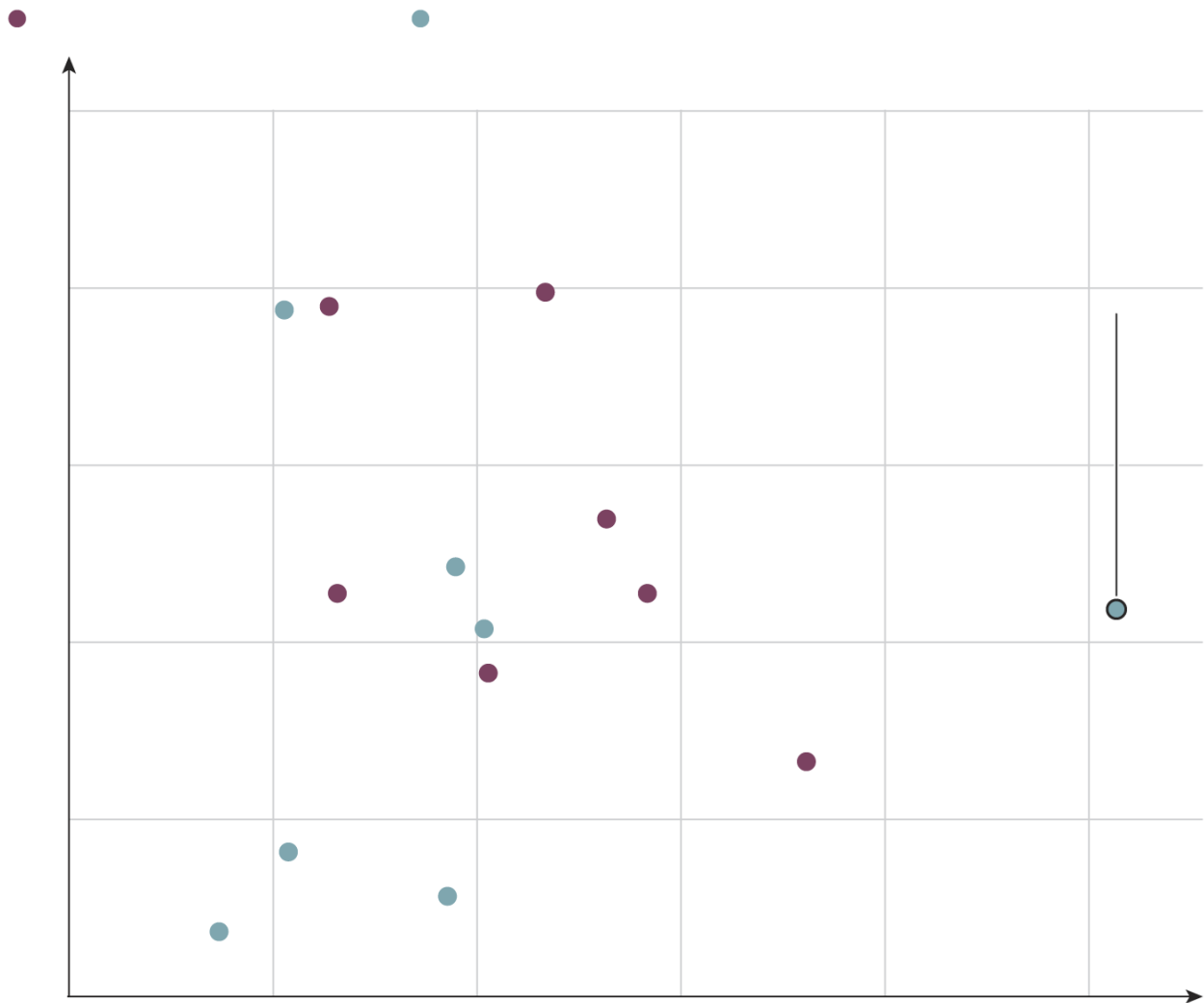
Sergeant Mike MacKinnon has been co-ordinating Winnipeg's response to hate crimes since May 2020, on top of his main responsibilities working in the department's Major Crimes unit.

He reviews initial reports flagged by patrol officers as hate-related and then, if he substantiates that possible bias, he or one of nine designated detectives from his unit takes over the case. Asked why Winnipeg's rate of charging is the lowest in The Globe's data, he said he could not speak to the department's track record before he took over in 2020.

"All I can say is that we investigate any suspected hate crime file to the fullest," he said in an e-mailed statement. "I have zero tolerance for hate-related incidents and my investigators feel the same."

Six other forces covered by The Globe's data had one hate-crimes co-ordinator reviewing the work of their colleagues.

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Overall, police services with multiple hate crime positions tend to uncover more hate crimes and charge suspects at a higher rate

2020 data

Multiple hate crime positions

Single hate crime position

Percentage of these crimes solved with a charge

50%

Vancouver

Case rate almost doubled from 14.2 in 2019 due to an explosion in coronavirus-related hate against East Asian people

40



City	Offences identified by police as 'hate-related' per 100,000 people
Quebec City	0
Peel	5
Montreal	10
Calgary	15
York	20
Toronto	25
Ottawa	30
Waterloo	35
Winnipeg	40

THE GLOBE AND MAIL, SOURCE: STATISTICS CANADA; VANCOUVER POLICE DEPARTMENT

In Edmonton, the hate-crimes unit has one sergeant and two constables. Stephen Camp, a now-retired officer who created this squad in 2003, argues that a lone co-ordinator working these files will miss too many opportunities to recognize the hatred motivating an offence. This will lead to a community losing trust in police whenever a case slips through the cracks, he said.

For the duration of The Globe's data period, Calgary's force had one co-ordinator with the hate-crimes portfolio, and a prominent local religious leader there says he has been continually disappointed.

Imam Syed Soharwardy has long considered his local police's response to hate crimes a "black hole." He and his congregation still report when they are threatened or victimized, but they have given up much hope for justice after 10 incidents over the past decade that he says yielded little follow-up and no charges from the force.

Mr. Sohardwardy, who immigrated with his family from Pakistan just before Sept. 11, 2001, reported a hate crime himself in 2014 after a woman in a white sedan screamed at

him to “Get out of my country,” and then accelerated toward him. He jumped onto the curb to avoid getting hit by her car, which nicked his flowing robes.

He wrote her licence plate on his hand, then called police. Shaking and still in shock, he went into his mosque and performed the 1 p.m. Friday prayer before hundreds.

Later that day, police phoned to gather more details. But he didn’t learn much more about the suspect until two months later, after investigators had visited the woman’s house. They told Mr. Sohardwardy she was using illicit drugs and battling mental health problems, and that they couldn’t do anything more than warn her against making similar attacks.



Imam Syed Sohardwardy reported a hate crime himself in 2014 after a woman berated him and then accelerated toward him in her car. SHANNON VANRAES/THE GLOBE AND MAIL

According to Constable Matt Messenger, who is now in charge of the Calgary force’s three-person hate-crimes investigative unit formed in fall 2021, the force now takes a different approach. In cases like Mr. Sohardwardy’s, he said, charges should be laid and then Crown prosecutors and the defence team would work out whether an offender should be diverted away from a trial toward treatment.

His unit is now capturing roughly twice as many hate-motivated offences than before, in part due to an analyst running keywords such as “swastika” through the force’s

reporting database every week to uncover cases that patrol officers may have missed, he said.

Forces that solve more hate crimes, such as Peel and Montreal, also typically invest in sending their officers out into the community to build rapport with groups of people who tend to have a healthy distrust of police.

There are many reasons citizens might hesitate to report a hate-crime incident. According to a 2007 Justice Department study, this might include language barriers, skepticism of police's ability to investigate, mistrust of law enforcement, fear of retaliation or embarrassment. There may also be an instinct to downplay the incident, or the inability to recognize they were the victim of a crime.

Indigenous and Black people, Statistics Canada has noted, are less likely than others to have confidence in the police, which could contribute to lower reporting rates.

"It's just how things are for us," said Leslie Varley, a member of the Nisga'a First Nation and executive director of the B.C. Association Aboriginal Friendship Centres. She said that Indigenous people have become so accustomed to racism and violence that they don't see these attacks as hate crimes.

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Hannan Mohamud, a 25-year-old law student and Somali-Canadian leader in Edmonton, said the city's police force has so far failed to inspire confidence among many in her community. During the pandemic, Muslim women wearing hijabs in the city have faced a string of violent attacks in public places, but most victims don't feel it's worth reporting these incidents to Edmonton's three-person hate-crimes unit.

Trust is an issue, Ms. Mohamud says. Too often, police show up in the community "all geared up" with guns and an "authoritarian brute presence."

"How are you engaging the community to let them know you are not the person that is usually arresting them for ticket violations, but you're actually trying to see them as victims that need support?"

Hate-crime experts in other forces agree that when a department funds dedicated investigators, they end up uncovering more incidents in their communities and, working alongside a complement of officers that reach out to victims and their social circles, more people come forward with complaints.

Typically, this means that the main metric for hate crimes – total criminal cases opened by police – also rises, which can alarm both the public and politicians by making it seem like there is an explosion of hate crimes. But, experts argue, accurate data give us a

clearer picture of the true nature and size of the problem, so that hatred in Canada can finally be better understood and confronted.

Dr. Perry says taking hate crimes seriously is especially important at a time when all forces are trying to earn the trust of the people they serve.

“If you don’t get that sense from the top that this is a priority,” she said, “it’s not going to trickle down and be seen as a priority to folks on the street, either.”