

The Dark Figure of Disablist Violence

RYAN THORNEYCROFT and NICOLE L. ASQUITH

Ryan Thorneycroft is a PhD candidate and Nicole L. Asquith is Associate Professor of Policing and Criminal Justice, School of Social Sciences and Psychology, University of Western Sydney, Australia

Abstract: While there is a paucity of research pertaining to the phenomenon of disablist violence, one key feature has emerged: it is widely under-reported and under-recorded. The reasons for this are diverse: many are representative of reporting issues attributable to all forms of (hate) crime, and others are unique to the individual and social conditions of living with a disability (Sin 2013). This article provides a conceptual and contextual overview of disablist violence before proceeding to a critical literature review of the reasons why the phenomenon is largely under-reported. Against this backdrop, we offer a critical examination of the various policing strategies necessary for addressing the problem of under-reporting of disablist violence.

Keywords: disablist violence; hate crime; disability; under-reporting; policing

No other racial, cultural, ethnic, linguistic, religious, political, national, sexual orientation, or gender group has experienced this degree of pervasive and generalized prejudice and discrimination, which included killing babies with disabilities, forced sterilization of PWDs [people with disabilities], institutionalization, and mass murder. (Smart 2001, p.72)

Julie Smart's assertion of disability oppression – that which outranks all other forms of minority-based oppression – is provocative; it asks the reader to accept a hierarchy of oppression, where disablist violence represents the most extreme form of hate crime victimisation. While the conventional categories of racist, heterosexist and religious violence have gained traction in the media and policy development, disablist oppression has remained on the fringes of popular consciousness, policy and practice development and scholarly research (Mason-Bish 2013). And yet, people with disability have consistently faced extreme discrimination (Sherry 2010). Examples such as forced sterilisation and genocidal medicine may no longer be acceptable practices in contemporary societies, but pervasive disablism¹ continues to exist even in countries with proactive strategies of inclusion (Sin *et al.* 2009). According to Sherry (2010), people with disability are much more likely to be victimised than are their non-disabled counterparts, and the influence of

this prejudice and hatred is significant. Meanwhile, the existing research suggests that people with disability are the least likely of all hate crime victims to report this violence (Lane, Shaw and Kim 2009; McMahon *et al.* 2004; Sherry 2010). All forms of hate crime – and crime, more generally, for that matter – remain under-reported (Dunn 2009; Quarmby 2008; Sherry 2010; Sin 2013; Sin *et al.* 2009). The reasons for this are diverse: many are representative of reporting issues attributable to all forms of (hate) crime, and others are unique to the individual and social conditions of living with a disability (Sin 2013).

This article provides a contextual overview of disablist violence before proceeding to an examination of the reasons why the phenomenon is largely under-reported. To date, there has been a paucity of research relevant to disablist violence, with few scholars engaging in primary research (see Quarmby 2008; Sherry 2010; Sin 2013; Sin *et al.* 2009). A complete survey of the conditions and extent of under-reporting – and the predicates and correlates to this under-reporting – are documented in order to appreciate the links between each of the factors affecting the reporting of disablist violence. Within the context of these barriers to reporting, we offer a critical examination of the various policing strategies necessary for addressing the problem of under-reporting of disablist violence. At this juncture, the recommended strategies and responses by scholars and advocates lay on a continuum, ranging from community awareness campaigns (Chakraborti, Garland and Hardy 2014), reducing structural inequalities (Hollomotz 2013) and legislative reform (Equality and Human Rights Commission 2011).

While various policing strategies have also been addressed (see Chakraborti, Garland and Hardy 2014), they are only documented as part of a patchwork of other recommendations, leading to an under-exploration of the specific strategies and processes required to manage disablist violence. We suggest education and training, specialist policing units and third-party reporting as three important reforms for policing responses to disablist violence, but, importantly, we emphasise that a siloed approach to disablist violence alone will not suffice. We advocate for a universal precautionary model (UPV), so these strategies cannot simply be adopted for disablist violence, but for all victims of hate crime and vulnerable victims generally. The adoption of these strategies will, we argue, reduce the likelihood that disablist violence will continue to be so systematically under-reported, and in the long term, form a more complete picture of the true scale and characteristics of this unique form of victimisation.

The Construction of Disablist Violence

The term ‘hate crime’ has largely been taken for granted in hate scholarship, broader criminology and criminal justice practices. Chakraborti and Garland (2009) state that it ‘has been widely adopted and utilised without there being any definitive clarity on its meaning, applicability and justification’ (p.3). The conceptual approaches taken by hate crime scholars can best be described as diverse, with hate crime definitions varying from

narrow to broad, and the focus oscillating between the offender's motivation and victim's social identity (Berk, Boyd and Hamner 1992; Petrosino 1999). Over time, the number of minority groups included in hate crime definitions has also increased, and the degree of hatred needed for these incidents to be considered acts of hate crime has decreased (Chakraborti and Garland 2012). This is indicative of crime in general, in that they are social constructs dependent upon historical, social and cultural circumstances (Perry 2005). Bowling (1993) acknowledges that 'hate crime is dynamic and in a state of constant movement and change, rather than static and fixed' (p.238). Generically, hate crime refers to acts committed against someone because of their hatred or prejudice towards the victim (Hall 2005). As such, 'disability hate crime' refers to acts committed against people perceived to be disabled, where prejudice is a motivating factor (Sherry 2010). Prejudice, within this context, refers to hostile attitudes directed towards an out-group, such as racial, religious, and sexually diverse, minorities (Allport 1954).

Hate crime has traditionally been viewed through a race-oriented lens borne from the civil rights movements of the 1950s, 1960s and 1970s (Jacobs and Potter 1998). Over time, additional minority groups have been incorporated within the hate crime rubric, and disability is increasingly seen as a legitimate hate crime category (Tyson, Giannasi and Hall 2015). Yet, there is considerable baggage that comes with the 'hate crime' label, one of which is a literal interpretation to the term (Chakraborti 2010). Under this hate-centric lens, instances of hate crime are only conceived as those that are motivated by hatred toward the victim and their social identity. This pathologisation represents a counter-narrative to the correct conceptualisation of hate crime, where, in fact, motivations of bias or prejudice produce hate conduct (Chakraborti 2010). To offset this misinterpretation, we advocate for the deployment of the term 'disablist violence' to characterise instances of hate crimes committed against people with disability (commonly referred to as 'disability hate crime'). The term 'disablist' adequately highlights the structural aspects of prejudiced motivation (just as with complementary terms such as 'racist', 'sexist', or 'heterosexist', for example), and 'violence' highlights the practices committed against people with disability. Subsequently, the use of 'hate' within 'disability hate crime' creates ambiguity and misinterpretation. While the underlying principles associated with the 'hate crime' term are laudable (Chakraborti 2010), it ultimately creates too much ambiguity, and in the case of the law, results in misrecognition by the criminal justice system (Roulstone and Sadique 2013).

The Official Account of Disablist Violence

The definition used to frame criminal justice responses to disablist violence shape the official accounts of this form of hate crime. In an international context, there are many jurisdictions that neither collect nor publish data on the prevalence of disablist violence. In the absence of local data, researchers rely on international reports on disablist violence as a benchmark

for understanding the potential situation in their respective jurisdiction. The Federal Bureau of Investigation (FBI) currently possesses the most extensive dataset of disablist violence in the world (Sherry 2010). According to its most recent report, there were 102 victims of disablist violence across the United States in 2012, representing approximately 1.4% of all hate crimes (Federal Bureau of Investigation 2013). Between 1997² and 2012, a total of 835 incidents of disablist violence were reported to the FBI, representing the smallest number of total hate crime victims compared with other categories – race, religion, sexuality and ethnicity (Federal Bureau of Investigation 1998–2013). The research found that simple assault, intimidation and destruction/damage/vandalism were more common than murder, rape and arson (FBI 1998–2013). Throughout the 15-year history of recording disablist violence, there has only been one case of homicide recorded (Federal Bureau of Investigation 2004). If taken as representative of the experiences of people with disability, these data reveal that a person with a disability is less likely than any other protected group to be a victim of hate crime (Federal Bureau of Investigation 2012).

The Dark Figure of Disablist Violence

While disablist violence is the least commonly-reported form of hate crime, this is an artefact of a range of institutional, social and individuals factors, including the under-reporting and under-recording of the phenomenon, which are not indicative of a reduced prevalence of victimisation (Lane, Shaw and Kim 2009). Indeed, Emerson and Roulstone (2014) found through an analysis of the UK Life Opportunities Survey – a self-reported survey for people with disability reporting their life experiences – that people with disability are 2.6 times more likely to be a victim of hate crime than are their peers. Above and beyond the general ‘dark figure’ of crime lies a range of experiences that rarely meet the conditions for being defined as a crime (Oliver 1996). These experiences of victimisation are silenced by the conditions of disability, the practices of policing and the systems of support provided for vulnerable victims (Equality and Human Rights Commission 2011). Disablist violence is archetypical of these experiences; along with the conventional reasons for under-reporting crime (‘that the police can do/will do nothing’), and in alignment with the reasons for under-reporting other forms of interpersonal violence (‘that reporting will only make it worse’), disablist violence gives rise to a multitude of highly-specific – and in some cases, highly-specialist – issues that contribute to under-reporting (Sin *et al.* 2009).

The complex steps required to successfully report and record an instance of hate crime underscores this point. McDevitt *et al.* (2003, p.79) identify seven critical steps to ensure the successful reporting and recording of hate crime:

- (1) The victim understands a crime has been committed.
- (2) The victim recognises prejudice may have been a motivating (or aggravating) factor.

- (3) The victim (or another person) solicits police.
- (4) The victim (or another person) informs police of the prejudicial motivating factor.
- (5) Police acknowledge/recognise the prejudicial motivating factor.
- (6) Police document the prejudicial motivating factor, and apply appropriate human rights/hate crime charges.
- (7) Police successfully record the incident of hate crime to the appropriate record-keeping authority.

Additionally, these steps would need to occur in sequence to ensure the proper reporting and recording of hate crime (McDevitt *et al.* 2003). Within a hate crime context, McDevitt *et al.* argue that if any step is not completed accurately, the system breaks down, and the likelihood that incidents will be properly reported or recorded diminishes. Each of these steps in the chain is, thus, subject to two types of error: the system as a whole, and the individual person.

There are a multitude of reasons that prevent people with disability from reporting disablist violence, and there has been a traditional focus on practical obstacles such as physical access to police stations (Quarmby 2008). In response to this, policing organisations have – as mandated by legislation or as part of institutional reform – overseen the instalment of accessibility-friendly apparatuses (or policies) such as wheelchair access, lifts and sign language interpreters (Quarmby 2008). While we acknowledge that these are areas of concern, and the remedies made are admirable, we argue that a focus on these problems is reductive. This article is not concerned with the physical accessibility requirements that often become the focus of policing responses to disability and crime. Instead, the focus is on the institutional and systemic circumstances unique to the experiences of living with a disability that inhibit the reporting of disablist violence. While physical barriers are slowly disappearing in the Western world, there remains a core set of individual, social and institutional barriers for people with disability that discourage reporting of victimisation (Sin *et al.* 2009). Ultimately, the benefits of physical reform to police buildings and operational reform in the form of standard operating procedures (SOPs) will only come to fruition when the institutional and systemic circumstances that inhibit reporting are implemented (Sin *et al.* 2009). It is vital that the criminal justice system appears accessible for those considering the reporting of their victimisation (Sin 2013). Beyond the conventional accessibility concerns lies a complex array of factors contributing to the under-reporting and under-recording of disablist violence.

Understanding Hate Crime

The under-reporting of disablist violence can be attributable to a general lack of understanding about what constitutes a hate crime; both from the perspective of the victimised person and from those within the criminal justice system (Mason-Bish 2013; Sin *et al.* 2009). Quarmby (2008) found instances where people with disability did not fully understand the meaning of hate crime, nor consider the ‘casual disablism’ (p.32) they

experienced as exceptional or requiring a response. Moreover, disablist violence may go unreported when the victim does not have the ability to comprehend that a hate crime has been committed (McMahon *et al.* 2004). This is particularly the case for those with learning disability or acquired brain injuries. An underlying paternalism also shapes public discourse and policing practices, such that hatred of people with disability is presented as unimaginable (Sherry 2010).

Moreover, a misunderstanding that hate crimes are those solely motivated by hatred towards the victim (Sin *et al.* 2009) constructs these acts of violence as aberrant and a product of a dysfunctional psychology. 'Hate crime' is better conceptualised through the lens of prejudice and difference, than hatred *per se* (Chakraborti and Garland 2012). When the common misconception of 'hate' motivation shapes responses to disablist victimisation, cases that fail to live up to an extremist offender – such as those incidents motivated by prejudice rather than pure hatred – are often mislabelled as 'abuse', 'maltreatment' or 'bullying' (Sherry 2010). This has resulted in many instances of disablist violence reported to the police, but in the process of recording and investigating the incident, these cases are incorrectly recorded without the aggravating factor of prejudice (Roulstone and Sadique 2013).

Worryingly, Sin *et al.* (2009) have also found that people with disability are advised to ignore the victimisation, especially when the victim has a learning disability. This approach minimises the victimisation and constructs the victim's experience as part of everyday life rather than criminal behaviour (Sin *et al.* 2009). Normalising such behaviour is a damaging practice as it means victims must embrace a second-class status and alter their own behaviour (Sin *et al.* 2009). Sin (2013) argues that when victims' accounts are silenced, an environment is created where the 'structures and attitudes that perpetuate these negative behaviours ... are thereby reproduced and sustained' (p.160). The UK Equality and Human Rights Commission (2011) argues that recommending victims alter their own behaviour, such as limiting their exposure to public places where they have been previously victimised, should be discouraged, as this approach does not deal with the problem of disablist violence; rather, it places the onus and the blame upon the victim. Just as gay men and lesbians are told to 'do it in their own homes', these exclusionary practices must be addressed, and when involving a breach of the law, must be addressed by the criminal justice system. Minimising disablist violence and asking victims to modify their everyday behaviour in order to prevent victimisation – including self-exclusion or exile to the privacy of their home (or closet if the comparison can be extended) – contributes to the under-reporting of disablist violence and reinforces, in the offender's and the community's minds, that this behaviour is not criminal, and, perhaps, even acceptable (Sin 2013). When victims decide against reporting disablist violence, it silences the 'everyday exterminabilities' (Hage 2006) and the extreme victimisation experiences.

Criminal justice responses to 'hate crime' often create a problematic distinction between vulnerability and hate (Mason-Bish 2013). Those responding to, and investigating, disablist violence often construct

'vulnerability' and 'hate/hostility' as two incompatible motivations (Mason-Bish 2013). According to this perspective, if a criminal act is committed against a person with a disability due to their perceived vulnerability, it cannot be a hate crime (Roulstone, Thomas and Balderston 2011). This oscillation between vulnerability and hatred dominates discourses and policy responses to disablist violence, and leaves victims with the contradictory needs of being disabled enough to warrant the attention of hate crime provision, but not being too disabled that their vulnerability supersedes the prejudicial motivations and intentions of the offenders (Thornycroft forthcoming). In light of this problematic relationship between disablist violence and vulnerability, the UK Crown Prosecution Service (CPS) released further guidance on the regulation of this form of violence. The Crown Prosecution Service (2010) has clarified:

When the nature of a person's disability makes it easier for the offender to commit a particular offence, police and prosecutors often focus on the victim being 'vulnerable', an 'easy target' and no further thought is given to the issue of hostility. *This approach is wrong . . . these two factors are not mutually exclusive.* (paras 326, 327, italics added)

In response to ongoing tension surrounding this problematic distinction, the CPS issued further guidance in mid-2015. Citing great difficulty at convincing judges and magistrates that cases only partly motivated by hostility were hate crimes, the CPS reverted to its previous guidance that only cases 'clearly motivated by disability-related hostility' would be pursued as hate crimes (Pring 2015). The continued ambiguity that arises between vulnerability and hate/hostility will likely contribute to further cases of hate crime going unreported, and disadvantage the fight for the recognition of disablist violence. The use of a victim's vulnerability to minimise and miscategorise disablist violence is also shared by other hate crime victims (such as gay men being perceived as effeminate and an easy opportunistic target); however, while vulnerability may inform how some hate crime experiences are constructed by policing organisations, victims of disablist violence – just as with victims of elder abuse – must negotiate the very fine line between competency and incapacitation (Thornycroft forthcoming).

The misconception about the role of vulnerability has affected the reporting of disablist violence (Mason-Bish 2013), but the extent to which such cases have been, and continue to be, under-reported, remains unknown. The continued ambiguity that is evident in CPS approaches will mean that victims of disablist violence will continue to encounter the minimisation and inversion of culpability that coincides with a vulnerabilisation model. Further research is warranted in this area to determine the extent to which such cases have been under-reported, and how operational police understand the vulnerabilities that often coincide with disablist violence victimisation (Mason-Bish 2013).

Relationship to the Offender

The most critical factor contributing to the under-reporting of disablist violence is the presence of a relationship between the victim and the offender

(Sin 2013; Thomas 2011). This represents a major theme in criminology, where offender(s) are generally found to be known to the victims in some manner (Virueda and Payne 2010). Yet, at the same time, it contradicts conventional understandings of hate crime that construct this violence through the lens of 'stranger danger' (Mason 2005). Relationships exist in most cases of interpersonal violence, such as domestic violence, elder abuse and child abuse (Virueda and Payne 2010). Victims of disablist violence also share these intimate relationships with offenders; however, this form of hate crime also exists in a largely unique offender-victim relationship of 'friends' (Thomas 2013). This relationship has led to the concept of 'mate crime'. 'Mate crime' refers to criminal acts perpetrated against a person with a real or perceived disability status, where the victim has an *affinity* – rather than dependent – relationship with the offender(s) (Thomas 2013). Typically, the victim values the relationship with the offender, whilst the offender uses the asymmetrical relationship to exploit, humiliate and attack their 'friend' (Thomas 2011).

Social ostracism is the norm for a person living with a disability and, as such, the social 'connection' offered by affinity offenders is often valued by the victim (Edwards and Imrie 2003). Given that many people with disability find it difficult to form social bonds, the key feature of 'mate crime' is the victim's desire for a relationship or friendship (Thomas 2011). Edwards and Imrie (2003) contend that 'social inequalities ... are core to the lives of disabled people' (p.241), and ultimately, the connection with the offender – no matter how counterfeit – outweighs the risks of victimisation and the threat of social isolation (Thomas 2013). Some victims may want their victimisation to stop, but their affinity with the offender is too important to jeopardise (Thomas 2011). Some people with disability, notably those with learning disability, may also not understand that they are being victimised, or find such behaviour so endemic to their lives that it becomes internalised and normalised (Sin 2013). Nevertheless, instances of 'mate crime' are less likely to be reported – to anyone, let alone the police – because the 'mateship' takes precedence, and the threat of friendship breakdown is too distressing to contemplate (Thomas 2011). Hate crime is also traditionally viewed as acts committed by strangers (Mason 2005), so the phenomenon of 'mate crime' distorts many policing organisations' beliefs about the policing of hate conduct.

As with Joanna Perry (2013), we suggest that the 'mate crime' nomenclature does not assist in the framing or understanding of the phenomenon. In contrast, the term 'disablist' – much like other '-ist' terms such as *racist* or *heterosexist* – properly place the problem of bias motivation and discrimination at the forefront (Perry 2013); 'mate crime' does the reverse. Apart from playing on the alliterative function of 'hate', Perry (2013) suggests it falsely represents the phenomenon. The focus should not be on the dynamics between the two people, but on the bias motivation and discrimination that leads to the hate conduct. Perry (2013) argues that 'befriending' and 'grooming' are more appropriate terms, as they better reflect the true state of affairs (and links these practices to similar acts of violence, such as those used to groom women for prostitution). According to Perry (2013),

the terms ‘befriending’ and ‘grooming’ are active processes and properly place the focus on the actions of the offender. This linguistic shift is important, as it places the onus on the offender, and, perhaps equally significant, the terms ‘befriending’ and ‘grooming’ are applicable to *all* categories of victims (Perry 2013). It is common for people to misjudge relationships generated from loneliness and isolation; as such, it is important that the term ‘mate crime’ is not ‘ghettoised’ to disability, particularly when it is a phenomenon experienced across a range of victimisation processes.

Relationships are complex, and people with disability are often deprived of these social bonds (Edwards and Imrie 2003). Some people with disability may also suffer specific cognitive impairments, which can make navigating these complex relationships difficult (Huntley 2012). When an affinity does form, the desire to keep it intact becomes so powerful that it can outweigh the risks of criminal victimisation (Sin *et al.* 2009). If a victim is dependent on the offender for personal care, it can become even harder to break the bond and report their victimisation (Sin *et al.* 2009). ‘Mate crime’, in this sense, progresses in similar ways to family and intimate partner violence, where feelings of dependency act as disincentives for reporting (Thomas 2011). In any case, victims of disablist violence are less likely to report their victimisation if they have an affinity or dependent relationship with the offender (Sin 2013).

The Influence of Fear

Victims of crime often contemplate the repercussions that reporting their victimisation might incur (Noelle 2009). For people with disability, the presence of fear has a critical impact on the (non)reporting of disablist violence (Dunn 2009). The fear of reporting disablist violence can be generated from two sources: the criminal justice system, and the offender (Dunn 2009; Quarmby 2008). In the first of these, the victim may not report disablist violence out of fear that they will not be believed, that nothing will be done about it, or that they will be revictimised by the criminal justice process (Camilleri 2010; Dunn 2009; Quarmby 2008). With regard to the offender, fear can arise in the reporting of disablist violence if the victim believes that they may be revictimised or be subject to retaliation (Dunn 2009). Victims may also be afraid to report if they rely on the care and support of the offender on a day-to-day basis (Camilleri 2010; McMahon *et al.* 2004). In this circumstance, the withdrawal of a primary carer after a formal complaint may put at risk their limited independence and liberty (Thomas 2013).

Fear of one’s identity – or more precisely the way in which that identity is viewed by broader society – can also affect the likelihood of hate crime reporting (Noelle 2009). A central feature of minority groups is a shared in-group identity, which commonly contrasts with out-group identity imposed upon them by the wider society (Rapley, Kiernan and Antaki 1998). Knowing your identity is despised, misunderstood, patronised and pathologised influences victims’ decisions about reporting hate crime (Noelle 2009). People with disability have been discriminated against throughout

most of human history (Smart 2001), and are more likely than non-disabled people to be victimised (Sherry 2010). As such, many people with disability attempt to minimise their disability, or as Goffman (1968) asserts, try to 'pass' as non-disabled within society.³ In order for a person with a disability to report hate crime victimisation to the police, they must simultaneously report the crime and expose *disability* as a motivation (Sin 2013). To a certain extent, this means that the person must 'out' themselves whether their status as 'disabled' is legitimate or otherwise. People from the LGBTIQ⁴ community must also navigate this liminal state, whereby their status as queer (or disabled within a disablist violence context) is open to question and a source of suspicion and targeting (Noelle 2009). As Swain and Cameron (1999, p.68) suggest, heterosexuality and able-bodiedness are presumed 'unless otherwise stated'. Belonging to a disabled community can be a rich source of support and affirmation; in contrast, being labelled as the 'Other' – pathologised and incapacitated – can be harmful to self-esteem and self-assessment of capacity (Grattet and Jenness 2001). Labelling, in this sense, may enable enhanced service provision from the criminal justice system, but equally, the consistent reassertion of difference and incapacity can be damaging and disempowering (Grattet and Jenness 2001). Swain and Cameron (1999, p.76) argue that *coming out* involves the recognition of an 'imposed oppressive social category'; one that must ultimately be 'challenged and broken down'. Concealing disability under these conditions can, at times, appear to be the path of least resistance (Samuels 2002). Under these conditions, not reporting the crime may seem the most rational response to victimisation. Inevitably, a person with a disability—or someone presumed to be disabled – must weigh the costs and benefits of reporting their victimisation, and when the costs of 'outing' become too great, or the fear becomes too consuming, the criminal conduct may not be reported.

Confidence in Police

Research suggests that a level of distrust exists between people with a disability and police personnel, particularly with regard to those with mental health problems (Sin 2013). This is, in part, attributable to the past experiences of those with disability, whereby they have been previously let down by the criminal justice system or become subject to punitive and carceral reactions from the criminal justice system in response to episodes of mental illness (Sin *et al.* 2009). Anecdotal evidence has revealed instances where people with disability were asked intimate and intrusive questions about their disability, often when they had no direct relevance to the issue (Quarmby 2008). This led to a general reluctance on the part of victims to further engage with the policing process (Quarmby 2008).

Also, once a crime is reported to the police there is a risk that diagnostic overshadowing will occur, whereby the emphasis is placed upon treating or managing the victim's impairment, rather than dealing with the criminal conduct (Sin 2013). Many of the participants cited in Quarmby's (2008) research also reported that they were not believed by police personnel

when they reported crimes, and police officers lacked the appropriate training to properly engage with people with disability (Quarmby 2008; Sin 2013; Sin *et al.* 2009). Conversely, Goodfellow and Camilleri (2003) found instances where the police did not identify complainants as having a disability, resulting in both the criminal justice system's failure to care for the victim's specific vulnerability, and data gaps about the true prevalence of violence committed against the disabled community. Alarming, the research on trust and the police is that officers are more likely to associate a person with a disability as an offender rather than as a victim (Office of Police Integrity [OPI] 2012; Sin 2013). In the Victorian OPI's (Office of Police Integrity 2005) report, *Review of Fatal Shootings by Victoria Police*, it was found that out of 32 people fatally shot between 1990 and 1996 by Victoria Police, 17 were discovered to have some form of mental disorder. In a subsequent report, *Policing People who Appear to be Mentally Ill* (Office of Police Integrity 2012), the OPI identified a continuing lack of improvement in police officer training seven years later. Alarming, the OPI (2012) found that when police officers lacked the appropriate knowledge and training for dealing with a person with a mental illness or health issue, they were more likely to be derogatory and combatant towards the individual. It is apparent that people with a disability will not engage with the criminal justice system when they lack confidence in the abilities and attitudes of this system's representatives.

Data Collection

In addition to overcoming the barriers documented above, the proper recording of disablist violence is reliant on sound data collection methods (Sherry 2010). Yet, disablist violence not only suffers from an under-reporting problem, but also an under-recording one (Sin 2013). Current research suggests that policing protocols related to recording are ambiguous, and that many frontline officers are unfamiliar with existing SOPs (Cronin *et al.* 2007; Woods 2010). There are also personal and institutional incentives and disincentives that affect the reporting and recording of hate crimes within police stations (Asquith 2012). Nolan and Akiyama (2002, p.90) identified the five agency-level factors that affect the likelihood of hate crime reporting, including attitudes and beliefs about hate crime, perceived usefulness of police/public relations, perceived risks of failure and community perception, perceived relevance of police involvement, and the priority of police resources. From an individual-level perspective, Nolan and Akiyama (2002, p.90) identified that satisfactory SOPs, individual attitudes and beliefs about hate crime, the level of their desire to succeed at their job, work-related difficulties, and the relationship between individual and institutional attitudes all influence whether an incident is reported as a hate crime. Within each of these category sets, there are encouraging and discouraging factors that influence the appropriate recording of hate crime (Nolan and Akiyama 2002). Invariably, the encouraging factors must outweigh the discouraging factors to ensure the accurate reporting/recording of hate crime (Nolan and Akiyama 2002).

Uncovering the ‘Dark Figure’ of Disablist Violence

Given the multiple barriers that impede the reporting and accurate recording of disablist violence, it is clear that a range of responses are required from within, and beyond, the criminal justice system (Sin *et al.* 2009). Importantly, in addition to increasing the opportunities to report disablist violence, policing organisations must also consider the way in which the structural and institutional cultures of policing shape how frontline officers and service staff engage with people with disability (Sin 2015). As ‘gatekeepers’ of the criminal justice system (Hall 2005), and 24/7 ‘street-level psychiatrists’ (Teplin and Pruett 1992), the responsibility for the proper reporting of disablist violence falls to the police. Asquith (2012) proposes three institutional strategies to improve the reporting environment with regard to hate crime: education and training, specialist policing units, and third-party reporting. In light of the reasons of under-reporting documented above, we offer three policing strategies to help address this problem, and ensure that the police handle each case of disablist violence competently and compassionately.

Education and Training

Police will be better equipped to respond to reports of disablist violence when they are better educated and knowledgeable about its characteristics (Quarmby 2008). Police officers should also become knowledgeable about *all* categories of hate crime, not simply the most common forms (Asquith 2012). While there are core competencies that are transferrable across victimised and vulnerable groups, there are core skill sets required for some groups, such as indigenous populations or children, for example (Bartkowiak-Théron and Asquith 2012). Silo-oriented disability awareness training is acceptable as an introductory step, but a deeper understanding of cultural competence is required in order to meet the various arrays of disabled and vulnerable groups and their unique needs (Bartkowiak-Théron and Asquith 2012). Bartkowiak-Théron and Asquith (2012) call this the *universal precaution model*, which is based upon the premise that no frontline officer can be culturally capable across all types of groups or all form of disability. In this sense, police officers, and policing institutions, need to adopt a universal precautionary standpoint to ensure that all forms of vulnerability are addressed, even when the victim (or offender) does not fully understand their susceptibility to harm – from victimisation and secondary victimisation from the criminal justice system (Asquith and Bartkowiak-Théron forthcoming).

A greater understanding of hate crime will also allow police officers to be more receptive to victim concerns, better able to identify instances of hate crime, and be more culturally and socially sensitive to victims’ needs (Asquith 2012). As part of police training, Parker (2009) recommends nine modules for hate crime training, including definitions, hate groups, initial responses, and investigative strategies. Increased cultural competency to deal with vulnerability in the criminal justice system, along with authentic, applied encounters with people with disability to increase awareness,

will assist officers in their policing responsibilities, and will enhance officers' abilities to problem solve across a variety of victimisation experiences (Asquith 2012). While the true extent of disablist violence is unable to be quantified (as this relies on reliable data on rates of disablist violence), a greater knowledge of hate crime victimisation will increase the likelihood that disablist violence is identified, and, in turn, reported by victims and recorded correctly by police officers (Sin *et al.* 2009).

Concurrently, capacity building is also necessary for people with disability, as well as disability advocacy organisations (Sin 2013). People with disability will not report their victimisation if they lack an understanding that they have been victims of hate crime; this is especially the case for those who view such victimisation as 'part of everyday life' (Sin 2013). That disablist violence scholars must defend their field of study as legitimate reflects a more general lack of knowledge about this form of interpersonal violence (see Sherry 2010).⁵ In Thorneycroft's (2013) earlier research, 18 Victorian disability advocacy organisations were contacted about participating in interviews concerning the policing of disablist violence. None agreed to participate, with many citing their lack of knowledge about hate crime as their primary reason for non-participation. When scholars are questioned about the legitimacy of their field, and advocacy organisations are incapable of speaking on these issues, it is not surprising that wider community attitudes are based on misconception, stereotypes and paternalism (Sherry 2010). Quarmby (2008) adds community education – in the form of public awareness campaigns – to the list of strategies required to enhance disablist violence reporting.

Specialist Policing Units

Establishing specialist hate crime policing units can also assist in strengthening reporting and recording procedures (Bell 2009). Implemented as an interim measure, specialist units enable a dedicated group within the policing organisation to be responsible for the investigation of all hate crime cases (Bell 2009). The rationale is that specialist policing units will be better equipped to respond to, and investigate, instances of hate crime, as they have been trained to do so and have established, and specialised, referral networks (Asquith 2012). Further, it is hoped that specialist hate crime policing units improve the overall policing and investigative environment as they work proactively with frontline officers, vulnerable individuals and protected groups, to prevent and respond appropriately to hate crime victimisation (Asquith 2012). The overall efficacy of this approach as a long-term strategy comes into doubt, however, when we consider that it is still the responsibility of first responding officers to flag an incident as a potential hate crime (Nolan, Bennett and Goldenberg 2009). Ultimately, every police officer must have some understanding of hate crime for it to come to the attention of specialist hate crime policing units (Nolan, Bennett and Goldenberg 2009). Specialist hate crime policing units can improve the overall capacity of a policing organisation as an interim measure. Where funding is available, these specialist units are an instrumental part of an

overall strategy to improve the reporting and recording of disablist violence.

Third-party Reporting

Third-party reporting offers a way for hate crime victimisation to be recorded by policing organisations even when victims are hesitant to report (Quarmby 2008). Historically, many minority groups have had a strained relationship with policing organisations (see Bartkowiak-Théron and Asquith 2012), and third-party reporting provides an opportunity to report a criminal incident to a community-based organisation, whose primary responsibility is to support the victim and the victim's community. Third-party reporting mechanisms provide a link between a distrusting victimised community and their policing services (Asquith 2012). Many people with disability have had negative experiences with policing services, ranging from irrelevant and intrusive questions about their disability (Quarmby 2008), to more extreme examples where they have not been believed or assessed as untrustworthy (Sin *et al.* 2009). Sin *et al.* (2009) found that people with disability have a tendency to inform third parties about their victimisation rather than inform the police. Formalising third-party mechanisms, as such, appears as a logical step to improving the reporting and recording of disablist violence. Advocacy organisations reflect their communities and provide the social and welfare support required by victims of disablist violence. Building the capacity of these organisations to act on their communities' behalf in relation to seeking criminal justice redress requires them to be knowledgeable of hate crime and equipped with the capacity to record instances of victimisation. It also requires these organisations to build strong referral and operational links with strategic and frontline policing units (Asquith 2012).

When these three strategies are implemented, hate crimes are more likely to be reported, investigated in a culturally-competent manner, recorded in the crime systems correctly, and referred to the courts in a more consistent manner (Asquith 2012). Ultimately, each of these strategies will enhance policing organisations' abilities to monitor hate crime victimisation and trends in hate crime offending (Asquith 2012). These trends will then provide further insights into the steps that can be taken to enhance the reporting and prevention of disablist violence.

The most critical, long-term strategy is the investment in promoting disability equality (Sin 2013). While it is essential that the under-reporting and recording problem of disablist violence is remedied, it must be acknowledged that these are reactive strategies (Sin 2013). According to Sin (2013), the '... safety and security of disabled people can only be achieved if the structures and prejudices reproducing such crimes are dismantled' (p.162). Quarmby (2008) argues that there is a 'casual disablist' that permeates our society, where disablist attitudes are not only the norm, they are entrenched in our culture. Thomas (2013) states that disablist jokes are still considered acceptable by stand-up comedians and the majority of the viewing public, while this is no longer the case for racist and

homophobic jokes (to an extent, at least). Terms such as ‘idiot’, ‘moron’, ‘retard’ and ‘stupid’ are all still commonly used in everyday language, and these terms come from a psychological and medical paradigm that denigrate people with disability (Sherry 2010). While some argue that these terms have changed meaning, language ultimately produces meaning, and this is why terms such as ‘nigger’, ‘poofter’ and ‘dyke’ are no longer appropriate in public discourse. The popularity of disablist jargon creates an environment where ‘disability’ is positioned as a target open to ridicule (Thomas 2013). Ultimately, disablist violence can only be curbed when the prejudice and discrimination that feeds its conduct is eradicated.

Conclusion

At every point after the initial victimisation there are multiple barriers that inhibit the proper reporting and recording of disablist violence. Many of these barriers are representative of reporting issues attributable to all forms of crime, while others are unique to the individual and social conditions of living with a disability. We suggest that negative intersubjective relationships – with offenders, guardians, practitioners and the criminal justice system as a whole – are instrumental in discouraging hate crime reporting. The feelings of fear and dependence that coincide with victimisation can often outweigh the need for justice. A lack of support and accessibility issues create intimidating environments, while a lack of confidence in police – in terms of competency and capacity – creates obstacles to reporting disablist violence. Even when an incident of disablist violence is reported, seeking justice may be hampered by inaccurate and unsound data recording and collection.

From a conceptual standpoint the ‘hate crime’ label is fraught, contested and difficult to translate to practical SOPs, which hinders appropriate reporting, recording and responses to the phenomenon. When both victims and criminal justice stakeholders frame the experiences of disablist violence through a ‘hate centric’ lens, less conventional cases will fail to garner sufficient attention from the criminal justice system. This conceptual minefield is made all the more difficult to translate to a culturally-competent policing model for disablist violence when ‘vulnerability’ is constructed as the antithesis of ‘hatred’ or ‘prejudice’. Each of these layers of under-reporting interact, resulting in the need for multiple strategies to improve the environment for appropriate reporting and recording to occur. Education and training, specialist policing units, and third-party reporting procedures provide the best practical steps to improve the reporting and recording environment. However, it must be acknowledged that these are short-term measures. Triaging the immediate problem of hate crime reporting and recording is important; in the long term, a fundamental reframing of disability, vulnerability and interdependence is necessary in order to change the meanings, attitudes and perceptions of disability in the criminal justice system.

Notes

- 1 Disablism refers to 'discriminatory, oppressive, or abusive behaviour arising from the belief that disabled people are inferior to others' (Scope 2013). Disablist violence represents an extreme form of disablism in practice (Quarmby 2008).
- 2 Record-keeping for disablist violence commenced in the United States in 1997 (Lane, Shaw and Kim 2009).
- 3 The evolution of the hearing aid represents a small, albeit important example of the way in which people with disabilities attempt to pass as non-disabled (Edwards 2007). Over time, hearing aids have gotten smaller, where they are marketed for their inconspicuous nature (Edwards 2007). One company employed the adage 'Out of sight, out of mind' as their promotional slogan (Oticon nd).
- 4 LGBTIQ is the acronym for lesbian, gay, bisexual, transgender, intersex and queer or questioning (Jones and Hillier 2012).
- 5 Sherry (2010) commences his book with the chapter 'Does anyone *really* hate disabled people?'

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