

Hear no evil, see no evil, speak no evil?

David Green of think tank, Civitas, argues that he believes hate crime is preventing police officers from doing their job

The invention of 'hate crime' is undermining public respect for the police. Moreover, the ACPO strategy for combating hate crime is driving a wedge between senior officers and the rank and file who are in direct contact with the public.

Most officers joined the service expecting to be allowed to use their judgement when handling conflicts and disturbances. But when situations are defined as 'hate crimes' pressure from above tends to eliminate the scope for officers to be impartial adjudicators maintaining calm amid general over-excitement. Often they are expected to 'throw the book' at people for conduct wholly unconnected with hatred of any kind.

In recent weeks a number of examples have found their way into newspapers. Codie Stott, a 14-year-old schoolgirl from Salford was arrested and held at the police station for over three hours in October 2006 because she asked to move to another science discussion group. She was in a group with five Asian girls only one of whom could speak English, which meant that Codie found it difficult to participate. A teacher reported her to Greater Manchester Police, whose spokesman said it took hate crime very seriously. In Stirling, Ronnie Hutton was charged with racially intimidating two Muslims who were standing on the pavement near where he was revving his sports car. He was held in custody over the weekend for breach of the

peace, although the charge of racial aggravation was dropped in September 2006. In November 2006 two London underground workers were tried for racial harassment by making jokes about black jelly babies. The jury found them not guilty, but the investigation lasted over two years and the trial cost £250,000.

Often journalists report these cases as examples of 'political correctness gone mad', but much more is at stake. Under the guise of fighting hate crime, police power has been used to suppress freedom of speech. Worse still, hate-crime law undermines one of the vital pillars of freedom - a clear and unambiguous rule to live by.

The barrister Francis Bennion has described several cases in his article, *New police law abolishes the reasonable man and woman*, published in January.

One case refers to Wyre Borough Council, in Lancashire, displaying gay rights leaflets on the premises in 2005. Joe Roberts, aged 73, told the council that this offended his Christian beliefs and he asked to display Christian literature alongside the gay rights leaflets. The council reported Mr Roberts to the police, who came to his house. According to Mr Roberts, 'they warned him that being discriminatory and homophobic is in line with hate crime'. The phrase they used was 'walking on eggshells'. A council spokesman said Mr Roberts had 'displayed potentially homophobic attitudes', and admitted that the council had called the police, 'for further investigation with the intention of challenging attitudes and educating and raising awareness of the implications of homophobic behaviour'. The police said they had given 'words of suitable advice' but, in truth, they had willingly been used to intimidate someone who was merely venturing a legitimate opinion in a free society.

The Times reported on the case of Sam Brown in January this year. He was an Oxford undergraduate who went out in May 2005 to celebrate the end of exams. Emboldened by a drink or two he had said to a mounted



police officer: “Excuse me, do you realise your horse is gay”. Two squad cars were sent to arrest him. He was detained in a police cell overnight and given a fixed penalty notice for £80, which he refused to pay. In January 2006 the Crown Prosecution Service dropped the case at the last minute, but the police disagreed and insisted that he had made ‘homophobic comments that were deemed offensive to people passing by’.

The police claim that the remarks were ‘deemed’ offensive and led them to charge him under section 5 of the Public Order Act with behaviour ‘likely to cause harassment, alarm or distress’. The case reveals the major difficulty with hate crime, namely that facts do not matter. The ACPO hate-crime document repeatedly states that facts are irrelevant. When speaking of secondary victimisation, when a person is dissatisfied with the police service, it says this, secondary victimisation takes place whether or not the police are indifferent or reject the victims, claims if that is how the victim feels about the interaction. Whether or not it is reasonable for them to feel that way is immaterial.

Why are there now so many of these incidents? The Crime and Disorder Act 1998 created the possibility that assault, harassment, criminal damage and public order offences could be racially aggravated, leading to a harsher sentence. The Anti-Terrorism, Crime and Security Act 2001 created the possibility that crimes could also be ‘religiously aggravated’ and soon the other organised victim groups were demanding preferential treatment. The Criminal Justice Act 2003 requires courts also to consider disability or sexual orientation as aggravating factors when deciding a sentence. The Race Relations (Amendment) Act 2000 added to the pressure when it imposed from May 2002 a duty on public authorities, including the police, to promote racial equality, but the strongest trigger for the large-scale tackling of hate crime was the publication of ACPO

guidance in March 2005.

The ACPO hate crime guide dismisses the idea that to be ‘provably fair’ the police should ‘treat everyone the same’. Such equal treatment, it says, has a ‘negative impact’. It also takes some potshots at a ‘nucleus of officers at all levels’ who resent what they see as ‘special treatment for the undeserving’. This ‘nucleus of officers’ has been treated as if its members had no place in a modern police force, but in truth they are the champions of liberal democracy, equality before the law and police impartiality.

The vagueness of a law against ‘harassment, alarm or distress’ creates the danger of arbitrary arrest, but until recently this risk was diminished by the legal expectation that the police would be guided by the standards of the ‘reasonable person’. A distinguished judge, Lord Macmillan, put it like this in the *Donoghue v Stevenson* case, 1932: “In the daily contacts of social and business life human beings are thrown into, or place themselves in, an infinite variety of relations with their fellows; and the law can refer only to the standards of the reasonable man.”

By pandering to the desires of victim groups with an axe to grind, the police have stopped being the representatives of the ‘reasonable person’ and become the playthings of political activists or petty-minded members of the public.

There is now a considerable gulf between the rank and file of the police and their sociology-inspired senior ranks. Long-serving officers who began their careers in a service that upheld the view that the police should be even-handed – that justice was blind – now find they are treated like misfits in need of ‘retraining’ in diversity awareness.

David Green is Director of Civitas and the author of *We’re (Nearly) All Victims Now*.

What do you think?

If you have any comments about issues raised, write to slund@jcc.polfed.org