Some police forces in Canada are beginning to consider attacks on homeless people as hate crimes

Although hate-related sentences for crimes against homeless people are rare, brutal assaults on homeless people in Canada are not so rare

Mike Hager

V ANCOUVER - As Asher Atter prepared for a pre-dawn walk through Calgary a few days before Christmas in 2021, he told a friend he wanted to “fight a downtown addict.”

Mr. Atter and his friend made their way east along a light-rail line that, by day, funnels commuters into the nerve centre of Canada’s oil and gas industry. But at that moment - five hours before the sun rose on Dec. 21 - the only people using the transit system in the city’s cleared-out core were those trying to survive outside in -17 degree weather.

Within 15 minutes, Mr. Atter, who was 21 at the time, was using an abandoned fire extinguisher to spray a heavily intoxicated homeless man in the face at a rail station, according to an agreed statement of facts read in court. He chased the man down and stabbed him in the back with a knife, slicing a portion of his liver.

Next, he nudged the foot of another homeless man, who was sleeping under a tarp at another platform. When that man stood up, Mr. Atter sprayed him in the face, then plunged his blade into one of the man’s kidneys.

Five minutes later, at another platform, Mr. Atter greeted a homeless man exiting a train car with a fist bump. Then he sprayed the man in the face, pursued him down a ramp and stabbed him in the back.

After front-line officers investigated the case, the Calgary service’s hate-crimes unit made a decision virtually unheard of in the Canadian justice system: police concluded the stabbings were not ordinary assaults, but rather hate-motivated crimes against homeless people.

Assaults on homeless people are almost never classed as hate crimes in Canada, because the Criminal Code does not specifically identify people living on city streets as a marginalized group. This means offenders who target homeless people usually don't receive the stiffer penalties Canadian law reserves for crimes motivated by prejudice.

Police forces in Toronto, Edmonton, Vancouver and Ottawa all said in statements that they take suspects’ hatred of homeless people under consideration. But none of them have charged anyone with a crime where hatred for the unhoused, as a group, was a motivating factor. In Montreal, police don’t consider homeless people a distinct class of victims, so officers don’t refer crimes against them to the force’s specialized hate-crimes unit.

A federal Department of Justice review of all criminal judgments across the country from 2007 to 2020 found just a single case in which a judge decided that a suspect had been motivated by hatred of their homeless victim.

In Calgary, meanwhile, police have already laid charges in another alleged hate-motivated assault against a homeless person. In that case, two young men are accused of beating a victim in March, 2022.

Mr. Atter has pleaded guilty to the 2021 assaults, but still denies he was motivated by hate. His sentencing hearing, where a judge will decide if hate was a factor, is scheduled for April.
"I will be arguing that this was a hate crime based upon the admission coupled with the manner of the attacks," Todd Buziak, the prosecutor handling the case, said in an e-mailed statement. "Also, that the victims were clearly vulnerable and in locations where they could expect to be safe."

While the Calgary cases have been winding their way through court in recent months, several high-profile attacks against homeless people have made headlines across Canada, including the killing of 59-year-old Ken Lee near a downtown Toronto homeless shelter. Police allege he was swarmed and murdered by a group of eight teenage girls.

Despite police forces across the country reporting record numbers of hate crimes in recent years, determining whether a crime was motivated by hatred of some part of a victim's background can be difficult for officers. A Globe and Mail investigation last year found that even the police forces that uncovered the most hate crimes solved less than a third of them by charging suspects.

The picture is murky for investigators because the Criminal Code identifies only four actual hate crimes: three hate propaganda offences, and an offence for mischief relating to religious or cultural sites. In all other cases, a suspect must first be charged with a run-of-the-mill crime, known as a "core offence." Prosecutors then have to wait until the end of a trial to argue the crime was motivated by hate. If a judge finds hate was a factor, the offender can be handed a heavier sentence.

To get that stiffer penalty - and provide a deterrent to further hate crimes - Crown attorneys rely on police to alert them to hate motivation, so that it is not overlooked when a case heads to court.

Arguing a suspect was motivated by hatred of homeless people is complicated, because the Code envisions hate-crime victims being targeted based only on their "race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or gender identity or expression."

But the Code also allows for police to assert that a suspect was motivated by hatred for "any other similar factor."

Calgary Constable Matt Messenger, a hate-crimes officer who reviewed the initial investigation into the transit stabbings, said he and his unit spent considerable time debating and consulting with local Crown prosecutors over whether people can be targeted for hate crimes because they are homeless. His team "hemmed and hawed for quite a while," before referring the case as hate-motivated, he said.

"It was something that came out in an interview with the offenders that led us to believe 100 per cent this is a hate crime against members of a vulnerable population," he added.

Although hate-related sentences for crimes against homeless people are rare, brutal assaults on homeless people are not. In 2005, three army reservists made national headlines when they beat and kicked Paul Crouth to death. The 59-year-old former newspaper editor and businessman was sleeping on a bench in Toronto's Moss Park, steps from the trio's armoury.

After two of the reservists pleaded guilty to manslaughter, Superior Court Judge Eugene Ewaschuk ruled that their "elitist attitude that they are superior to homeless persons must be condemned." In that case, a homeless woman who was at the park testified she had heard the men shouting about "addicts, hookers … bums" as they beat Mr. Crouth.

Sergeant Ali Toghrol, leader of the Ottawa Police Service's hate-crimes unit, said his department has not had a case like that yet, but that a victim's poverty could make them a target of hate-fuelled violence. He said confirming this would require investigators to uncover evidence through interviews with a suspect, social media searches or other means.

"It's good not only for Calgary, but it's good for the rest of us across the country to say, 'look, you have to consider all factors,'" he said.

Sergeant Steve Addison, of the Vancouver Police Department, said his force has one open case in which a homeless man was randomly attacked on camera. In another case, from last summer, someone put flyers up on the Downtown Eastside threatening to burn down tents that house people along the neighbourhood's main street if their inhabitants didn't leave within the week.

Another incident caught on camera showed a woman sleeping in a bus shelter outside the Queen Elizabeth Theatre being lit on fire by a passerby. The woman didn't report the attack, and her near-inmolation only came to the attention of police when a security guard reviewed the footage and forwarded the clips, Sgt. Addison said.

In Canada, most hate crimes go unreported to police. And homeless people, especially those who are Indigenous, are very unlikely to phone 911 after an incident. That, according to Suzanne...
Bouclin, a law professor at the University of Ottawa whose research centres on social justice for marginalized people, is because they don't trust officers, who routinely police them for poverty-related offences.

Even so, the latest federal data from Statistics Canada show that the number of hate-crime cases police say they have investigated continued to rise dramatically in 2021, to 3,360 - 72 per cent higher than just two years prior. A 2019 survey by the statistics agency showed that people who had been homeless in the past year reported being victims of violence at a rate three times higher than those who had never been homeless.

Leslie Varley, a member of the Nisga'a First Nation and executive director of the BC Association of Aboriginal Friendship Centres, which oversees 25 urban non-profits that offer shelters and other social services, said it is understandable that crimes go unreported by homeless people - and therefore unsolved - given the massive trust gap between society's poorest people and the police.

Ms. Varley, who lives on Musqueam First Nation territory, said the hate directed toward homeless people in nearby Vancouver stems in part from misplaced frustration at the city's worsening housing crisis, which has resulted in people surviving in tents on sidewalks in and around downtown.

She traced the problem to the 1980s, when the federal Canada Mortgage and Housing Corporation stopped funding social housing. "Now, 40 years later, we're in an acute crisis with a lack of housing, and people are victim blaming and getting really frustrated," she said.

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