

Hatred, Murder and Male Honour

**Anti-homosexual Homicides in
New South Wales, 1980–2000**

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Stephen Tomsen



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Foreword

Anti-homosexual harassment and violence are now often described as “hate” crimes perpetrated by homophobic offenders who act on an extreme and irrational contempt for the sexual identity of victims. But there is very little detailed research evidence about the actual motives of perpetrators or an expanded analysis of violent incidents, even with regard to fatal attacks.

This report is intended to fill some of these gaps. It is based on evidence from a study of 74 homicides with male victims that occurred in New South Wales between 1980 and 2000. The information sources used are press records, police interviews with suspects, Coroner’s Court files and documents drawn from the criminal trials of accused perpetrators.

A detailed analysis of the social characteristics of victims and perpetrators and homicide scenarios reflects the significance of situational factors (such as alcohol, illicit drugs and anonymous sexual cruising) in this fatal violence. Some perpetrators have serious drug use or psychological problems. Most killers are men and boys without such problems but they come from socially disadvantaged backgrounds. This research also indicates that such fatal acts have a variety of links to commonplace issues of male identity. The link to various aspects of masculinity (heterosexism, male honour) that have community support leads to a critical scrutiny of the role of legal rulings.

Some successful perpetrator allegations about a homosexual advance suggest the inscription of a heterosexual male model of violence within the law, particularly in the provocation defence. This confirms the significance of the concerns and recommendations of the New South Wales Attorney-General’s Homosexual Advance Defence Inquiry in the late 1990s.

Adam Graycar
Director, Australian Institute of Criminology
July 2002

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Introduction

Anti-homosexual violence has become an issue with a fresh focus on the “hate” killings of homosexuals, both locally and internationally. This study of anti-homosexual homicide originated in New South Wales out of community concern about the recorded rates of “gay-hate” killings and the outcome of trials in which perpetrators used the “homosexual advance defence”. Legal responses to these killings and other anti-homosexual violence may be determined by political pragmatism. But the evidence from this study suggests a need to fully comprehend the varied motives and scenarios that rest behind such violence. Recent insights into the social construction of masculinity and its relationship to both homophobia and violence can further extend criminological explanations of this form of crime.

Anti-homosexual Violence as a Social Issue

The threat of violence linked to sexual identity has been a common experience for many homosexual people. Their lives are restricted and also ended by fatal attacks that occur in both public and private settings. Until recently, this issue surfaced in public with sensationalised media accounts of the lifestyles and behaviour of victims and uncommon cases of slaying by a homosexual killer. Around the globe the great bulk of these homicides are still disregarded. These are crimes in which the sexual identity of an apparently homosexual victim had a significant relationship to the motives of the perpetrators. In different periods and places, the perceived inferiority of homosexual victims may shape official indifference, unjust legal findings and a disturbing degree of community sympathy for the brutality of the perpetrators.

Anti-homosexual killings were an occasional theme within the nascent gay liberation movements that arose in Western nations in the 1970s. In Australia, there were protests over the death of a homosexual law lecturer who was killed in Adelaide in 1972 in circumstances suggesting the possible involvement of police officers as assailants. But a full response to the violence directed at lesbians and gay men did not arise until this social movement had matured. Eventual victories with decriminalisation

campaigns have been followed by efforts to enact laws that protect from discrimination, harassment and vilification on the grounds of sexuality.

A critical turning point in the local community activism against anti-homosexual killings was the reaction to the death of MS, a gay dancer who was assaulted and left to die by a gang of youths on a Sydney street in 1985. This coincided with an expansion in gay and lesbian media reports on issues of violence and discrimination, and the rapid moves towards a new model of consultation with police in New South Wales that included the creation of a civilian police–gay liaison position.¹ The killing of MS had an important impact on community consciousness about violence. It also suggested a growing awareness by assailants about the availability of homosexual victims in particular urban spaces. Such areas expanded rapidly in the 1970s and 1980s—the new commercial gay and lesbian subculture of inner-Sydney exemplified this process.² A new public visibility and sense of “queer space”, and mixed feelings of safety and ownership, inflected new measures against violence.

MS and two gay male friends were attacked near Oxford Street in Sydney by a group of youths that went to that area because they were likely to find a homosexual victim there. As a result of such crimes, and a greater national readiness to counter non-fatal violence and harassment, specific Australian groups were formed in the 1990s to respond to attacks on gay men and lesbians. These groups followed a model that had already evolved in Europe and the United States (Van den Boogaard 1987; Comstock 1991; Herek & Berrill 1992; Jenness & Broad 1997). They evolved an array of strategies to

-
- 1 After MS's death, one of the city's first openly homosexual councillors added his voice to public concerns about this killing and about the assailant who was not charged (Sydney Morning Herald 1987). The killing also attracted mainstream media coverage. Some of this took the form of tabloid sensation about a killing on “notorious Oxford Street”, the mystery “transvestite witness” and the victim's friendship with a local transsexual who was killed at home a few months earlier in an unsolved shotgun attack (Bouda 1985). More significantly, as this incident did not involve any behaviour by the deceased which could be reasonably construed as provocative, much of the coverage was sympathetic (Cameron 1987). The appearance of one of the survivors of the attack on a national television talkshow marked a significant moment in the creation of a wider consciousness about this form of crime (Scavo 1985). In 1990, the gay–police liaison position was expanded in scope. The New South Wales Police Service also sponsored anti-homophobic violence campaigns in the early 1990s.
 - 2 The transformation of Oxford Street into an area of bars, nightclubs, restaurants and shops was due to the influx of gay men and lesbians in the subcultural boom of the late 1970s and 1980s. The history of the area is underwritten with the contradictory relations that existed between homosexuals and the legal system. Its first expansion as a gay district with unregulated gay bars was possible because of the corruption of the area's notoriously homophobic police. Oxford Street has more recently become known as a key part of the route of Sydney's annual Gay and Lesbian Mardi Gras Parade. In the 1990s, the attraction of diverse large numbers of people to the nightlife of the area has led to new debates about safety and protection for gay men and lesbians (see Faro & Wotherspoon 2000).

counter violence and its threat. These included community monitoring of attacks and a closer cooperation with police and public officials, as reflected by the high-profile Parliament House launch of the Gay and Lesbian Rights Lobby's *Streetwatch Report* in 1990. Additional strategies included the provision of preventive education in the gay and lesbian press (with information on safety, risk and rights) and wider-reaching anti-homophobia campaigns in the mainstream media.³ Violence now looms large as an issue for gay and lesbian community organisations and for services which deal with such diverse matters and interests as personal health and counselling, law, employment and education, and a range of social and leisure activities.

Origins of this Research

With serious police and activist monitoring, in the early 1990s concerns grew about the recorded number of killings of homosexual men in New South Wales and the direction and outcome of related criminal trials. A number of accused men alleged that their use of fatal violence was due to, and justified by, a homosexual advance from their victim. Such claims have been made in criminal courts in past decades and sometimes appear in official case reports.⁴ It is possible that an increase in the level of police arrests brought these claims into courtroom accounts of fatal attacks with greater regularity and more controversial results. The success of some of these perpetrator allegations resulted in political lobbying and the formation of a high-level inquiry into the issue in 1995.⁵ This led to calls for related research work. With the encouragement of community groups, the research that forms the basis of this report proceeded from 1995. Initial funding was provided by the Criminology Research Council.

The analysis offered here demonstrates that "sexual advance" killings are among the most problematic of all fatal assaults on homosexual victims. In such cases, the arguments of arrested suspects and defence counsel appear to play on negative stereotypes of homosexual men and this may undermine

3 Initial local activity comprised surveying levels of violence directed at gay men and lesbians, overcoming low levels of reporting, promoting police liaison, and raising victim consciousness with an emphasis on caution and safety (Cox 1990, 1994; Schembri 1992). Since the mid-1990s there has been more emphasis on wider community advertising and education. These campaigns have especially targeted heterosexual young men who fit the broad demographic profile of most perpetrators of public assaults.

4 For an early Australian example, see *R v. Howe (1958)*, State Reports of South Australia, p. 95.

5 For details of this lobbying, and related developments, see Lesbian and Gay Anti-Violence Project (1985).

the legitimacy of the victim status of the deceased. Such killings occur in a range of different circumstances in which different perpetrator motives prevail. A regular number of these are obviously premeditated and moulded by the intention to rob a vulnerable victim who will not report an attack. Allied claims about sexual advances from victims often appear to be untrue. But a detailed analysis of those occasions where a homosexual advance appears to have been the real catalyst for a sudden and bloody rage gives new insight into understanding the relationship between male identity and the structuring of hostile responses to homosexuality. Evidence about the occasions in which killers have both pleasurable and profitable casual sexual relations with their eventual victims gives a dangerous half-truth to claims about the sexual interests and advances of the deceased. These cases challenge researchers to appreciate broad evidence of the wide occurrence of same-sex behaviour among men and reject accounts of such violence as the result of the innate and “repressed” homosexuality of a disturbed minority.⁶

The Relevance of Masculinity

The importance of more developed analyses of masculinity for a widening range of social research, and particularly for the study of violence, has become more evident in recent years. Homosexual oppression cannot be reduced to gender issues alone, and cannot be simply read off from the patriarchal characteristics of societies, although many lesbian writers and researchers have maintained that violence against all women has an intrinsic link with patriarchy (Mason 1997). Equally, the analysis of gender has much to offer understandings of male violence directed at other men.

Issues of identity and power in the lives of homosexual men are linked to their own contradictory position in societies that ascribe full status to heterosexualised masculinity. Although a radical disavowal of all of the trappings of male status was advocated in early “effeminate” political

6 The essentialist view of sexuality argues that sexual urges reflect instinctive biological drives which are always present (though often constrained) in all societies (Weeks 1986). Drives are of primary importance for men and women who are naturally inclined towards exclusive opposite-sex relations. Homosexual behaviour subverts the assumed link between gender identity and sexual desire; homosexuality is conceived as a biological or psychological malfunction in a minority of people. This essentialist understanding it is now frequently challenged by constructionism (Connell & Dowsett 1992; De Cecco & Elia 1993). Constructionism insists that sexual desire is not patterned by drives with basic consistencies. It has been reinforced by evidence of diverse practices and the wide extent of same-sex activity among men who do not identify as homosexual (Herd 1997). These insights are the backdrop to queer perspectives that stress the artificiality of the homo/ hetero distinction that took hold in the late nineteenth century (Seidman 1993).

Introduction

writing and strategies, gay men's analyses of masculine privilege and power have been less pressing than those evolved in the women's movement (Carrigan, Lee & Connell 1985). Nor have these reflections on power been characterised by the widespread guilt of heterosexual men in their own responses to feminism. Nevertheless, the analysis of violence in this work suggests that masculinity must be regarded as far more than just a target of satire and cultural parody for homosexual men. The toll of this violence, and the overwhelming involvement of males as perpetrators in its more serious instances, has signalled a further need to more fully explore the relationships between these acts and different forms of masculinity. Whether or not it is the case that masculinity and men are really within a stage of crisis, homosexual (as well as unconventional heterosexual) men and boys will often be the direct targets of male anger and anxiety (Connell 1995, 2000).

This report demystifies aspects of the commonplace understanding of anti-homosexual killings. Most fatal assaults on homosexual men are not intended to kill and are in this way similar to the general pattern of such anti-homosexual attacks. Equally, most of the perpetrators of these crimes are psychically ordinary young men. It is therefore erroneous to view much anti-homosexual harassment, violence and killing as the result of an irrational and exceptional bigotry. The links between this fatal violence, conventional forms of male identity, and a widespread social anxiety about homosexuality may now instead compel an exploration of the dynamics of conventional heterosexual masculinity. Furthermore, the twentieth century primacy of the division between homosexuality and heterosexuality, and the social prohibition on overt homosexual desire, have become the focus of recent scholarly interest which might begin to throw some more light on the nature of male anti-homosexual violence and official responses to it. This suggests the timeliness of a critical analysis of the role of the law and courtroom findings in regulating and affirming this dichotomy and the positioning of a homosexual "minority" in cases of anti-homosexual killing.

The Homicide Study

Violence and the Victimization of Homosexuals

Since the late 1980s there have been claims of a marked increase in violence directed against homosexual men and women in various nations (Herek & Berrill 1992; Hamm 1994; Theron 1994; Mason & Tomsen 1997; Jenness & Broad 1997). Some observers have even conjectured about a contemporary epidemic of crimes derived from sexual and racial hatred (Levin & MacDevitt 1993). Furthermore, a few have suggested that the apparent recent increase in violence may be a consequence of a moral panic regarding the spread of AIDS/ HIV. There is some research evidence of the reality of HIV-related violence which appears to be linked to panic regarding viral contamination and a view that AIDS is a "gay disease" (Schembri 1995). But attacks against homosexuals have been commonplace in a range of different societies and periods of history. The histories of state violence directed against lesbians and homosexual men in Nazi Germany, for example, or the abuses carried out under the banners of medicine and psychiatry in many nations, are reminders that this violence is not a new phenomenon. Forms of violence against homosexuals are even now officially promoted or tacitly condoned by authoritarian and fundamentalist regimes in countries including those that have been generally characterised by a relative complacency about the spread of HIV.

Some have criticised claims regarding the rapid increase in the number of so-called hate crimes as unfounded due to the subjective nature of the recording of such incidents. Criticism has also been directed at unproven assumptions about criminal motivation (Jacobs 1996; Jacobs & Potter 1998). It does seem likely that the new official interest in this violence is in part a result of efforts from within the gay community. Internationally, community research, protest rallies and other publicity have provided the catalyst for making violence and harassment directed at gay men and lesbians a public issue. In Australia, these concerns were first of all focused on publicising and addressing violence in inner-Sydney. This activist interest (and subsequent political and media interest) has since been reproduced in regional parts of New South Wales and in other cities and areas across the nation. Because

these attacks have only recently become a focus of police attention or research interest, there may only be speculation about the real level of increase. However, flaws in the official records of these assaults, and the political processes behind public concern about such violence, does not mean that these attacks do not exist on a significant scale nor merit a serious research focus.

North American studies in this area include victim surveys conducted by community organisations in the 1980s, and the pioneering work of Comstock (1991). Initial research in Australia and Britain was also conducted by activist groups (Cox 1990, 1994; Schembri 1992; Baird, Mason & Purcell 1994; GLAD 1994; Mason & Palmer 1996). Additionally, an important Australian study of victimisation was conducted under the auspices of the New South Wales Police Service in the early 1990s (Sandroussi & Thompson 1995). Significant common findings were the comparatively high rate of criminal victimisation of the homosexual men and lesbians surveyed as compared with the heterosexual population, and the relative low rates of reporting of offences, reflecting, perhaps, victims' lack of faith in the police and criminal justice system. Lesbians report victimisation in different settings than homosexual men and, in some studies, a higher proportion of harassment than physical attacks (Mason 1993, 2001; Schembri 1992). Locally, little is known about the different rates of attack experienced between different groups of homosexual men and lesbians (such as the variable victimisation that may be associated with social class, age, ethnicity, residence and other aspects of lifestyle).

Researching Anti-homosexual Killings

There has been a negligible focus by mainstream academics and official researchers on the killing of homosexuals. This overall neglect may not be due to mere oversight—it seems tied to the historical origins of criminology as a research discipline which has overwhelmingly studied homosexuality as deviance. Accordingly, fatal attacks on homosexuals have not been studied in depth by researchers. A similar lack of systematic monitoring has characterised the records of police agencies internationally. Wide growth in the use of victim surveys by community groups is often due to the considerable difficulties faced with studying the official records of such attacks.

Although concerns about violent crime and victimisation have become more politically topical in many nations in the last decade, aspects of crime recording and analysis are often still very antiquated. Among relevant

incidents recorded by police agencies there is often no indication that these are related to the victim's sexuality. Much of the historical under-reporting and under-recording of violence against these groups appears to be a combined consequence of general social stigma and substantial levels of complacent or hostile attitudes to victims, reflecting the frequent masculinism and homophobia of police culture (Burke 1993; Cherney 1999). The ongoing difficulty for researchers studying official records is to consider both the reluctance of homosexual victims to report matters of assault and harassment, and the shifting and regionally different ways that these are recorded that make meaningful comparisons especially difficult. In some countries there has been increased political pressure and official determination to record victimisation on the grounds of race or sexuality. In practice this can prove to be patchy and even consciously resisted within police bureaucracies. Most importantly, violence against homosexual men and lesbians will appear to undergo dramatic rises in more enlightened jurisdictions in which these offences are given greater priority. Matters such as the allocation of police resources, as well as the level of mobilisation of these victim groups, will determine levels of reporting.

A conventional wisdom among researchers is that records for homicides are the most thorough among all categories of violent crime. But homicide research and the official figures rarely mention the sexuality of a perpetrator or victim, and the real number of these killings remains unknown. For these reasons, the majority of police agencies and a range of concerned parties have only a rudimentary knowledge of such killings, including the historical extent of these and the typical and varying characteristics of fatal incidents.

A small number of international studies have barely filled this research void. Two decades ago, Miller and Humphreys (1980) published a critical overview of the scant and very speculative nature of previous evidence on the subject. They also reported on their own study of 52 homicide cases from the United States and Canada. These were deaths in which the victims not only appear to have been homosexual men, but strong factual evidence or witness testimony suggested that "...the crime related to the victim's homosexual lifestyle" (Miller & Humphreys 1980, p. 173). Killings that followed on from sexual cruising and liaison between men in everyday "straight" settings (in bars, freeways and public streets) were found to be far more common than fatal gang attacks on homosexual victims, although all forms of these crimes were generally noteworthy for their exceptional brutality (p. 179). Most importantly, this study first uncovered a variable pattern of victimisation according to the openness of different homosexual

lifestyles. Homicide rates were far higher among what they termed as “homosexual marginals”. These men were particularly vulnerable to attack from male prostitutes and hitchhikers, and “tend by definition to lack gay identity, engage in furtive sexual encounters, lack skills that facilitate operation in the gay world, and exist on its perimeter” (p. 175).

The moral emphasis on the risks of sexual activity are even more pronounced in a study of killings which occurred in Amsterdam in the 1980s (Gemert 1994). Despite the atmosphere of sexual liberalism that prevailed in the Dutch capital, it was accepted by police officials at the time that a high number of all victims of murder were homosexual. The data sources for this study were:

- police files on 18 homicides;
- official personality reports concerning seven known killers; and
- interviews conducted with seven men who were selected by the researcher as fitting the profile of “potential victims” due to their regular level of contact with male prostitutes.

Killings were typically perpetrated by prostitute boys and young men who attacked older clients during disputes about money or in order to steal from their compromised victims. Gemert points out the simplicity of viewing these crimes as mere robberies (p. 170). But the heavy emphasis on the character weaknesses of victims and perpetrators tends to pathologise both parties without considering the wider social roots of anti-homosexual violence.⁷

A corrective to this stance is offered by the recent activist surveys of violence in Colombia and Brazil (Ordonez 1995; Mott 1996). The second of these provided evidence of the very wide extent of fatal attacks. A study of legal and press reports between 1963 and 1994 uncovered 1,266 likely killings of homosexuals (comprising 1,239 gay males and transvestites and 21 lesbians) (Mott 1996, pp. 53–4).⁸ Many crimes were virtual executions “...marked by extensive beating, the use of multiple weapons, bodily mutilations, in

⁷ Gemert (1994, p. 157) notes that many homosexual men understand the dangers involved in such commercial sex relations but “harshness and violence gets people excited”.

⁸ This rate appeared to have peaked in the early 1990s with an estimated average of 114 killings per year (Mott 1996, p. 54). The authors considered that this might reflect exacerbated stigma attached to homosexuality due to the spread of AIDS, or a backlash against the rudimentary gains of the Brazilian gay and lesbian movement. They also note that this form of victimisation has partly risen with the general increase in violence—marked by political assassinations, drug wars, massacres and the genocide of indigenous people—that has accompanied a contemporary social crisis. However, the distinguishing feature of such crimes is the comparatively lower level of official concern that they attract (p. 55).

particular of the sexual organs, and disfigurement of the face and head” (p. 62). Direct and indirect evidence suggested a high level of routine involvement and complicity with police and military officials. This evidence pointed to the strong links that can exist between the assault and killing of homosexuals and the mainstream masculinist culture of state officials and general society.⁹ Many crimes are poorly investigated, and a full or partial exoneration is common in the matters that reach a court hearing. These are typically attacks carried out by poorer youths and male prostitutes who often blackmail or steal from homosexual victims and who find encouragement for this criminal activity in the anti-gay ideology of the whole society.

Research knowledge of anti-homosexual crimes and their distinctive features has been much extended by a more recent Australian study analysing data from the Australian Institute of Criminology’s National Homicide Monitoring Program and from New South Wales police records. This study compared details of 454 homicides from the general male population of New South Wales and 37 gay hate-related homicides that occurred in the same state between mid-1989 and mid-1999 (Mouzos & Thompson 2000, 2001). Key findings were that:

- a higher proportion of victims were killed by a stranger (45.5% versus 28.2%);
- the most likely cause of death was beating;
- incidents were more likely to involve a high level of brutality;
- perpetrators were far more likely to be teenagers (on average five years younger);
- more attacks involved multiple offenders (54.5% versus 44.2%); and
- victims were more likely to fall in the older age groups.

The Masculinity and Homicide Study

The current study aimed to extend this expanding knowledge with information from overlapping sources that include records of unreported trials and related interview records held by the New South Wales Director of Public Prosecutions. This information has allowed a more detailed analysis

9 This victimisation also appears to be reinforced by the general public awareness of the high level of success that accused men have had in raising the “legitimate honour defence” to explain the deaths of homosexual victims (Mott 1996, p. 75).

Table 1: Anti-homosexual homicides in New South Wales, 1980–2000 (n=74)

Year	Solved	Unsolved
1980	JG 21/10/80	JB 2/12/80; RS 19/12/80
1981	PP 20/10/81; CG 14/11/81	GC 17/10/81
1982	IB 2/2/82	
1983	BS 15/2/83; GR 25/9/83; PH 27/10/83	
1985	JD 20/2/85; PO 22/2/85; MS 23/6/85; PF 6/7/85	WB 31/4/85
1986	PS 1/11/86	WR Feb. 96
1987	KR 7/5/87; SW 5/9/87; GS 23/10/87; PC 28/11/87; MJ 30/11/87	RK 13/1/87
1988	LP 12/2/88	BA 29/12/88
1989		RP 3/2/89; SR 20/3/89; RW 22/7/89; GP 14/10/89; JR 22/11/89
1990	RJ 24/10/90; WT 21/5/90; KR 20/7/90; GW 23/8/90; WO 17/9/90; MM 7/12/90	
1991	MM 7/4/91; NW 4/5/91; JC 20/5/91	FF 2/9/91; WD 19/11/91
1992	RM 11/1/92; RK 31/1/92; SM 2/6/92; BW 23/7/92; RM 11/9/92; SH 11/9/92	CO 22/8/92
1993	DG 19/5/93; KM 30/6/93; GT 3/7/93; JM 15/8/93; TA 31/10/93; BW Nov. 93	CD 25/12/93
1994	GM 15/3/94; SD 2/8/94	
1995	JM 7/3/95; CT 30/8/95	KB 13/6/95
1996	CS 8/4/96; PR 25/5/96; GB 24/10/96; PE 6/11/96	CS 5/11/96
1997	RC 13/6/97; JZ 19/10/97; TP 27/12/97	DR 20/12/97
1998	DO 12/6/98; FA 26/6/98; JC 21/12/98	
1999	BM 3/3/99; HJ 14/7/99	

Note: Initials are of victims' names; dates show the day each homicide occurred.

Source: Anti-homosexual homicide study, Criminology Research Council and University of Newcastle, 1994–2001

of different fatal incidents and the perpetrators' own rationalisations of criminal motive, especially as these relate to issues of masculinity.

The New South Wales Police Service has an evolving list that records 44 gay-hate killings with male victims between 1990 and 2000. In 1996, this police list recorded 31 such attacks, and it was these 31 cases that formed the initial sampling frame for this research. Of these cases it seemed likely that some of the violence may have been due to hatred and contempt; however, with an in-depth analysis of motive, the present research set out to critically assess the notion that these killings can always be understood as hate crimes.

Additionally, to give a wider timeframe to the study, a search of press records of all homicides that occurred in New South Wales between 1980 and 2000 was conducted. This was directed at finding probable anti-homosexual killings in which victims were selected by killers on the basis of perceived homosexuality. These were understood as homicides in which the sexuality of the victim can be reasonably judged as having a likely significant relation to the fatal incident. This excluded:

- cases of fatal domestic violence within homosexual couples,
- conflicts where the homosexuality of the deceased appears to be coincidental to the victimisation, and
- killings that resulted from conflicts between men in which terms such as “poofter” or “faggot” were traded as simple insults in a preceding argument.

Within these parameters, 74 anti-homosexual killings occurring over two decades were uncovered (Table 1). Fifty-five of these homicides are currently classified as solved; the remaining 19 are still unsolved by police. The 74 cases uncovered include the 37 gay-hate killings considered in the Mouzos and Thompson study (2000), the key findings of which are confirmed by the present analysis.

The current homicide study also examined in detail the records of the criminal trials of perpetrators in most of the solved matters. Trial records, transcripts and legal records concerning 38 matters, as well as court exhibits, witness statements, dock statements, final judgments and remarks on sentencing were obtained (Table 2).¹⁰

Many of these trials have been a source of interest and consternation within gay and lesbian circles. Some resulted in convictions for murder but, more controversially, pleas of provocation and self-defence because of alleged sexual assaults or advances by the deceased victims have resulted in full acquittals and findings of manslaughter. This is a phenomenon with parallels to the “homosexual panic” defence and the more effective use of homosexual advance claims in American courts (Comstock 1989, 1992; Mison 1992; Dressler 1995). In the present study, the local use of sexual advance claims is explored so as to unearth any significant differences in the form and presentation of allegations in different instances.

¹⁰ An expanded list of these unreported trials was provided from this study to members of the New South Wales Attorney-General’s Homosexual Advance Defence Inquiry in 1995 and has since been more widely referred to (Howe 1997).

Table 2: Trial and court matters in 38 homicides

Victim	Trial	Judge	Charge	Outcome
PP & CG	R v. MC & AT NSWSC 2/11/82, 4/11/82, 22/11/82, 26/11/82	Lee J	MC: two counts of murder AT: two counts of murder	Double life sentences 16 years concurrent
PH	R v. Veen NSWSC 17/12/85	Hunt J	Manslaughter with life	NSWSC 7/7/00 Sully J, redetermined life sentence
MS	R v. ET, PB, AT, & GH NSWSC 19/2/87, 1/5/87	Finlay J	ET: murder PB: murder AT: murder GH	8–16 years 7 years, 4 months–15 years, 4 months 8–16 years Acquitted
PF	R v. H & S NSWSC 3/7/87	Hunt J	H: Manslaughter S: Manslaughter	5–9 years 3–6 years
PS	R v. Becker NSWSC 16/7/87, 25/9/87	Slattery CJ	Manslaughter	3.5–8 years
SW	R v. Alexander NSWSC 29/7/88	Finlay J	Murder	10.5–16 years
PC	R v. Turner & Nash NSWSC 14/9/90	Finlay J	Turner: Manslaughter Nash: Manslaughter	5–6.5 years 5–6.5 years
LP	R v. Hodge NSWSC 6/9/2000	Dunford J	Murder	8–15 years
RJ	R v. AM, H, RM & Y NSWSC 6/2/91, 7/2/91, 8/2/91, 11/2/91, 12/2/91, 13/2/91, 14/2/91, 18/2/91, 15/4/91, 30/4/91 Others accused: 2/10/90 9/10/90 9/10/90 2/8/90	Badgery-Parker J Wood J Wood J Wood J Sharpe J	AM: Murder H: Murder RM: Murder Y: Manslaughter F: Manslaughter C: Manslaughter J: Manslaughter L: Manslaughter	10–18 years 8–13 years 10–18 years 5–8 years 4.5–6.5 years 8–10 years 5.5–8 years 7–9 years
WT	R v. A; R v K NSWSC, 2/7/99 Retrial: 27/10/00	Sully J Barr J	K: Murder A: Manslaughter K: Manslaughter A	1–13 years 4–6 years Overturned 17/8/00 NSWCCA Spigelman CJ, James J, Sperling J 7.5–10.5 years Acquitted

Table 2 (continued)

Victim	Trial	Judge	Charge	Outcome
KR	R v. D NSWSC 7/8/92 R v. SM & DM NSWSC 22/6/92, 25/6/92, 26/6/92, 7/8/92	Wood J Wood J	Murder S: Murder D: Murder	11–19 years 12–20 years 12–20 years Appeals dismissed R v. SM & DM NSWCCA 11/11/93 Gleeson CJ, Grove J, Allen J
GW	R v. Hort NSWSC 13/5/92, 14/5/92, 18/5/92	Finlay J	Murder	9–14 years
WO	R v. Clements NSWSC 1/4/92	Mathews J	Murder	7.5–17 years
MM	R v. Richards NSWSC 15/4/92	Finlay J	Murder	15–20 years
MM	R v. McKinnon NSWSC 15/11/93, 16/11/93, 17/11/93, 24/11/93	Studdert J	Murder	Acquitted
NW	R v. Jacky NSWSC 10/2/93	Campbell J	Manslaughter	2.5–5 years
JC	R v. Whittaker NSWSC 17/12/92	Mathews J	Manslaughter	4 years, 2 months–7 years, 2 months; NSWCCA 9/8/93, conviction upheld <i>The Australian Criminal Reports</i> 68 (1994) 476
RK	R v. McGregor NSWSC 9/10/92	Newman J	Murder	12–16 years
RM	R v. Gellatly NSWDC 9/10/95, 10/10/95, 12/10/95, 13/10/95, 16/10/95, 25/10/95, 26/10/95, 31/10/95, 1/11/95, 2/11/95, 22/12/95	Wall J	Two assaults occasioning actual bodily harm	Two community service orders
SH	R v. GD NSWSC 30/3/94, 31/3/94, 7/4/94, 15/4/94 R v. BD NSWSC 29/3/94, 30/3/94, 31/3/94, 15/4/94	Simpson J Simpson J	G. Manslaughter B	2.5–6 years 3-year bond
DG	a. R. v Green NSWSC 7/6/94	Abadee J	Murder	10–15 years; appeal dismissed NSWCCA 8/11/95; HCA 7/11/97 Brennan CJ, Toohey, McHugh, Gummow & Kirby JJ appeal allowed; NSWCCA 18/5/99 Barr J, James J, Carruthers AJ appeal against severity of manslaughter finding (8–10.5 years dismissed)

Table 2 (continued)

Victim	Trial	Judge	Charge	Outcome
KM	R. v T NSWSC 6/4/94, 7/4/94, 11/4/94, 12/4/94, 14/7/94	Grove J	Manslaughter	3–6 years
GT	R v. D NSWSC 21/9/95	Ireland J	Manslaughter	7–11 years
JM	R v. JA, PA & D NSWSC 10/2/95; 15/3/95	Simpson J	D: Murder PA: Manslaughter JA	8–12 years 3–7 years 3-year bond
TA	R v. Bonner NSWSC 15/5/95–18/5/95	Dowd J	Murder	Acquitted
BW	R v. Chapman NSWSC 16/12/94	Hunt J	Manslaughter	5–8 years
GM	R v. Richards NSWSC, 30/8/96	Sully J	Manslaughter	4.5–7 years
SD	R v. Leonard NSWSC, 10/11/97	Badgery-Parker J	Murder	life
CS	R v. Jarrett 20/6/97	Grove J	Manslaughter	6–8 years
PR	R v. Privett & Privett NSWSC, 22/10/99	Badgery-Parker J	DP: Murder MP: Murder	14 years, 6 months–17 years, 9 months 11 years–14 years, 8 months
GB	R v. K NSWSC 15/9/99	Hulme J	Manslaughter	4-year recognisance; NSWCCA 24/2/00 Grove J, Sully J & Simpson J, Crown appeal dismissed
RC	R v. Crocker NSWSC 7/8/98	Hulme J	Murder	10–15 years; NSWCCA 14/3/00, Sheller JA, Dowd J, Barr J, Appeal dismissed
JZ	R v. Polanski NSWSC 28/8/00	Barr J	Murder	Qualified murder finding; mentally unfit for trial; limiting term of 13 years
TP	R v. R NSWSC 19/10/00	Adams J	Murder	35–45 years
DO & FA	R v. Valera (Van Krevel) NSWSC 21/12/00	Studdert J	Two counts murder	Two life sentences
BM	R v. Graham NSWSC 10/11/00	Whealy J	Manslaughter	3–5 years

NSWSC = New South Wales Supreme Court

NSWCCA = New South Wales Court of Criminal Appeal

HCA = High Court of Australia

Source: Anti-homosexual homicide study, Criminology Research Council and University of Newcastle, 1994–2001

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Lastly, information about unsolved killings was obtained from the Sydney Coroner's Court to study aspects of 10 matters (including one matter later solved) (Table 3). An archival search was conducted of official records that included post-mortem reports, forensic reports, incident narratives, police exhibits and recorded interviews with key suspects.

All records of the 74 killings were summarised and analysed for basic information regarding the location and pattern of the offences, relevant situational factors and the characteristics of the parties involved. The records of the criminal trials were studied to further examine:

- details regarding victims and perpetrators;
- scenarios of victimisation;
- victim behaviour; and
- the relative importance of levels of anti-homosexual sentiment and different notions of male identity suggested in the motives of assailants.

This could extend comprehension of fatal attacks and the motivations of those who perpetrate this violence. An unexpectedly useful source of insights regarding perpetrator motives was found in the police records of interview with freshly arrested suspects, sometimes conducted within a few days after the killing.

This research also looked at the different understandings of these crimes that arise in courtroom settings, especially in regard to the depiction of "homosexual" victims, that can have critical outcomes in sentencing and even the determination of guilt. These were subjected to a content analysis concerned with depictions of sexual identity and the themes of male honour

Table 3: Records of unsolved homicides (n=10)

Victim	Investigation status
JR	Inquest, 2/7/90, D. Hand
BW (BS)	Director of Public Prosecutions, report to Coroner, 12/2/93
WT	Inquest, 11/10/93, P. Gould (later solved)
FF	Inquest, 11/5/95, J. Abernethy
WD	Inquest, 12/12/94, J. Abernethy
BW	Police report to Coroner, 5/8/92–6/8/92
CO	Inquest, 6/10/94, G. Glass
CD	Inquest, 8/8/95, D. Hand
JM	Police report to Coroner, 8/3/95–13/10/95
KB	Inquest, 17/9/96, J. Abernethy

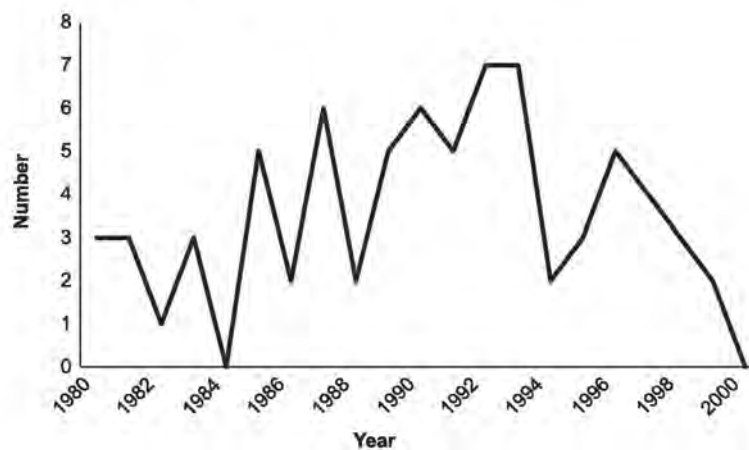
Source: Anti-homosexual homicide study, Criminology Research Council and University of Newcastle, 1994–2001

and the masculine “naturalness” of certain types of violence. Such an analysis of courtroom representations and narratives was not meant to uncover lies or repressive ideologies, but views of crime scenarios that incorporate widespread and commonsense categories of understanding male violence and sexual identity that can impact on judicial findings.

Victims and Perpetrators

Seventy-four killings from a 20-year period were studied. These average 3.7 fatalities per annum, with the annual rate peaking in the years 1989 to 1993,

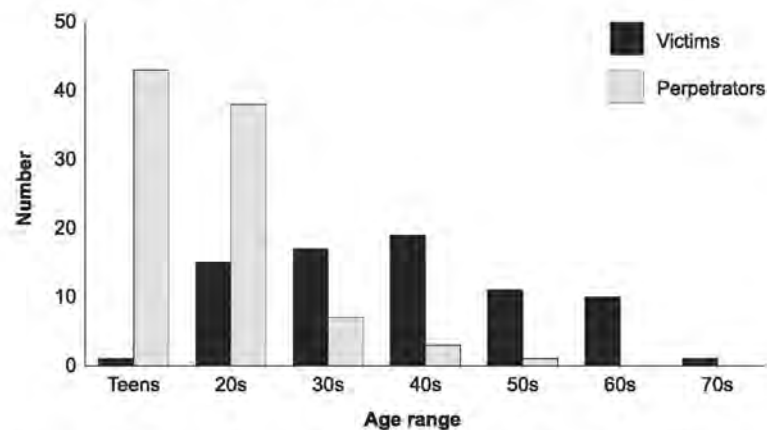
Figure 1: Anti-homosexual killings in New South Wales, 1980–2000



Source: Anti-homosexual homicide study, Criminology Research Council and University of Newcastle, 1994–2001

The victims were generally older than other male victims of homicide. Although age is often given a negative correlation to victimisation, with younger men regarded as most at risk of fatal involvement with violence (Polk 1994; Mouzos 2000), this does not hold true with these fatal anti-homosexual attacks. Most victims were middle-aged or older males, with a peak in the thirties and forties.

Thirty-six of the victims were in their thirties or forties when killed, 21 were in their fifties or sixties, 15 were in their twenties and only one victim was a teenager. This raises the possibility that the real and perceived physical vulnerability or the social isolation of older homosexual men may be factors in opportunistic killings, especially in cases where the victim and perpetrator were friends or acquaintances.

Figure 2: Age group of victims and perpetrators

Source: Anti-homosexual homicide study, Criminology Research Council and University of Newcastle, 1994–2001

The analysis of information regarding perpetrators reaffirms the finding of American, Dutch and Brazilian researchers, as well as Mouzos (2000), that the bulk of assailants are young males. In all, four females were involved in the killings analysed in this study: two teenagers and two women who were in their twenties. None acted without a male lead and, in all four cases, they were the romantic partners of key perpetrators. One directly participated in a murder by stabbing, another had peripheral involvement in a fatal public gang attack, and the other two assisted their male partners in attempts to conceal crimes. At face value this is an unsurprising result; it is the usual case with homicides between men (Polk 1994; Mouzos 2000).

Information on the 55 solved homicides suggests involvement by 92 perpetrators or co-perpetrators, and that 88 of these were males. However, in contrast with other forms of homicide—and whereas many of the victims of these attacks were middle-aged or old—the killers tended to be significantly younger than is the case for other forms of homicide between men. Eleven perpetrators were more than thirty years old, 38 were aged in their twenties, and a remarkable 43 were teenagers at the time of the crime.

As 23 perpetrators were aged in their early 20s, a total of 65 were aged 25 years or under at the time of the offence. These young assailants (<25) also tended to attack more often in groups. Forty-five such young perpetrators were involved in the 23 solved killings involving two or more perpetrators. Twenty were involved in the six fatal gang attacks (those with three or more assailants). The detected key suspects in four of the unsolved matters also consisted of gangs of teenage boys who had come under police surveillance

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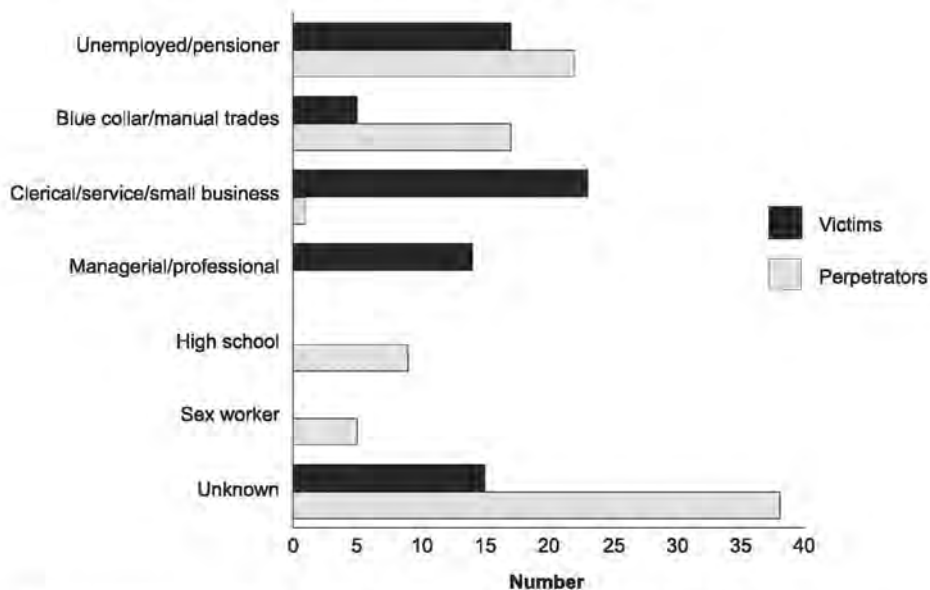
for their ongoing involvement with bashings of homosexual men. This youthfulness of perpetrators, coupled with the greater than expected age of victims, creates some very substantial age gaps. Victims were at least 10 years older than perpetrators in 17 different killings. In a further 25 homicides they were 20 years or more older than the men and teenagers who killed them.

Although activist concerns about anti-homosexual violence have been focused on the threat to inner-city gay men and lesbians, this form of victimisation is spread among men from different localities. At the time of their deaths, the victims lived in a number of different areas, including the city and non-metropolitan settings.

Researchers have continuously found that the general risk of homicide among men is heavily concentrated among those who have low socioeconomic status (Wallace 1986; James & Carcach 1997). This may be only partly true for the victims of anti-homosexual killings. The victim's occupation at the time of death is known in only 59 cases:

- 17 were unemployed or pensioners, partly reflecting the older age profile of the group;
- five worked in blue-collar activities;

Figure 3: Occupation of victims and perpetrators



Source: Anti-homosexual homicide study, Criminology Research Council and University of Newcastle, 1994–2001

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- 23 worked in small business, clerical or hospitality positions; and
- 14 were employed in management or the professions.

It seems the case that a higher than usual proportion of men who are middle-class professionals and semi-professionals are at risk of victimisation in such attacks, and the insulation from violent crime that those with higher social status generally experience is counteracted by factors related to sexuality. The victims included a diplomat, an ex-city mayor, a physician, a dentist, an accountant, a journalist, three businessmen and five schoolteachers.

There would be many pitfalls in any attempt to classify these killings according to the sexuality of victims. Designating these homicides as “gay-hate” or even “gay” killings constitutes a prior classification of the sexuality of each victim. This is not avoided here because fewer people are homosexually inclined than has been previously thought by social researchers. From a constructionist view, “gayness” is a historically recent label that increasingly describes a similar culture and social outlook among certain homosexual groups rather than the actual sexual practices of individuals. Many of the victims studied had only marginal or no apparent links to any gay male subculture. The subjectivism of the term is acknowledged in this research. However, it has a relevance to the issue of anti-homosexual motive. This is especially so given the importance of exploring any possible causal link between the increasingly public and ambiguous representation of an urban gay culture, and violence that is directed against many victims who were viewed by their assailants as “gay”.

Inner Sydney has one of the largest gay and lesbian subcultures in the world (Wotherspoon 1991). However, an analysis of victims suggests they comprised a mix of men from city, suburban and other locations. Although they had a varied pattern of identification with any gay or homosexual subculture, 52 victims could readily be termed as homosexual, bisexual or transsexual. Many of the remainder may have been more secretive about their sexuality or may even have engaged in same-sex activity without identifying in any way as non-heterosexual. Twenty per cent of all killings occurred at sites of public same-sex cruising. Valuable ethnographic research that has been conducted on such locations in the last decade suggests that many “beat users” do not identify as homosexual, and it is not accurate to caricature this entire group as “closets” in need of liberation from the moral strictures of society. These sites also still attract many men who, though they may be more circumspect about overt displays of their sexuality, still regard

themselves as homosexual or gay (Hodge 1995). The proportion of “non-homosexual” men may be high, but there is a mixed pattern of sexual identification among beat-goers.

Although no ready assumptions can be made about the identity of victims killed at beats, perpetrator motive is another matter. A fatal assault can still be reasonably termed as an anti-homosexual killing if the perpetrator(s) perceived a victim to be homosexual and their hostility to same-sex desire had a significant relation to the motive for the attack. The evidence from official records suggests that some victims were neither homosexual in their behaviour or pattern of desire: they appear to have been wrongly perceived as such by their assailants. Also, three victims could be best described as transsexual or transgender. There is no reason to believe that some others were not conventionally heterosexual. For example, in one incident a young soldier who had been drinking with friends in outer Sydney fell asleep in a park close to a public toilet that was known for homosexual cruising and anti-homosexual violence. The soldier was bashed and killed by two youths who, in police interviews, offered no plausible reason for the vicious assault but repeatedly referred to the crime scene as the “poofster park” (*R v. Turner & Nash*, NSWSC Finlay J 14/ 9/ 90).

In another incident, the killing of a middle-aged man in a non-gay bar was preceded by repeated anti-homosexual abuse (when the escalating incident moved onto a city street, the perpetrator tried to involve young onlookers in his conflict with a “poofster”). However, the accused may have had little rational basis for believing his victim was homosexual (*R v. Gellatly*, NSWDC Wall J 22/ 12/ 95).

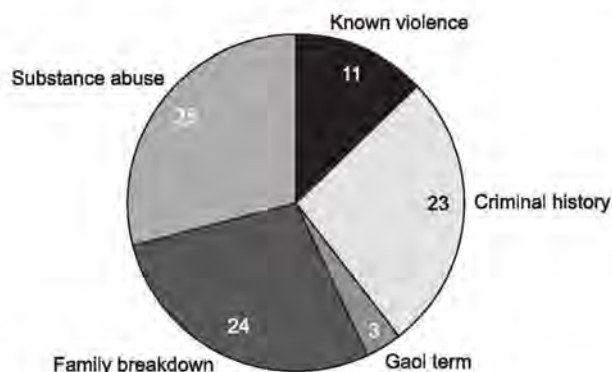
In other cases it appears that the homosexuality of the victim was real but not publicly divulged. Not uncommonly, during initial investigations friends and close relatives of the victim have resented police suggestions that the crime may have been a “gay” killing. In one such unsolved case, a mother only learnt of her adult son’s homosexuality because he had been bashed to death at the end of a night of heavy drinking in gay bars. In another matter that was solved and went to trial, a locally respected and married professional was drinking with a younger man and then killed in a dispute between the two. According to expert testimony, “without reason” the victim set off a fatal dispute by attacking the perpetrator while he was in the “vulnerable” position of urinating. The sexuality of the deceased, the sexualised aspects of this interaction, and rumours that the victim and perpetrator were acquaintances of long standing, were never openly discussed in the courtroom.

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Other aspects of the profile of typical perpetrators fit the findings of general studies of inter-male violence and fatal violence. The majority of perpetrators and co-perpetrators had evident low socioeconomic status. Details of employment status were known in 54 of 92 cases. Though the remarkable youth of some meant that they were schoolboys at the time of their offence (n=9), most had a limited education and were either unemployed (n=22), in manual jobs (n=17) or sex workers with a homosexual clientele (n=5). The highest level of occupational status among all known killers was a few cases of skilled trade qualifications (a boilermaker, a plumber, a gardener) and one killer employed in a minor clerical role.

Although official records concerning the social backgrounds of these perpetrators are fragmentary, details of 65 perpetrators were examined. A common pattern was suggested of young men who had experienced family breakdown, poverty, petty delinquency escalating into more serious matters, and marginality in the job market and housing.

Figure 4: Trial-mentioned antecedents of perpetrators



Source: Anti-homosexual homicide study, Criminology Research Council and University of Newcastle, 1994–2001

A high proportion of offenders analysed in this study had minor or substantial criminal records. Many also had a history of drug and alcohol abuse (sometimes dating from childhood) with a likely link to episodes of personal violence. The substance use ranged from binge drinking mixed with marijuana smoking and the taking of amphetamines, to serious instances of addiction to heroin.

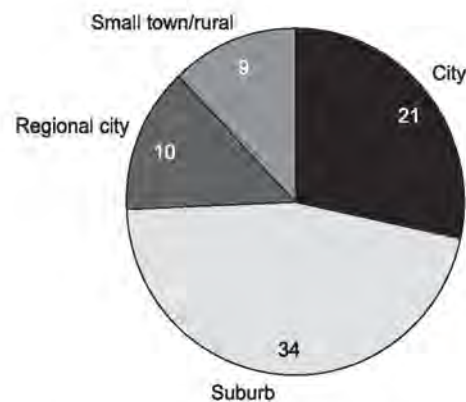
Only six (including two double killers) were classified in court records as having a serious mental disturbance (such as psychosis or a borderline

personality disorder) linked to their acts of killing. The profile of the great majority suggests serious social deprivation and marginality rather than a full psychological pathology. Six perpetrators carried out double killings; two of these had a heterosexual and a homosexual victim. A pair of killers and two other perpetrators acting solo all killed two homosexual victims (one in 1975 and 1983). Of these six, one was a heroin addict, three were heavily involved in male prostitution (one an alcoholic) and the other two were classified as having disturbed personalities.

Fatal Locations and Scenarios

The fatal attacks analysed took place in a mix of areas, with the bulk happening in the inner city or suburbs of Sydney (where most of the New South Wales population resides).

Figure 5: Region of killing

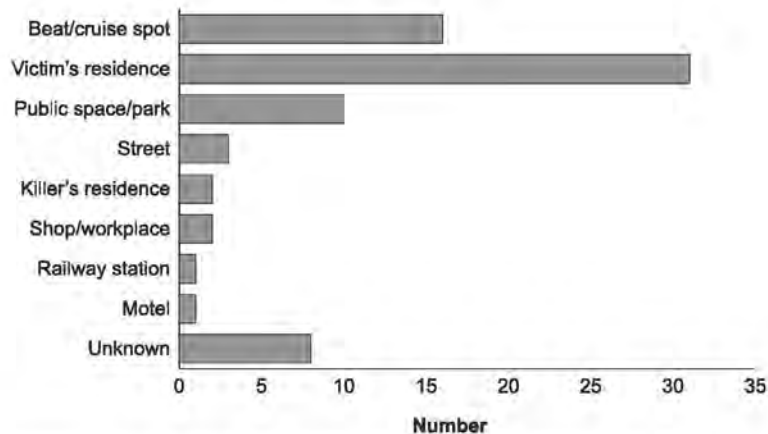


Source: Anti-homosexual homicide study, Criminology Research Council and University of Newcastle, 1994–2001

Hot spots for fatal anti-homosexual violence were the Oxford Street area of the inner city and a small number of dangerous beats with known histories as locations of vicious bashing. Five victims were killed near Oxford Street or by someone they evidently met in a bar there. Another eight were killed at three public cruising locations around the city. However, the high number of fatal attacks at beats and public locations ($n=30$) was exceeded by the number of killings occurring in the victims' or perpetrators' own residences ($n=32$).

Most assailants relied on kicking and punching with great force to kill their victims, and this is often effective as a group activity. All victims who drowned were bashed before dying. The second most common means of

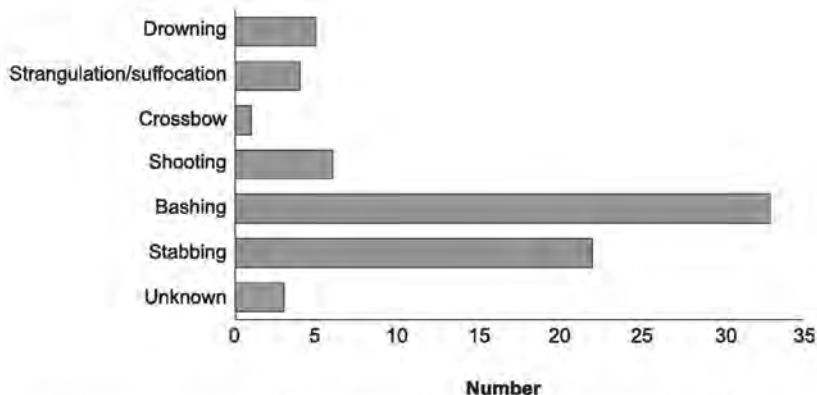
Figure 6: Location of killing



Source: Anti-homosexual homicide study, Criminology Research Council and University of Newcastle, 1994–2001

killing was stabbing with a knife. Some perpetrators displayed creativity and adaptation in their choice of weapons: these included scissors, forks, a rock, stick, clawhammer, saw, bottle, bowling pin, fire extinguisher, metal tape dispenser, spade, car wheel brace, ceramic money holder, plaster garden statue and a hunting bow and arrows. Possibly because very young killers have less access to such weapons, only six victims were attacked with a firearm. In the five solved instances of this shooting subcategory, seven of the 10 perpetrators were 25 years old or more.

Figure 7: Principal cause of death



Source: Anti-homosexual homicide study, Criminology Research Council and University of Newcastle, 1994–2001

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In a pattern that corresponds with the results of previous research (see the specific focus on injuries in Bell & Vila 1996) many offences were notable for their exceptional brutality and the frenzied form of attacks, with victims tormented and wounded repeatedly. In one unsolved case, a victim was stabbed 64 times and most blows were apparently delivered after he had already died (Jenkins 1981b). Another was stabbed 47 times in the face with a screwdriver wielded by a young man who engaged him in conversation at a beat (*R v. Crocker*, NSWSC Hulme J 7/ 8/ 98). Other extreme examples of perpetrator sadism included the castration of one victim before his death, and the blinding and torture of another bound victim (*R v. R*, NSWSC Adams J 19/ 10/ 00; *R v. Valera*, NSWSC Studdert J 21/ 12/ 00).

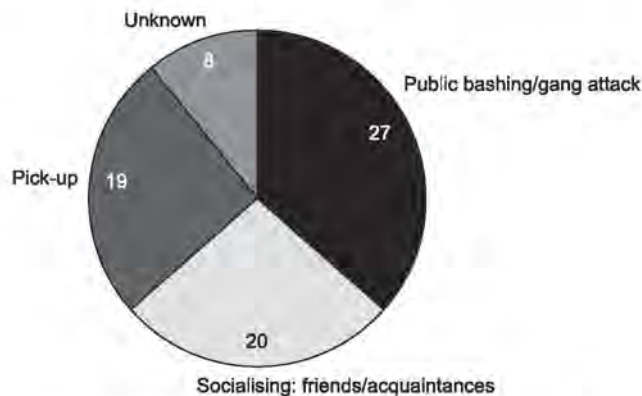
Assailants either attacked in a spontaneous and frenzied outburst or as part of a planned group attack which, despite the real murderous intentions or the lack of thought about likely consequences, soon reached a fatal crescendo. Even though a premeditated plan to kill is unusual, most of the killings were characterised by the perpetrators' reckless indifference to the lethal results of their actions. Only 16 of the crimes appear to be the result of a conscious prior decision to kill. The great bulk of fatalities have the quality of "poofter bashings", retaliatory assaults intended to punish a homosexual advance, or robberies which have "gone wrong" when the victim perished. The fatal outcome often surprised the killer(s) who unleashed their violence with very little appreciation of the frailty of human victims subjected to such attacks.

The general crime scenarios that emerge from the records of these homicides reflect the dual significance of the attacks at beats/ public locations and those occurring in private homes. This suggests a mixed pattern of danger from locations and relations to perpetrators.

In almost one-third of incidents, victims appear to have been killed by assailants whom they did not know. Half of the homicides occurring in a private dwelling involved killers who were barely known to their victims. These were a mix of assailants typically met a few hours earlier in bars or the street, or male prostitutes and other "pick-ups" contacted via telephone sex services. Given that 45 of the 74 victims either barely knew or did not know their killer(s), this finding confirms a much stronger relevance of "stranger" factors than is the case with fatal attacks on women or more general cases of homicide with male victims (Mouzos & Thompson 2000; Mouzos 2000).

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Figure 8: Social scenario of killing (1)



Source: Anti-homosexual homicide study, Criminology Research Council and University of Newcastle, 1994–2001

Two general scenarios of killing can be drawn from this evidence and are discussed below.

Scenario 1

The first scenario can be characterised as a fatal attack carried out in public space on a victim who is homosexual or presumed to be, and usually a complete stranger to the assailants who attack in groups.

In this scenario, some victims were killed at locations that were nearby to areas with bars, nightclubs and restaurants that were favoured by a homosexual clientele. However, victims seem to have been most vulnerable when attacked at well-known beats. Although the statements of a number of arrested suspects are marked by a tone of outrage concerning same-sex activities at these locations, beats were often selected as places to seek homosexual victims because of their expected ready availability. Additionally, perpetrators seem attracted to the relative seclusion of many such locations (beachfronts, parks, trails and nature reserves) which are dark and almost deserted at night, and the compromised situation of potential victims who may have been seeking out casual sexual activity.

The negative consequences of reporting attacks are a substantial fear for many victims. In two instances, men who were severely bashed at beats died later without having taken the opportunity to get medical or police assistance.

Around one-third of the fatal attacks appear to fit this sort of scenario of a public attack by strangers who are usually operating in a group. Some of the most publicly known of these killings have resulted in criminal trials that are discussed in detail later in this report. Other deaths remain unsolved but coroner and police records give much reconstructed detail of these incidents, which is incorporated into the information for this study.

Scenario 2

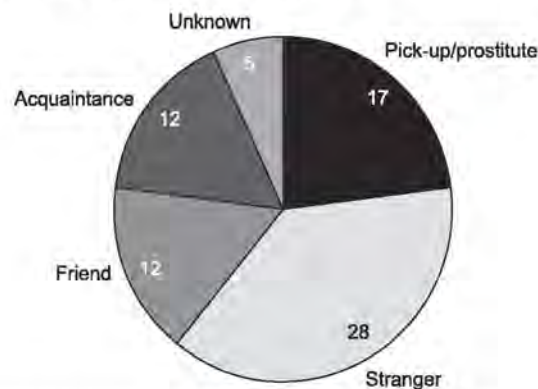
The second typical scenario for these crimes is a personal dispute, usually occurring between two men in private space, that leads to fatal violence. It is far more common for assailants in this second scenario to allege a sexual advance by the deceased.

These killings comprise 33 of the 74 homicides studied in this analysis. However, a significant internal variation exists between two major forms of this second scenario. These comprised:

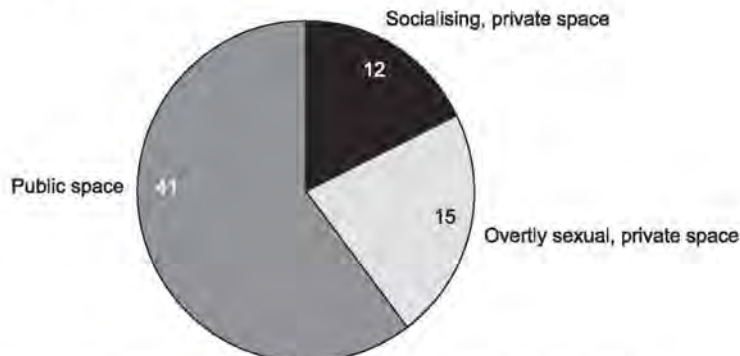
- situations of friendly socialising and drinking between “mates” (n=12); or
- the more continuously sexualised situations of men linking up for the ostensible purpose of a casual sex encounter (n=15).

The distinction between these two forms of this second scenario is quite significant to assessing the plausibility of perpetrator claims about being subjected to a sexual advance that was unexpected and provocative; such claims are generally less believable in the second, more sexualised type of setting.

Figure 9: Victim's relation to killer(s)



Source: Anti-homosexual homicide study, Criminology Research Council and University of Newcastle, 1994–2001

Figure 10: Social scenario of killing (2)

Source: Anti-homosexual homicide study, Criminology Research Council and University of Newcastle, 1994–2001

The frequency of joint drinking and high alcohol consumption in this second general scenario suggests the causal relevance of what social psychologists term “cognitive impairment” and which sits behind the regular misreading of social cues, intentions and interactions in heavy drinking sessions by men (Boyatzis 1974). In 16 of the matters in this second scenario in which a sexual advance was alleged, the victim had been engaged in heavy joint drinking with the accused. By contrast, intoxication of victims who presented as easy targets for assault was important in only three of the matters concerning group attacks at public locations. It is the use of drink by perpetrators which is far more notable. The social process of constructing masculine identity in group drinking with related risk-taking and violence was more evident in the instances of public gang attack. In 38 tried matters, 27 perpetrators had been drinking at the time of the fatal attack, six were influenced by illicit drugs and seven had mixed drug and alcohol use.

The full evidence from official records suggests that the great majority of attacks that fit the pattern of either of the two abovementioned major scenarios for anti-homosexual killings are closely linked to aspects of the masculinity of perpetrators, but this takes a different form for each type of homicide. The public “gay bashing” by a gang of youths, the selection of a homosexual victim for a violent mugging or the retaliatory assault in response to the insult of a homosexual pass all reflect socially constructed understandings of masculinity and its defence and attainment.

Forty-five per cent of the killings (33 of the 74 killings, and 26 of the 55 solved matters) were events marked by actual robbery or the evident intention to rob arising as a motive. Robbery could not be dismissed as a significant element in many of these crimes, but it had a very uneven

relation to the motives of perpetrators. In many instances the theft of property had an incidental relation to the anti-homosexual assault. Property of little value was stolen as an afterthought or a further means of victim degradation. In a minority of killings it appeared to be a principal motive, but this operated in the social context of perpetrator awareness of the homosexuality of the victim: they are “soft targets” with an expected vulnerability to attack and robbery or a reluctance to report the crime.

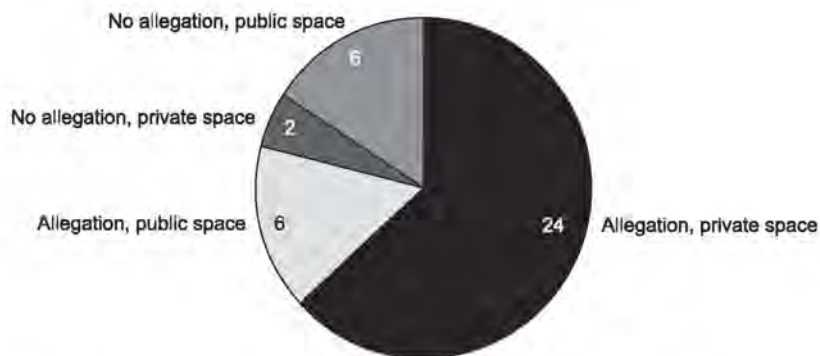
In a few such cases, unexpected victim resistance appears to have resulted in the escalation of violence to a fatal level. But the larger number of attacks in which the fatal violence well exceeded the level needed to overpower the victim and steal property suggests that anti-homosexual sentiment still had an important role in these cases. Like the gang bashing, or sudden violent response to homosexual touching or homosexual suggestiveness, these “muggings” were mostly not preplanned as killings: the perpetrators’ fury or contempt for the victim outweighed any sense of restraint with a fatal result.

Advance Allegations and the Legal Response

Thirty-eight tried matters were analysed in more detail for this study. Just over three-quarters (n=30) of these perpetrators made allegations about a homosexual advance(s) by the deceased.

The 30 cases in which relevant advance allegations were made comprised 24 instances of “private scenario” disputes (between men who were friends or acquaintances and generally in a private social space) and 19 instances of killing by a solo assailant. In the 11 cases which involved multiple

Figure 11: Advance allegations in tried killings



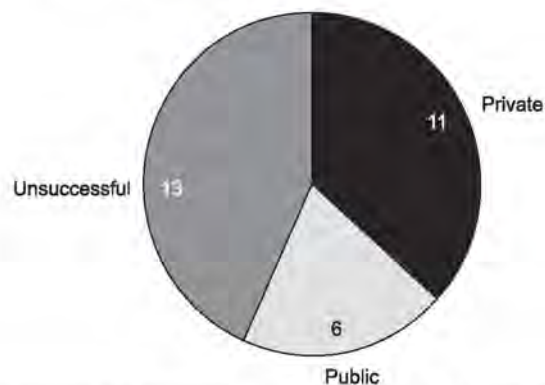
Source: Anti-homosexual homicide study, Criminology Research Council and University of Newcastle, 1994–2001

perpetrators, and where allegations about a sexual advance were made, six referred to some previous occasion of one-to-one interaction with the victim, or between the victim and another male who was said to have been subjected to a sexual assault or advance in the past. To the extent that these claims were taken as plausible, some crimes involving multiple perpetrators seem to have been recast in evidence as being about matters concerning past occasions of the more private two-male scenario of sexual advance. The eight trials in which this was not raised comprised six fatal attacks in public space (including four attacks at beats and one in a “gay” area); only three did not involve more than one perpetrator. These eight trials include one case of a targeted gang attack on a victim’s house in which the claim about an earlier sexual advance was later alluded too outside of trial evidence.

At face value, it seems that unwanted homosexual advances more typically arise from the second general scenario of killing that arises from a dispute between two men socialising privately. It is also possible that some of these allegations emerge from such one-to-one interactions because the only surviving direct witness is the accused killer or a co-perpetrator, and that such claims could be interpreted as being far more plausible in this particular social context than the circumstances of public stranger violence or a gang attack. The 17 successful uses of homosexual advance claims (resulting in a total of three full acquittals and findings of manslaughter for 15 perpetrators or co-perpetrators) seem to bear out these characteristics: 11 of the killings occurred in actual private space and three of the other six successful allegations were public space killings that took the form of the private dispute scenario between acquaintances.

Ten of the incidents giving rise to successful allegations had solo perpetrators; four of the remaining seven cases with multiple perpetrators referred to an occasion of previous one-on-one sexual abuse. Additionally, eight of the 17 killings involved teenage perpetrators and another killer was a teenager at the time of the alleged sexual abuse by his eventual victim.

The 13 unsuccessful uses of these claims also arose in killings that mostly occurred in private space; however, in four of these instances there were multiple perpetrators. It also seems to have been relevant to the courts’ rejection of the advance claims that, in a total of 13 instances, perpetrators and co-perpetrators had an involvement in illicit drug use and, in five instances, were at some time involved in acts of homosexual prostitution (most fully the two teenagers in this category). Additionally, in six of these instances the perpetrators were double killers, and in eight of these matters

Figure 12: Success of advance claims

Source: Anti-homosexual homicide study, Criminology Research Council and University of Newcastle, 1994–2001

six perpetrators were described as psychologically disturbed. These personal factors could differently undermine the arguments of any accused about a non-violent nature, a special sensitivity to homosexual advances (especially given a history of prostitution or sexual relations with men), or that no ulterior motive led to an attack and robbery of the deceased. The importance of courtroom themes regarding the enhanced credibility of a thoroughly heterosexual image and the implicit duty of the law to safeguard teenage boys from homosexual desire, are very relevant trial factors.

The prosecutions and criminal trials that follow from cases such as these often lead to a controversial use of pleas of self-defence and provocation. As demonstrated in this work, successful uses of these claims in cases of public gang attacks are still not uncommon, even though such allegations appear to have less merit. Much of the analysis presented herein focuses on cases of the successful use of homosexual advance claims in private scenario killings. These claims are deconstructed to critically analyse the killer's rationalisations of their violence against the weight of evidence. Some of these crimes appear to be opportunistic robberies in which the killers are rationally aware of a code of male honour that becomes a social script for their interaction with victims. Yet others appear to be crimes resulting from the actual experience of a homosexual advance and the killer's concern with the protection of a bodily sense of male honour.

Killings as “Hate” Attacks

Homophobia/Hatred

A currently held view among lobbyists and the media is that homophobia and a form of sexual hatred motivate and shape harassment and violence directed against homosexual men, lesbians, bisexuals and transgender/transsexual people. Although “homophobia” was originally meant to label an actual mental illness resulting in an exceptional hatred or fear of homosexuals, in recent decades its wider use describes a commonplace bias or dislike of homosexuality.

The first use of the term reflected the impact of efforts to lift homosexuality out of its deviant position in medicine and professional psychology. An American psychotherapist named Weinberg offered a liberal challenge to the orthodox sickness model of homosexuality, insisting that mental health problems among homosexual men and lesbians were a consequence of the social stigma and hostility directed at homosexuality (Weinberg 1972). He insisted that he had uncovered a new phobia marked by “the dread of being in close quarters with homosexuals” which experts had overlooked by virtue of their anti-homosexual prejudice (Weinberg 1972, p. 4). The ambiguity of the term’s legacy largely follows on from Weinberg’s suggestion that a key clinical symptom of homophobia was a marked “fear of being homosexual oneself” (Weinberg 1972, p. 11).¹¹

Critiques of this understanding ensued in the following decades. In a series of papers, Herek observed a series of interrelated problems. Psychological research does not confirm the view that these sentiments are usually like a clinical phobia and many anti-homosexual individuals do not display physiologically typical “phobic” reactions to homosexuality. Far from being a mental phobia that is unpleasant and troubling for sufferers, anti-homosexual sentiment is often highly rational and rewarding and enhances the social esteem of those who display it. Furthermore, the term often

¹¹ This set off development of a pathological model of anti-homosexual prejudice less socially critical than Weinberg’s own views. This recast the widespread and varied dislike of homosexuals as narrowly comprising a pathological condition that afflicts a disturbed minority who cannot accept their own homosexual urges (see Kantor 1998).

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suggests that such sentiments are to be understood as an individual entity rather than being derived from social group relations and the wider culture that every "homophobic" person inhabits (Herek 1984, 1992).

Feminist critics alleged that this term ignores gender, and the links between anti-lesbianism and the sexism incurred by all women in patriarchal societies. Many feminists and gay and lesbian activists came to prefer the term "heterosexism" because it offered a structural dimension and suggested parallels with other forms of disadvantage linked to prejudice. Until recently, Herek shared this position and distinguished between cultural heterosexism (based in such institutions as social customs, religion and law) and psychological heterosexism (the attitude and behaviour of individuals) (Herek 1992).¹²

Nevertheless, a growing number of scholars and researchers have given ground to the persistent popular use of "homophobia", and it may yet be redeemed by calls for its retention and development among constructionist and queer analyses of sexuality (see Adam 1998). These positions link the understanding of prejudice and violence to notions of "gender panic" by emphasising the significance of homophobia to modern Western notions of male heterosexuality and the commonplace irrationality that shapes much discourse, thought and action around gender and sexuality. In this way homophobia is not meant as an extreme mental condition, but it does instead reflect aspects of the tense proximity of homosexuality and heterosexuality in everyday ideas and social practice (Dollimore 1991). Ordinarily this goes unnoticed, but it becomes obvious during such moral panics as the widespread public anxiety set off by 1990s reforms allowing the admission of homosexuals into the United States military (Butler 1993; Adam 1998).

Similar conceptual difficulties attach to an allied term that is applied to descriptions of anti-homosexual violence: these offences have been frequently described as a form of "hate crime". Typically, hate crimes are both verbal and physical attacks on people or their property motivated by an extreme loathing of the minority group to which they belong, or are believed to belong. Attacks directed against racial, ethnic and certain sexual groups

¹² In deciding that "heterosexism" is also a problematic term, Herek has more recently favoured analysis of harassment and violence as instances of "sexual prejudice" (Herek 2000).

have increasingly been described as similar crimes motivated by an irrational xenophobic or homophobic outlook among perpetrators drawn from extreme-right and neo-nazi organisations (Hamm 1994). This term may also prove popular as it shifts the onus for harassment and violence onto perpetrators and counters victim-blaming. Research on hate crime has ignited a new interest in this field and raised the possibilities of strategic alliance-building among victim groups. Nevertheless, “hate crime” is a problematic term that reflects an individualistic notion of crime (Cunneen, Fraser & Tomsen 1997) and lacks a systemic perspective regarding the marginalisation of groups and minorities that are subjected to violence and harassment on the basis of their shared identity. The great majority of bashers and killers of homosexuals do not carry extremist political views and, although they often display “homophobic” motives, many of them are motivated by concerns other than hatred.

Hatred and the First Attack Scenario

Despite these limitations, the homophobia/ hate crime model offers some insight into elements of the killings that form the basis of this work. This is especially so with analysis of the first most common scenario of killing—the preplanned gang attack on a stranger typically carried out by a group of young men. Evidence for this was found in the particular brutality and circumstances of the killings, revelations concerning ongoing histories of gay bashing by many suspects, and in open expressions of hatred and disgust towards homosexuals and their sexual practices found in police records of interview. To illustrate the value of this model, two different killings will be outlined and discussed as crimes carried out by killers with some motives that could be termed homophobic. Specific details of these killings are drawn from official police records, coroners’ reports and Supreme Court trial transcripts.

Men are more at risk than women of attacks by a killer who is unknown to them (Polk 1994; Mouzos 2000). Women are at greater risk in domestic situations and are more commonly killed by a male partner or acquaintance who is known to them (Mouzos 1999). Death at the hands of a stranger is more typical for male victims, including those studied in this work. More generally, researchers have grown increasingly critical of the simple dichotomisation of most homicides as either domestic or stranger killings (Decker 1993). The above analysis of these killings indicates a more fluid pattern of relations between perpetrators and victims.

Killings as "Hate" Attacks

In cases of public gang attack, assailants typically attack in groups and rely on kicking and punching with great force to batter their victims, often as a group activity. Many of these offences are notable for their particular brutality, with victims tormented and wounded repeatedly. The non-use of firearms may suggest a lack of detailed planning by some assailants. A full prior intention to kill a homosexual victim was apparent in only a small number of the cases studied in this research. More commonly, death was the result of the very aggravated level of assault and serious injury that victims were subjected to.

The frenzied quality of this violence, and a frequent reckless indifference to the consequences of the attack, signals that many crimes which are not fully premeditated still amount to culpable murders characterised by a deliberate intention to inflict great harm on victims. It is also possible that this general non-use of firearms reflects a wider preference for a more "hands-on" approach to this form of violence, and from which perpetrators derive a greater level of gratification. Evidence concerning the New South Wales attacks carried out by gangs suggests that many perpetrators were attracted to the group-sharing of this task and any related pleasure that derived from it.

Prejudice against homosexuals has an obvious connection with many of these attacks where killers have embarked on a plan to hunt down and kill unsuspecting strangers who are, or are arbitrarily thought to be, homosexual. The extreme form of this violence reflects an apparent contempt for the victim based on a knowledge or judgment of their sexuality. Even in cases of robbery, the level of violence is almost always well in excess of what would be needed to effect this aim alone. This homophobia is often evident in the abuse that preceded the attack and the fact that even intoxicated perpetrators go to much trouble to travel to particular locations to enact their crime.

Case Study 1

At around 3.30am on 15 June 1985, MS, a male dancer who lived locally, was killed in a street in Darlinghurst, Sydney. MS and two male friends had been drinking and socialising in several well-known gay pubs and nightclubs. In the early hours of the morning they walked to a takeaway food outlet behind Oxford Street. They were sighted and abused as "poofers" and "faggots" by a group of about seven young men and then set upon from behind. MS's friends escaped with minor injuries. MS did not run and attempted to defend himself. One friend hid in a doorway and looked back to see MS

being knocked to the ground and kicked “karate style” for about 30 seconds. One assailant held his MS’s legs so that others could freely kick his head and upper body. Another searched through his clothes and took his wallet. He was left unconscious, bleeding from the nose and mouth, and described later by one of the perpetrators as “breathing oddly”. An unidentified transsexual who witnessed the attack tried to comfort him. His friends returned and called an ambulance that took him to St Vincent’s Hospital nearby. MS never regained consciousness and died 10 days later from severe head injuries.

Five youths were charged with offences relating to the incident. Four of these—P, G, E and A (aged 15, 16, 18 and 17)—were charged with murder. On the night of the killing this group of friends from a mix of suburbs had been socialising in Kings Cross. In police interviews, one suspect related how the group decided to go to the Oxford Street area to “bash a few poofers”. They decided the victim and his friends “looked gay” because they “wore tight pants”. E, A and another youth were also charged with robbery, and in police interviews admitted an intention to assault for money. One other suspect remarked that they went looking for a victim as they intended to “roll a poofster”. A had no previous criminal record and E had a previous conviction for a stealing offence. P faced charges of assault and stealing from other incidents (one occurring while he was awaiting trial for killing MS). The intention to rob by these youths was obvious. Court records indicated that violent robberies had also been carried out on heterosexual victims in an ongoing pattern of gang attacks. In police interviews, E was described as punching MS in the mouth and stealing his wallet while he was on the ground. He claimed he tried to restrain the violence of his friends and then ran away from the scene. He was not sure how much was in the wallet but was given two dollars as his share.

All of the accused youths claimed later that statements about their involvement were extracted by police threats against them. Nevertheless, the prosecution of three youths resulted in convictions for murder and lengthy prison sentences. E, A and P received maximum sentences of 16, 15 and 15 years each (*R v. ET, AT & PB*, NSWSC Finlay J 1/ 5/ 87). The fourth accused, G, was acquitted because an adult friend present when he first confessed did not qualify as a legal guardian.

Later fatal attacks exemplified this pattern of groups consciously seeking out a homosexual victim, though they can occur in circumstances that have rendered them subject to moral disputes about victim risk-taking. Like many non-fatal assaults, these occurred at “beats” where men variously socialise

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and seek out casual sex partners. Anonymous same-sex cruising in parks, trails, beach areas and public toilets has been a source of interest to social researchers for several decades, and a constant anxiety for local council authorities and police for a much longer period (Humphreys 1970). Although beats are often favoured as sites of sexual meeting which are an alternative to commercial gay venues (which may be too public, inaccessible or alienating), research has revealed that such public locations are utilised by men with very divergent sexual identities. It is likely that many victims of anti-homosexual violence at beats have no homosexual self-identification; this presents similar difficulties for anti-violence campaigns as it does for HIV educators.

The dissemination of more research knowledge about beats appears to have run in tandem with an increased and more sophisticated official scrutiny over such locations intended to deter use. Swivel (1991) demonstrates how these have been the subject of an increasing degree of localised regulation, a sort of "war of position" between beat users and police and authority figures. Some features of this attempt to deter use are clearly recognisable for their inspiration from situational crime prevention: the physical environments have been altered in measures aimed at prevention and containment of same-sex activities. Revived and strengthened offensive behaviour provisions have sometimes resulted in police crackdowns and arrests.

Due to the episodic controversy over beat use and public homosexual activities that surface among both heterosexual and gay commentators, it is significant that some of these killings formed the basis for a heightened gay and lesbian community mobilisation.

Case Study 2

In the early hours of Saturday 20 July 1990, KR, a 34-year-old Thai national who worked as a waiter in a local restaurant, was attacked along with another man at Bondi cliffs. The area had been selected by three boys (aged 17, 16 and 16) for an anti-homosexual attack. Two were brothers and all three were from the same circle of school friends. The perpetrators found two men who were not engaged in sexual activity but who they assumed were both homosexuals. One victim, S, was seriously wounded. KR received horrific injuries and died. This assault was summarised by a presiding trial judge as follows:

The prisoners, after spending the earlier part of the evening drinking beer, and in some cases smoking marijuana, decided that they would assault

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and rob someone. They chose St Marks Park, Mackenzie Point lookout area, which apparently is a known meeting place for homosexuals. There they found the two victims seated on the lookout wall. SM threatened Mr S with a hammer, and then demanded and took his leather jacket. After this he struck him. D and DM, in the meantime, attacked Mr R...

... At some stage during the fight the M brothers exchanged victims. Mr S was struck a number of times about the head and body, and kicked repeatedly before being abandoned semi-conscious in the vicinity of the lookout. Mr R... was left in a very much worse condition. D admitted in his record of interview to having bashed him repeatedly and acknowledged that the injuries which were inflicted were "pretty bad". The other prisoners each acknowledged striking or kicking him. Mr R... tried to fight back and he also tried to break away. He was pursued along the cliff-face towards Tamarama but he was again bashed and kicked by D and SM. R... was able to get away from his attackers by running further along the cliff walk. There, either because of the effects of the battering he had received from the three prisoners, which no doubt left him dazed, or out of fear, in his attempt to escape this violent attack he went over the edge of the cliff...

... from a pool of blood and palm prints it seems that he grabbed at the cliff face and that his fall was interrupted on a ledge about halfway down. There it seems he remained for a period of time bleeding and vomiting. Eventually, however, he fell the rest of the way into the water and onto the rocks below where he met his death.

(R v. D, NSWSC Wood J 7/ 8/ 92, pp. 2-3)

During the next morning KR's body was recovered from the water and police found trails of blood, the victim's glasses, and part of the sole of one shoe in a pattern "consistent with being pursued and bashed at various places, and falling to the pathway numerous times". KR was hit with fists, feet and a police baton and then kicked in the chest by an assailant wanting "to finish the fight". He sustained further injuries on falling to a ledge where blood and vomit were found. A post-mortem examination concluded that he died from the combined effects of violent assaults and drowning, with extensive lacerations, bruising to the body and skull, spinal fractures and brain damage (*R v. SM & DM, NSWCCA 11/ 11/ 93*).

All three youths were tried and convicted for the murder of KR. One was also convicted for assaulting S. The youths were described in court as being

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from disadvantaged backgrounds and "broken homes" but none were experienced criminals or carried a serious psychological imbalance. The two brothers had no criminal records or previous dealings with police. A psychiatrist described both as portraying average intelligence and without signs of psychopathology, although susceptible to adolescent peer pressures. D had previous minor convictions for stealing, drug possession, assault and resisting arrest. He was described as having "an immature and rebellious personality, although falling short of being decidedly antisocial" (*R v. D*, Wood J NSWSC 7/ 8/ 92, p. 12).

The brothers denied a homophobic intention, but had difficulty explaining the planned use of dangerous weapons or the choice of this particular location for an assault. One witness described how he had been invited by the three youths to go "poofter bashing" and was told that in the past "we've kicked faggots in the head" (Ongaro 1991). This motive was freely admitted by D. He informed police that the killing was a joint venture, that they had decided as a group to "go and do a gaf" and chose Bondi because "we knew poofs would be there for sure" (police interview with D, 29/ 8/ 90, p. 5).

D admitted to further involvement in attacks on homosexual men. At his trial, it was alleged that he had written a letter to a former girlfriend two days after the offence in which he wrote that he had gone "faggot bashing" (police interview with D, 5/ 9/ 90, p. 1). School friends and acquaintances gave similar evidence about alleged boasts. On the day after the killing, a witness who worked as a butcher's assistant met up with D in a shopping centre and noticed an unusual smell of blood (police interview with D, 30/ 8/ 90, p. 2). He asked about the stains on D's jogging shoes and was allegedly told they were from:

... some faggot Chinaman's head. We beat up some guy in this park last night. You should have seen this mate of mine, he is an excellent fighter. You should have seen the way he kicks.

D also allegedly bragged about the crime at a party and seemed "pretty proud" of it. He said to some mates near his home in Sydney's outer-west:

... the other day I kicked a faggot in the head at Bondi. That's where all the faggots hang out. Me and me mates have been showing the gays who's boss.

D and then the two brothers denied that they had delivered the lethal blow. However, none denied their ready involvement in a serious attack. All were

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found guilty of murder and received heavy sentences. D (who pleaded guilty) was sentenced to a 19-year maximum term of imprisonment. A 20-year maximum term was imposed on both brothers.

In this crime, the important indicators of homophobic motive include the alleged bragging of the key perpetrator and the especially brutal violence that characterised the murder. The drawn-out nature of the attack reflected the perpetrators' level of contempt for their victims and the pleasure involved in tormenting them; the murdered victim was even "shared" by a swapping between assailants as they attacked. S did not evade being attacked by cooperating with the perpetrators and handing over his leather jacket and some money. Other factors include the degree of preparation that makes the circumstances of this crime different from the more spontaneous quality of much public violence between men. The perpetrators travelled from the inner city to the crime location with the declared purpose of carrying out an assault. The crime location is a considerable and difficult walk from Bondi itself, especially for anyone marginally intoxicated.

Homophobic motive and a full consciousness of the victim's sexuality and vulnerability also seem fundamental to the more socially marginalised perpetrators who are even more concerned with the need to rob. In 1993, JM was robbed and killed in a city park in an encounter with two youths and a teenage girl who each had a history of illicit drug use, petty crime and institutionalisation. The perpetrators spent several hours walking to a series of known homosexual cruising areas in search of a victim. The initial stabbing of the victim in the mouth was set off by the way he "licked his lips like a fag" while staring at the key perpetrator. The two male perpetrators professed a high level of anti-homosexual views in subsequent police interviews and court reports. Furthermore, the killing appeared to be understood by the group as a source of humour. After his arrest, one of the youths was asked about the pronounced and bloodied "M" in the middle of his forehead and replied that the girl had done this with a knife "as a joke while I was asleep" (police interview with PA, 22/ 8/ 93). This may have reflected the same contempt for the victim which resurfaced in the courtroom behaviour of the youths: their manner and laughter drew warnings from a magistrate at their committal hearing (Sider 1994).

Hatred and Community Homophobia

The killings of MS and KR had a historical importance in mobilising concern about fatal attacks, especially as the violence of the perpetrators in these types of homicides is notably vicious. But such savagery is often disturbingly juxtaposed with evidence about the everyday qualities of most of the young men who perpetrate it. The general inexperience with criminal charges and apparent confusion about the serious repercussions of their violence shown by some perpetrators reflect this. Furthermore, the social and psychological ordinariness of these killers strongly points to the mainstream origins of their views on sexuality and violence, and that these views are influenced by matters of social class, youth and male identity. This reflects one of the pitfalls of the hate crime model as it is often currently conceived. Evidence about a wider community support for anti-homosexual violence can be found in police and coroners' court files on unsolved killings. Many of these appear to have been the result of similar attacks by gangs of young men (Waller 1992). Although most of them still remain unsolved, police investigations give much reconstructed detail of these incidents and the involvement of suspected perpetrators.

Two of these occurred at the same location as the murder of RJ (case study 3). The regular involvement of different and unconnected groups of assailants in such attacks appears to have slowed and complicated police inquiries. Evidence from beat users has indicated a low and mixed level of reporting of serious violence at several locations. One victim interviewed by police told how his urgent requests for help after a beat assault were met with anti-homosexual abuse from a local resident. In the unsolved case of the killing of RK in 1987, locals heard the shouts of someone being attacked on the night of the killing but ignored them, as such cries were a common occurrence. Records also indicate that some perpetrators were surprised these crimes were taken seriously by investigating police or they even believed their activities comprised some form of community service. For example, suspects and perpetrators in both unsolved and solved cases have made vague claims that they were guarding against the public danger of sexual attacks on children.

Two victims who were evidently killed as a result of such attacks by strangers at known sites of homosexual cruising died without seeking the assistance that may have saved them. BA was believed by police to have been severely bashed prior to dying in his home from the resulting wounds.

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In 1992, CO, a homosexual retiree in his 60s, ignored questions from onlookers who witnessed him bleeding and dazed in a city park and minutes later drowned unnoticed in Sydney Harbour. Possibly both were aware of their tenuous claim (as victims of attacks at beats) to a status as legitimate victims seeking help.

Conclusion

The analysis of the situational context of incidents or the perpetrators' own statements suggests that only some of this violence can be linked to an irrational hatred of homosexuals. Much violence that can be problematically described as "hate crime", such as the many assaults and robberies linked to the common perpetrator perception of homosexual men as soft targets who either will not resist or report attacks, is still linked to the perceived sexual identity of victims. Furthermore, this anti-homosexual bias and low rates of reporting have an apparent connection to factors of community homophobia.

Violence, Masculinity and the Control of Public Sexualities

The hate model is limited in explaining the psychological ordinariness of many perpetrators. The attraction of these young men to anti-homosexual violence and their focus on “policing” the sexuality of other men is linked to issues of hegemonic masculinity and the creation of a respected male identity among peers.

Masculinity, Criminality and Violent Offending

Explaining anti-homosexual killings as exclusive examples of hate crime, or even as opportunistic crimes directed towards financial gain, or pleasurable engagements with violence, will not suffice for a complete understanding of these offences as they relate to issues of male honour and masculine culture. In particular, the analysis of these killings requires some explanation of the very heavy rate of offending by young men and their attraction to this form of criminal violence. The heavy involvement of male perpetrators in incidents of violence directed against sexual minorities has been noted in most studies of attacks (Comstock 1991; Ehrlich 1992; Harry 1992). At first glance, this phenomenon may seem to simply fit the general correlation between criminal violence and the high proportion of male perpetrators found in more general studies of crime. However, in the case of attacks on sexual minorities, this link has significance for the identity of perpetrators that accentuates the “maleness” of such acts.

As noted above, the great majority of assailants in the killings were young men and teenage boys. Overall, four females were involved, either as co-perpetrators or accomplices. In two of these cases women had a direct involvement with the violence. Although anti-homosexual attitudes have been linked by researchers to a mainstream masculinity (Herek 1986), this is by no means an exclusively male outlook. Female participation in the persecution of sexual minorities more characteristically takes the form of vilification and other non-violent abuse, or the condoning of violence by

male partners and peers. However, the deployment of serious and even fatal violence to act out hatred and prejudice, and to physically intimidate sexual minorities, is virtually a male-monopolised activity.

Commentators have argued that although the link between masculinity and criminality has always been evident in the long history of crime research, this has been disregarded as a result of the “masculinity” of criminology. Until recently, this link with criminality has not been problematised in the light of critical concerns and the rapidly growing evidence regarding the social construction of masculinities as they relate to violent offending. Earlier feminist characterisations of the masculinity of crime noted that most violence is unreported to officials and most perpetrators are everyday (rather than psychologically abnormal) men. Studies of women as victims of violence have advanced into increasingly sophisticated discussion of the masculinity of offending (Messerschmidt 1993). The strong correlation between maleness and rates of criminal offending, especially with regard to crimes of violence, is now more openly acknowledged. At the same time, analyses of offending that incorporate the views that perpetrators hold about their own actions point beyond generalisations about the maleness of crime.

Anti-Homosexual Violence and Hegemonic Masculinity

Research now attempts to address the major differences in social power (for example, on the grounds of race, social class, age and sexuality) that exist between groups of men and how these are reproduced in the definition, production and punishment of criminality and an unequal access to legitimate victimhood. The new focus has begun to address the significance of widespread male victimisation, especially from criminal violence, which appears to defy commonsense notions of male privilege. Feminist research has analysed the experiences of homosexual and other men as victims of assault and abuse (Stanko & Hobdell 1992; Goodey 1997).

Connell (1995) has stressed the need to anchor accounts of such cultural processes by incorporating a perspective on the gender politics of the state and the masculinised sectors of public bureaucracies such as the criminal justice system. In *Masculinities*, he defines hegemonic masculinity as the whole complex of historically evolving and varied social practice in societies that legitimate, or attempt to guarantee, the shoring up of patriarchy and male domination of women. Any attainment or approximation of this

hegemonic form by individual men is highly contingent on the levels of real social power reached in different men's lives (Connell 1995, p. 77). A dynamic series of relationships and tensions exist between the hegemonic and other "subordinated" and "marginalised" forms, and a recognition of diversity leads to the questions of power relations between different masculinities (p. 37).

The major example of a subordinated masculinity offered by Connell is male homosexuality, which contravenes dominant ideals of manhood and meets with legal bans, extensive stigma and violent hostility as "[no] relationship among men in the contemporary Western world carries more symbolic freight than the one between straight and gay" (Connell 1995, p. 143). Male homosexuality has a fraught relationship with hegemonic masculinity that is epitomised in anti-homosexual violence (p. 83). This allows for an explanation of anti-homosexual violence as it may be perpetrated by groups of men with very different levels of social power (for example, soldiers, police, street gangs). But the actual practice of direct intimidation and violence is mostly explained by the contradictions that underlie the life histories of a group of young working-class Australian men who have little formal education, minor criminal histories and subsist on the edge of the market for unskilled labouring jobs.

The term "protest masculinity" here describes a form of masculinity that is a characteristic of men in a marginal location of social class, with the masculine claim on power contradicted by economic and social weakness (Connell 1995, p. 116) The masculinity of this group of young men is reflected in the frequency of hypermasculine aggressive display (often collective), violent and minor criminal behaviour. It exhibits a juxtaposition of overt misogyny, compulsory heterosexuality and homophobia: some freely admit to gay bashing and most profess disgust about male homosexuality. Sex and violence figure very highly in this configuration of manhood. An exaggerated—though highly conformist and culturally reproduced—homophobia may reflect the extent to which male same-sex activity is understood as a major symbolic threat to the gender differences which are not clearly marked by much else than sex in the circumstances of social marginalisation.

There is a remarkable likeness between the social histories, characteristics and attitudes of Connell's sample and many of the perpetrators who feature in this research on anti-homosexual killings. The majority of the assailants in this study were younger, working class and poor men with a marginal

existence in the labour market and low social status. Much of this violence, especially the planned gang attacks on homosexual men, suggests an underlying compensatory search for masculine status among perpetrators and an important cultural paradox which appears to shape many of these attacks. These assaults take the outward form of a type of rebellion or protest against dominant social values, and partly attract young marginalised men for this reason. But in reality, a continuous backdrop to the motives of perpetrators are mainstream constructions of male identity and the deviant positioning of male homosexuality in the codes, practices and discourses that reproduce social understandings of ideal masculinity.

The attraction to anti-homosexual violence is linked to a widespread understanding of “hegemonic” masculinity as thoroughly heterosexual, and of engagements with violence as a ready means of establishing a respected male identity.¹³ The hegemonic form remains beyond reach for those with little or no material wealth or institutional power, but violence and harassment directed against sexual minorities serves as a ready means of establishing a respected male identity within the less empowered form of “protest” masculinity. In a culture that promotes strong links between violence and masculinity, this violence serves a dual purpose of constructing a masculine and heterosexual identity for perpetrators through a simultaneous involvement with violence and clearly establishing homosexuals as an opposed group of social outsiders. These attacks are part of a difficult struggle to achieve the status of adult masculinity, reflected in the strong evident concern with the establishment of male identity among groups of perpetrators, though this struggle is often doomed to fail or left unresolved in the situation of many assailants.

The evidence suggests that many of these killings are enjoyed by the perpetrators as a form of male group pleasure because they signal and affirm a masculine heterosexual status to others. In this way, the gang attacks that were discussed above as typical hate crimes can also be read as masculine crimes and are, importantly, characterised by the group production of masculine identities among assailants. Several perpetrators convicted in group killings resulting in convictions for murder, and youths questioned in regard to unsolved deaths, had a strong declared interest in fighting and

13 The influence of this model for understanding masculinity and social power during a period of much scepticism about hegemonic models stands as testimony to the eloquence of Connell’s account. Nevertheless, there are potential dangers in discussions of male criminality that conflate elements of hegemonic and protest masculinities. For a recent clarification and defence of the term, see Connell (2000).

years of formal training in boxing and martial arts. Furthermore, the group status of some assailants was built on a reputation for unrestrained street violence. As noted, the key perpetrator in the Bondi cliffs killing of KR could not resist telling about his violence to friends, and expected to make a positive impression about his manhood on a girlfriend by writing to her of his intention to bash gay men. With his subsequent arrest and conviction, these boasts look to be idiotic. But they also reflect the limited material resources available for the achievement of masculine status among the young men who carry out most fatal group attacks.

A further reminder of the influence of these concerns within young male peer groups was the involvement of one youth in the following killing so as to counter a reputation among his mates for being too soft and a “wimp”. This crime was another fatal group attack on a stranger that bears out features of the hate model. But it also calls for reflection on the relevance of masculinity in understanding aggressive homophobia, especially within young peer groups.

Case Study 3

On 24 January 1990, RJ, a 33-year-old gay man, was killed by a group of young men in the Alexandria–Waterloo area of inner-Sydney. The perpetrators were eight youths of whom six were aged between 15 and 17, and two were aged 18 and 19. All were friends through a local school and football clubs. On first hearing about the death of their victim they concocted a story that a group of Polynesian or black men had chased them from the park (police interviews with JL, 23/ 1/ 90, pp. 4–5; MJ, 26/ 1/ 90, pp. 1–3; RM, 27/ 1/ 90, p. 2; AF, 31/ 1/ 90, p. 1). This was altered to an account in which they admitted assaulting RJ; the deceased was described as an aggressive drunk who almost ran them over with his motor vehicle and challenged them to a fight after an exchange of abuse (police interview with AM, 1/ 2/ 90, pp. 2–7). The next version of events was that the victim was a brazen beat user whom they chanced upon in the park. He attacked all of them and called them “faggot-bashing bastards” after being referred to as a “faggot” (police interview with AM, 2/ 1/ 90, p. 1).

There is a consistency around certain facts and events accepted by the trial court after arrests and prosecution. On the evening of the crime the youths played basketball together in the grounds of a local high school, which many had or still attended. After the game they crossed through a park in which there was a toilet they knew operated as a beat. They selected a telephone

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number which, along with an invitation to have sex, had been scribbled on the door of a cubicle. In the company of all the others, AM called RJ at his home in the eastern suburbs from a public phone and invited him for a meeting with promises of sex and the alleged remark that “I like giving headjobs” (police interview with RM, 3/ 2/ 90, p. 5). In the words of one perpetrator:

The guy wanted him to wear a long-sleeved shirt and tie, so he could tie him down and piss on him, and he also said that he wanted his hot cum in his throat.

(Police interview with AF, 3/ 2/ 90, p. 4)

The victim arrived by car close to the arranged time of 10pm and walked into the toilet block. Perhaps sensing danger he commenced walking back. Details of the attack were summarised by the trial judge as follows:

The eight young men, who had been waiting in the school grounds at a point where they could observe the toilets without themselves being seen, ran towards the toilets whilst their intended victim was inside the building, and when he emerged seven of them (but not Y) set upon him without mercy. One punched him heavily and without warning to the jaw and he fell to the ground. He was still conscious as most of the group assaulted him in various ways. At least two of them stomped with one heel on the right side of the victim's head above and behind the ear, causing a subarachnoid haemorrhage and almost certainly unconsciousness. Many of them kicked him in the head and trunk. One at least jumped on the victim's right chest as he lay on his back, landing with his full weight on both knees. One or more such impacts caused multiple rib fractures and the liver injury which was the actual cause of death.

(*R v. AM, H, RM & Y*, NSWSC Badgery-Parker J 15/ 4/ 91, pp. 2–3)

The attack on RJ was totally one-sided as, in the words of one assailant, “he didn't have a chance” (police interview with MC, 3/ 2/ 90, p. 14). Some of them yelled “get the poof”, asked the victim “why be a fucking poof?” and told him “there's no point being a poof” (police interview with RM, 3/ 1/ 90, pp. 2–3). He was subjected to a round of blows from different perpetrators and taunted with anti-homosexual comments and laughter as he pleaded “leave me alone, I'm sorry, I'm gay” (police interview with RM, 3/ 1/ 90, p. 3). In the estimation of one participant the attack lasted “for about three minutes”. One perpetrator admitted that the victim was still kicked and battered while in an unconscious state that was apparent “because he

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was snoring". After the group had finished the attack and robbed personal items from the victim, he was left lying on a patch of grass and making "weird noises" and saying "someone help me". Two of the youths returned later to check on RJ who still lay motionless. Nobody called for medical help. The head stomping left imprints of sandshoes on RJ's scalp and caused his brain to bleed. His jeans were split and torn by repeated kicks to his groin, and he was found covered in lacerations, cuts and bruises, and with seven smashed ribs, likely brain damage and a ruptured liver. The victim was found in an unconscious state the next morning and died soon after.

The presiding judge accepted that a hatred of homosexual men and homosexual cruising at beats was the overwhelming motive (*R v. AM, H, RM & Y*, NSWSC Badgery-Parker J 15/ 4/ 91, p. 21). There was no evidence of serious psychological disturbance or full criminality in any of the youths. One had a minor criminal record. But these young men were inexperienced in their dealings with the police and courts. There was evidence of anti-homosexual hatred and admissions to previous involvement in other bashings of gay men. In police interviews, some freely admitted the intention to "bait a poofster" before the killing. One allegedly said in planning the attack that "if he's a fag, bash the shit out of him". Another claimed that such attacks had been carried out before by "everyone" involved, and he remarked suggestively:

... like it's said sometimes, the boys tell you, that they can't believe how much of a belting that they get and then get up and walk away like nothing happened.

(Police interview with RM, 3/ 2/ 90, p. 10)

Other evidence suggests group and community feelings of territoriality mixed with the homophobia. One perpetrator explained his actions by noting that the victim was "a fag" and was therefore "like an enemy" (police interview with MC, 3/ 2/ 90, p. 14). These interviews suggested that all were aware of the homosexual activity in the park and the way that it attracted men to the location. Another explanation for the group's actions was that "it's our place". One interview revealed that two older local men were walking with a dog in the park when the victim arrived. They witnessed the entire assault without any reaction to it. In the perpetrator's estimation, they were standing 25 metres from the scene and the perpetrators even walked past them on leaving the park. A puzzled interviewing police officer was told "we didn't think it would matter" (police interview with MC, 3/ 2/ 90, pp. 11-12).

Four of the youths were convicted of manslaughter, with maximum gaol terms of 10, nine, eight and six and a half years, respectively, imposed on them in late 1990. During the trial of the other participants, the presiding judge and defence counsel expressed considerable irritation with an article about the killing that was written by a gay journalist (Goddard 1991; Bye 1991). In his view, this article wrongfully implied that the perpetrators were involved in other earlier bashings or killings of gay men (*R v. AM, H, RM & Y*, NSWSC Badgery-Parker J 15/ 4/ 91, p. 14). Nevertheless, three accused were convicted of murder, with maximum sentences of 18, 18 and 13 years, respectively, imposed on them; another perpetrator was convicted of manslaughter with an eight-year maximum term (*R v. AM, H, RM & Y*, NSWSC Badgery-Parker J 15/ 4/ 91).

Policing Masculinity

Anti-homosexual violence and harassment often results in the public control of men who are regarded by assailants and others as a sexually deviant minority. It is also intimately involved with a form of policing gender identity by perpetrators. The killing in the following case suggests the motives of homophobia and robbery, as well as imposition of masculine gender codes by marginal of young men.

Case Study 4

In 1993, 22-year-old GT was killed on a public bicycle way in a regional city on the south coast of New South Wales. The circumstances of his death, as summarised by the trial judge, were:

At about 10 minutes to 12 midnight on Friday 2 July 1993, the figure of a person was observed lying beside the eastern side of the concrete cycleway which follows the coastline near East Woonona in the Wollongong area. This figure was facing in an easterly direction towards the ocean, lying on its left side, head toward the north and feet towards the south. Later that night, following a telephone call, police and ambulance officers attended the scene and the body of the victim [GT] was found lying face down, the head in a pool of blood, partly on the cycleway and partly off its eastern edge. The body was naked from the waist down, except for a strip of nylon fabric wound around the penis. Items of women's clothing, including underwear and a short black skirt, were found nearby. The body of the deceased showed evidence of multiple

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injuries including lacerations, abrasions and bruising to various parts including, in particular, the head, consistent with multiple blows which brought about death. The evidence of the forensic pathologist established that the cause of death was a massive cerebral haemorrhage associated with a fracture of the floor of the skull resulting from multiple heavy blows to the head and temporal area.

(*R v. D*, NSWSC Ireland J 21/ 9/ 95, pp. 1–2)

There were contradictory accounts from witnesses and the parties involved but the presiding judge substantially accepted the final version of events offered by the accused 19-year-old, TD. He was charged with murder, and two friends who were present at the crime scene were charged with concealing a crime. According to TD's version, after a night of drinking beer with another teenage friend named JR, both were riding bicycles on a public cycleway. In the darkness the deceased leapt from the bushes, attacked and sexually assaulted TD, and provoked the retaliatory violence:

I was walking back from Bellambi to Woonona to see a couple of friends and as I was coming around the corner someone jumped out behind me and I've turned around he said "Ah, I'm gonna get you" or "hello young gentleman" or something like that and he grabbed me by the leg, and he sort of pushed me and I've gone down and he's got down the bottom of me leg, he's holding on to it and that's when I've twisted me ankle I think it was and then he's kicked me in the knee and he's on top of me, sort of, just rubbing—he did not have no pants on him and he was rubbing his dick up and down me leg and then as I've come up I've just started throwing punches at him and he was, he just kept on standing up and he was just laughing at me and just crawling and I just couldn't get away from him, I was just throwing me hands and me feet and, and then he just hit the ground...he was going on about something, just looked really weird to me...he's just started saying his stuff and just going on and on about "I'm gonna give it to you good" or something like "young man" or something, and then I just started throwing me hands, hitting him in the head...I've tried to get up... and he jumped back out and he was laughing and spat on me... I think I threw a few more punches and I sort of kicked him away...I was just throwing me hands and they were, they were, just hitting him. He had something on his face. I think, I think he had make-up on. I'm not sure because he just looked—ah it just made me feel sick... and then he's grabbed me and it just went on from there.

(Police interview with TD, 3/ 7/ 93, pp. 12–16)

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TD told police the incident took 10 to 15 minutes. In a later account he claimed that the victim was wearing something around his penis at the time of the alleged advance. TD insisted that GT was injured but still alive when he left him and "...then I've gone up to the railway station and washed me hands and me shoes and rung an ambulance" (police interview with TD, 3/ 7/ 93, p. 12-13).

GT's head was repeatedly bashed into the concrete pathway. Forensic evidence suggested he was assaulted with a tree branch that was found later with blood on it, subjected to repeated punching and kicking, and had been crushed in the ribs by someone jumping from a wooden cycle rail. TD admitted that after the attack he and JR visited the home of a friend nearby. He told people there about the incident and washed blood off himself and then returned to the scene. He claimed that this was done to check on the welfare of GT, but the victim carried out another attack. He returned again to his friend's house with more blood on himself. This friend then went with JR to also check on GT. TD then walked to a public phone where police later found bloodstains on the handset. TD returned to his mother's home and he washed the remainder of the blood from his clothing and shoes.

GT was dead when an ambulance arrived. Police found earrings, black high-heeled shoes, a skirt and pair of black stockings nearby, thus giving rise to tabloid reports of a "bizarre sex murder" (Cullen 1993; Sunday Telegraph 1993). TD's violence was said to have been provoked by the alleged sexual advance and the public cross-dressing of the deceased. His violence therefore did not amount to murder and the accused was sentenced to a maximum term of 11 years prison for manslaughter (*R v. D*, NSWSC Ireland J 21/ 9/ 95, p. 8).

GT's parents insisted that the victim was heterosexual but the cross-dressing may have been a result of mental illness. It does not seem that this distinction was understood by his assailant(s). There is compelling evidence that his deviance in the sex/ gender order sparked the violence against him. The theft might suggest robbery as a partial motive. But issues of masculinity as regards the self-presentation of other males seem more significant. According to JR, he and TD cycled past the victim and TD walked back to ask for a cigarette. In the darkness, and with his make-up, skirt, high-heels and a hooded top, GT could have had the convincing allure of a lone woman. JR also claimed a fight broke out when TD realised he was speaking to a male. If so, his anger at being fooled in this way may have overlapped with contempt for any male dressed publicly as a woman. The

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particular location was not a homosexual beat and it is unlikely the perpetrators were seeking to carry out anti-homosexual violence in any preplanned way. Nevertheless, a consciousness of GT's sexual difference played a pivotal role in triggering the attack and its savagery. TD allegedly abused his victim by calling him a "poofler" and a "rockspider" (police interview with JR, 20/ 2/ 95, p. 3). According to another account, when arriving at his friend's house the accused proudly bragged that he "had just bashed a poofler" as he washed the victim's blood from himself (police interview with CD, 27/ 7/ 93, p. 4).

Despite the confused and contradictory statements of the accused, co-accused and other witnesses, information regarding this killing leaves an impression of complex perpetrator motives, though with a continuous undercurrent of rigid views of sexual expression and gender identity. It is apparent from attacks such as these that anti-homosexual violence may or may not be preplanned; it can be spontaneous and situationally structured. It also might not distinguish clearly between homosexuality, transgenderism/ transsexualism, paedophilia and other stigmatised sexualities as its target, and it frequently gratifies a sadistic pleasure in perpetrating violence against members of sexual minorities.

The killing of GT also reflects the way men assume the role of policing the public sexual and gender behaviours of other men. This crude means of attaining male status can be reproduced in the local culture of specific groups of youths that train themselves, practice and initiate others into anti-homosexual violence. The police material gathered from suspects in one unsolved matter (the death of RK in 1987) gave details of the elaborate process of planning and practice engaged in by one group of youths involved in anti-homosexual assaults. Apparently a high value is attached to this activity among men who have a low status in a patriarchal social order that prizes masculinities that are built on regular sexual access to women and a direct share in the control of institutional and material resources.

Even when most closely linked to issues of masculinity, this violence has motives that can appear to be contradictory and inconsistent. Some killings reflect disgust and anger with the breach of gender norms implied by public displays of effeminacy, especially through clothing and grooming. It is likely that defence of conventional masculine self-presentation shapes the motives for anti-homosexual violence in a culture that often conflates male homosexual identity with an overt feminine appearance. However, attacks that are very sudden, carried out in darkness and with no interaction

between perpetrators and victims, or attacks perpetrated on men who appear to be conventionally masculine, may not reflect this.

Research evidence about widespread violence against homosexual men may also seem difficult to reconcile with evidence regarding the widespread pattern of actual same-sex activity and desire among men in the general community. But this same-sex activity can occur in circumstances that are not likely to give rise to tolerant sexual attitudes. A significant minority of the killers in this study had personal involvement with male prostitution. Records indicate that others had experienced or acquired knowledge of consensual and forced same-sex relations within juvenile institutions and prisons. Such involvement and experiences could underlie a deep hostility to any public and confronting assumption of a full homosexual social identity.

Anti-Homosexual Violence and the Masculinity of the Law

A reflection of the mixed level of public support for these attacks can be found the naive boasting or frankness about involvement, and the initial sense of puzzlement at the serious investigation of killings among arrested perpetrators. Male homosexual activities have been criminalised and punished in most modern legal systems including Australian states, and the deviant legal status of homosexual men has formed a backdrop to police homophobia and harassment, and difficulties in seeking official assistance with assaults and many other legal matters (Thompson 1985; Moran 1996).

This historical positioning of homosexual men in relation to the law exemplifies the dual process of criminalised offending and non-intervention in cases of victimisation. The process whereby public male sexualities are “policed”, in both the violence of perpetrators and the historically masculinist responses of the law, is closely linked to the high levels of victimisation of homosexual men. The past official disregard of such attacks by police must be tied to the wider production of a “respectable” hostility to homosexuality. But such anti-homosexual masculinism also permeates the criminal justice system at other levels. For example, defence counsel representing perpetrators in one trial suggested—with no intended irony—that the fighting skills and an interest in violence among the accused were actually the hallmarks of good character because they were acquired through years of training at Police Boys’ Clubs.

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Further analysis of killings will seek to demonstrate that in considering the evolving nature of the link between homophobia and the criminal justice system, it is now highly significant that despite the growing official condemnation of anti-homosexual assaults, the homosexual advance defence has a more formal status in court findings.

“Homosexual Panic” and the Mercenary Killing

A discussion of the term “homosexual panic” and the related controversy is given below. Many claims seem like weak excuses for homophobic crimes. But criminal opportunism is also evident in these killings. Furthermore, hatred and robbery can overlap in the motives of perpetrators and the perception of homosexuals as soft targets for assault and robbery. This is most significant in the second general scenario of killing where perpetrators can make allegations of sexual advances that are hard to refute. Some may knowingly place themselves in “socially scripted” situations to exploit a likely sexual advance. Robbery may be a relevant motive, but knowledge of the victim’s sexuality can intricately structure interaction and the pattern of an attack.

Sexual Panic as a Legal Defence?

Speakers at a 1994 public forum in Sydney, as well as other commentators and protesters in the early and mid-1990s, voiced concern about whether the so-called “homosexual panic defence” had begun to emerge in Australian criminal trials (Lesbian and Gay Anti-Violence Project 1995; Farrelly 1993; Widdicombe 1995). These concerns resulted in the establishment of a public inquiry with gay and lesbian community representation by the Attorney-General of New South Wales in 1995. Although the homosexual panic defence has no formal status in Australian and other courts, it is evident that existing pleas of provocation and self-defence are deployed in local courts with a significant result. Australian cases of this sort date back at least to the 1950s. The concern felt by gay men and lesbians over this sort of legal defence to charges of murder reflects the many conceptual and political difficulties encountered in evolving an adequate response to the phenomenon. Fears regarding the public taboo concerning intergenerational sex shape divisions over the appropriate response to cases involving very wide age gaps between perpetrators and victims. Furthermore, an outright dismissal of any allegations of a sexual attack appears ill-considered.

"Homosexual Panic" and the Mercenary Killing

The term "homosexual panic" owes much to the simplified and conservative reworking of Freud that surfaced after his original account of the undifferentiated drives that shape the dynamics of the human unconscious, and instead suggests an understanding of (overt or "repressed") homosexuality as a minority pathology.¹⁴ It was first described by Kempf in the 1920s as an extreme irrational response to social situations that remind the sufferer of his own homosexuality, and it entered courtroom argument soon afterwards (Bagnall, Gallagher & Goldstein 1984; Green 1992). It has not attained the status of a recognised mental condition or a successful legal defence of insanity in its own right. Comstock (1992) illustrates that homosexual panic has a dubious claim as a true psychological condition and that it does not fit with the premeditated circumstances of many fatal attacks.

It is apparent that defence arguments about the occurrence of an actual physical homosexual advance have more success when linked to a plea of provocation (Comstock 1989, 1992). Some suggest that successful defence claims about a homosexual advance dignify exaggerated acts of violence which have irrational roots in hatred and ought to be rejected as a community norm (Mison 1992). Dressler (1995) extends this by pointing out the masculine qualities of the use of the provocation plea in cases that partly excuse the sudden anger and unrestrained violence of perpetrators; this observation has also been made in local commentaries (Tomsen 1994, 1998; Howe 1997).

Analysing Perpetrator Claims

Community misgivings have been raised about the inability of a deceased victim to respond to these allegations, and the possibility that many of these claims are merely a convenient rationalisation for attacks with anti-homosexual motives. A general caution about responding to such claims is well justified. The plausibility of advance allegations may only be fairly judged from detailed evidence regarding different killings.

This process of analysis suggests that such claims are made in a variety of circumstances in which an actual homosexual advance may or may not have occurred. Claims that appear to be false have been made in circumstances

¹⁴ Despite his best intentions, it is significant that Weinberg's (1972) later description of "homophobia" as repressed homosexuality drew close to this homosexual panic model.

involving preplanned “hate” attacks, robbery or violence, and on arrest perpetrators appear to seek out an excuse for their actions. Some cases involve a mix of elements of motive and robbery. But even in most of these, the sexual advance claim remains dubious.

As has been noted, this study found two general scenarios for the homicides studied. In the cases of killing that conform to the first scenario of a gang attack, claims about sexual advances are generally less arguable. The sentences meted out to the killers involved in the bashing of GT on a public cycleway, or the stabbing of JM in a city park, did not reassure the gay and lesbian community that court findings reflected this. But it is likely that these outcomes related more to the youth of the perpetrators and the advantage won from trading criminal information about other matters than lame claims about sexual victimisation.

No such lenience was meted out by the court in the more recent trial of a group of adult men accused of killing a homosexual medical practitioner, PR, at his country retreat (*R v. Privett & Privett*, NSWSC Badgery-Parker J 22/ 10/ 99). This case was an example of a mixed scenario. Despite some evidence that two of the four perpetrators believed the doctor had previously molested their younger brother who had, as a result, “become gay”, evidence regarding homophobia, premeditation and a clear motive to steal shaped the convictions for murder. In this case there was nothing substantial to counter the logical conclusion that the crime was a fatal home invasion motivated by prejudice and greed.

The second major scenario for such killings is cases in which a dispute between men over an alleged sexual advance results in a violent confrontation and death. These incidents generally occur in private space and follow on from situations of shared drinking and socialising by friends or recent acquaintances. In a few cases these allegations fail completely because the evidence and circumstances also suggest the motive of robbery. However, as a general rule, the claims are more difficult to counter as implausible or wholly untrue if they are raised in the context of the second scenario. Most importantly, evidence concerning some killings suggests incidents in which the claims about a homosexual advance are not fictional. Cases of this sort form the subject matter of the next two sections in which some of the important differences between them are discussed. These differences have significant implications for an understanding of anti-homosexual violence and its relationship to homophobia and male identity.

"Homosexual Panic" and the Mercenary Killing

The cases include one of the two killings and related trials that resulted in local controversy due to the full acquittal of perpetrators who made allegations of a sexual advance.¹⁵

Case Study 5

On 7 April 1991, MM, a 46-year-old man, was killed at his temporary residence in Newtown in inner Sydney. His killer was CM, an unemployed 19-year-old whom he had met a few hours before. CM passed a Sunday afternoon in the city playing video games. MM left his workplace at 5pm, and the two first met outside a sex cinema. Both went in MM's car to the victim's home. They talked and drank together, and discussed the sale of marijuana that MM had. A dispute broke out and they struggled at the rear of the house. CM left with property of the victim that included personal items, cash and some marijuana. He stole MM's car and drove home to the northern suburbs. A witness later told police they saw a young man throw the victim's diary from a car. Others heard a car crashing and the vehicle was found dumped and damaged in the area where the perpetrator lived. MM's neighbours called police around 11pm after they heard moaning and cries. He was still semi-conscious when an ambulance arrived but soon died from severe head injuries. He had brain damage and lost five litres of blood. Head injuries suggested he had been attacked with a broken wine bottle that was found in his bedroom. His head had been rammed against a wall in the yard.

CM refused to be interviewed by police. In court he gave a dock statement (not subject to cross-examination) in which he portrayed himself as the victim of an assault:

- who did not understand the sexualised context of meeting MM;
- whose high level of violence was unavoidable; and
- who stole considerable property without real intent.

I was playing video games at a place called Timezone in George Street and I only had about \$30 left so I decided to go and try and score some marijuana. I was walking down George Street, I turned left into

¹⁵ Although the outcomes of the trials of CM and SB have led to equal controversy, there may be important differences between the incidents that reflect the diversity in the facts and motives in cases where allegations of a homosexual advance are made. Many of these claims appear to be untrue or contrived, but this is not always so. The killing of TA by SB could suggest that commentators must be wary of an outright dismissal of the possibility of an atypical and genuine claim about a serious and ongoing sexual advance. Of course, this still does not exclude the possibility that a related trial is marked by negative courtroom depictions of male homosexuality (Tomsen & George 1997, 1998; Woods 1997).

Goulburn Street. I then walked past a place which I now know to be the Eros Theatre. I seen a man outside. He was standing on the side of the wall. He was smoking a joint. It was a joint as I could smell it. I then stopped and looked at him and he then asked me if I wanted to score some. I said "Yes. What have you got?". He then said, "I've got some head but I've sold out now and I've got more deals at home". I thought he might be a new contact or something for marijuana because buying marijuana, it is better to find someone who can supply you from a house rather than on the street. So he said "my deals are at my house, it is not far from here". I then—I said, "okay". I then got in his car. We didn't talk that much on the way back to his house. I asked him where he lived. He said "Newtown" and I can't remember much else was said then. Not long after that we arrived at his house, and we walked in the back gate and then into the back door of the house. I walked inside, there was some tables—there was a table and some chairs. I then sat down. [M] then walked into the lounge room and put some music on. He then went to the fridge and got himself a beer. He then asked me if I would like anything to drink. I said "what have you got?". He said "beer or wine". I said, "I will have a wine, please". He then got out a bottle of red wine and he got me a glass and he said, "help yourself". He then sat down at the table and he had a little bag he had on the table. He rolled two joints, marijuana joints. He then lit them both and gave one to me. Then he started talking about himself, what he does for work and stuff and how he travels around Australia and things like that, you know. At that point I didn't really want to stay any longer. I said, "can I have a look at your deals now, please?". He then said "yeah, they are in my bedroom", and grabbed his beer and got up and said "follow me". I got up, then he looked back and said "bring your bottle of whatever if you want". I didn't think—I grabbed my bottle and glass and I followed him into the bedroom.

We were walking down, he was a bit ahead of me, and as I walked into the bedroom he was waiting for me. He quickly grabbed me, he threw me onto the bed and he pulled my tracksuit pants and underpants down to my knees and he was on top of me at the time and I was confused at that time. I remember turning over and pushing him off the end of the bed, the side of the bed. I then noticed he was coming back toward me again and I grabbed the wine bottle in my hand and hit him three times over the head with it to stop him interfering with me again and the third time the bottle smashed and cut [M's] head. I then quickly ran out of the bedroom and back to the door so I could leave. I tried to open the door but it was

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deadlocked from the inside. I then heard some noises. I looked back and I noticed that [M] had come out of the bedroom. He looked angry and was yelling and swearing at me. He called me "a little fuckwit, you little cunt" or something like that, and I looked down, I noticed there was something sharp in his hand, a little knife or something. I couldn't see it properly. My first thought was he was going to kill me. I then went into the kitchen and I grabbed a large black-handled knife. I held it up to [M] to defend myself, I said, "look, I don't want to hurt you. Just give me the keys and let me out". He then lunged over towards me. I put both hands up to block—to block him and he cut me on the—one of the knuckles of my right hand. I've still got the scar today. I then spun him around into the corner and we were in a bear hug sort of situation wrestling a bit. I then punched him twice in the face with my right hand and I had the knife in my left hand, I didn't use it. I then tried to grab the keys out of his pocket and his pocket ripped a bit. He then said, "Okay. Okay. I'll open the door". I stood back as he opened the door and then as it opened I quickly ran out. I threw the knife in the backyard somewhere and I ran down to the gate leading onto the street. I opened the gate and just as I opened it I felt [M] grab me from behind and a long scratch go down my back. I then turned around and I punched him in the face again and he dropped the knife or whatever was in his hand, somewhere. I then opened the gate quickly and I took one or two steps outside when I was tripped or tackled or something by [M] and we then ended up wrestling on the ground for a little while, rolling over or something, and we then got up and we were wrestling a bit more and he was trying to throw punches and I was trying to throw punches. There was a lot of blood covering his face by that time but I then pushed him with both my hands to his chest to get away and his head hit the wall outside the gate of the house. He then slumped to the ground unconscious.

I then had a look if he was alright and I then dragged him back inside and laid him down. I took my jumper off and I wiped some blood off his face. Then I put the jumper under his head. I certainly—I didn't think he was going to die. I thought he was knocked out. If I thought he was going to die I would have called an ambulance or something for help. I then realised that I'd left my wallet somewhere in the house. I ran back in the house then, my wallet was lying beside the bed in the bedroom. I picked it up and there was a black Walkman beside the wallet. I pulled the headphone part out and took it. I don't know why I took them. It was a spur of the moment thing or something. I wasn't thinking straight at the

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time. I then walked to the back door and I seen the bag of marijuana that [M] owned sticking out of the ceramic vase. I grabbed that too. I then left, slammed the door hard. I then stopped to look at [M]. As he was lying there I took his ring, watch and wallet and keys, I had no intentions of stealing from him earlier. When I went back in the house to find my wallet I ran into the front room, bedroom. I was looking for the front door so I went back out the way I'd come in. That's when I took his keys and stuff off him because I was angry at him for what he tried to do to me. I then left the house and I got in his car and started it. I can't really drive—I did not know where I was, and it was getting late and I had to get back over the Harbour Bridge somehow. I remember stalling a lot on the way home, the car, and nearly looking [sic] the car on the way home. I felt like being around some friends after what had happened so I went to a friend's place named B. I went in, I asked B if he wanted to buy a Walkman because I really didn't want it and I don't know why I took it. I had a smoke or something and then I left... I'm sorry about what happened that night. I didn't go there to attack [M]. I only hit him after he came on to me and from then all I wanted to do was get out of the house.

(R v. McKinnon, NSWSC Studdert J 17/ 11/ 93, dock statement)

CM allegedly told friends that the victim gave more resistance than expected. By another account, CM asked a female friend if she had heard about the “gay murder in Newtown” and he did enter the sex cinema before meeting MM, flirted sexually with his victim, and went home with him in order to rob money. In court CM also attempted to explain away a previous alleged remark to friends that he had got stolen property by “rolling a fag”, by suggesting the comment was intended to make male friends falsely believe that he was hostile to homosexuals (*R v. McKinnon*, NSWSC Studdert J 17/ 11/ 93, dock statement).

In this incident, the perpetrator appears to have been aware that his victim was sexually attracted to him and this shaped his meeting and socialising with the deceased. Despite its savagery, the killing was not a frenzied attack. CM seemed to have measured his violence and selected items to steal and tried to cover the crime, methodically wiping items and later dumping stained clothing and the victim's car. This killing therefore suggests a comprehension that homosexual men are soft targets for robbery whose sexuality can be exploited to interest them in contact with an intending perpetrator, and that victims are reluctant to report crimes or can be compromised by allegations of a sexual advance. While it appears likely that a homosexual advance was made, a clear distinction must be drawn between a

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forceful sexual assault and a non-violent pass. Despite any possible miscalculation about victim resistance, the perpetrator appears to have understood cultural codes of male honour with actions structured around the respectable explanation for force as a response to a homosexual pass.

The Homosexual Advance and Underaged Perpetrators

The above example suggests that claims about being subjected to an unwanted homosexual advance can have a considerable effect on the outcome of trials. In part, this is because of the widespread legitimacy given to notions of the defence of honour and the integrity of the heterosexual male body that are linked to the perpetrators' violent actions. This effect can be greatly reinforced in matters where the age of perpetrators is below the legal age of consent for homosexual activity. Notions of male honour overlap with concerns about corrupted and vulnerable male sexualities. This impacts strongly on legal and expert pronouncements about the motives behind the actions of both perpetrators and victims.

The legally prescribed age of sexual consent for both males and females is historically and culturally varied. It also differs substantially between national and regional jurisdictions. Associated criminal laws have been subject to heated public debate, legal challenge and regular revision. Nevertheless, in the criminal courtroom these legal barriers are almost universally treated as sacrosanct. Much of the lingering stigma that still attaches to homosexuality in liberal societies is linked to the historical recency of the shift away from total legal prohibition that disregarded the matter of consent. This ban still often applies to a range of other sexual activities, and most consistently to sexual contact involving young people. As all sexual activity with anyone who is below the age of consent is defined by law as an assault, evidence of either past or present consent by that young person is deemed to be irrelevant to the legality of the act.

This restriction is generally supported by the view that young people are unable to arrive at autonomous decisions to enter or refuse sexual contacts and the young are seen as vulnerable to the possibility of undue coercion and manipulation from an older party. These notions form an important part of the backdrop to the official response to killings in which there is evidence or allegations of real or attempted sexual activity between the deceased and young perpetrators. These claims suggest that the deceased had committed,

or intended to commit, an act that is classified as criminal in all circumstances. The distinction between a sexual attack and a mere sexual advance, which has been so important to the understanding of other incidents, dissolves in these cases because of the legal view that all such behaviour comprises a non-consensual assault or attempted assault.

A consequence of this is that in cases involving a young perpetrator's violent response to an alleged advance, provocation will be found to have occurred in a much wider range of circumstances. This will have a continuous impact on the outcome of trials related to anti-homosexual killings given the wide age gaps between many perpetrators and their victims, and the particular attractions of anti-homosexual harassment and violence to immature youths. The legal impact can be far-reaching in cases where perpetrators appear to have consciously manipulated the victim's sexual interest. When a perpetrator is an underaged male, an allegation of a homosexual advance amounts to an allegation of a serious criminal offence by the deceased which is difficult to contest. The effect of reinforcing a plea of provocation was evident in the following case with two tried perpetrators.

Case Study 6

On 11 September 1992, SH, a 63-year-old pensioner, was killed at his home in a rural district west of Sydney. He died from head wounds that were inflicted to the back of his head with a blunt object, and was left lying in a pool of blood on the floor of his kitchen. The bedroom of the house was ransacked and some property stolen. On the following day his home was visited by friends. These were 18-year-old GD, his younger brother, BD, and GD's girlfriend, J. They called for an ambulance and police. Eventually GD admitted that the discovery of the body was part of a plan to conceal the brothers' role in the killing. The deceased was visited by the two brothers and killed after making alleged sexual advances on both. GD told police he was sexually attacked by SH after meeting him months earlier:

I went to his place... he picked me up. He said that he had some work for me and that I would probably have to start tomorrow morning and, anyway, he come out and picked me up and we went back to his place and he started to—and he started giving me some beers and we had a few drinks and I started to get a bit pissed and he fucking—I said to him that I wanted to go home and he said that his car didn't have enough petrol, I would have to wait 'til the morning and then—then he took me into—he said I was sleeping in here and I went in there—this is later on, you

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know, I was pretty pissed, so I was there, I think I don't know and I went in there and I went to sleep and I wake up with him on top of me... he just got on top of me and started playing with me and that and then he just—he just... I don't know, and he just raped me.

(Police interview with GD, 14/ 9/ 92, pp. 6–7)

GD admitted that SH gave him money on several occasions, but claimed that this was intended to stop him reporting the sexual attack to police.

According to GD, on the evening of the killing he and his brother arrived at the victim's house. They sat and ate the food prepared for them, while the older man watched *Smokie Bites the Dust* on television. Allegedly, SH started to fondle GD by rubbing his groin. Then SH "started on B":

B was sitting on the lounge, 'cause he didn't really know [SH] and we had something to eat and a cuppa before I went to the toilet and he started playing with me and that and then we, sort of, moved into the lounge room and I had to go to the toilet and I—I think I had a beer by then and I went to the toilet and then... and then he played, like I said, and started playing with me and I went to the toilet and I come back out and he started hassling B out on the lounge. You know, he was on top of B... he was, sort of, leaning on B, you know... and playing with his leg and that and then he started to get on top of B and then I, sort of, come in and then he got off and I said, "I just have to go out to the car to turn the ignition or take the battery leads off, cause the car runs down and that". And then I come back in with a wheel—a nut fucking thing—and I left it on the pot plant outside and I come back in and there he was... he was trying—I don't know what he was trying to do, I just didn't think. I went back outside and I grabbed it and he went into the kitchen or something and I just followed him in and I hit him.

(Police interview with GD, 14/ 9/ 92, p. 9).

According to his later accounts, GD sat down on the lounge and watched his brother get fondled for some minutes while he smoked. He went to get the wheel brace that served as the murder weapon. GD struck SH repeatedly with the lever and stuffed a tea towel in the victim's mouth because he was still moving his arms, breathing, groaning and "wouldn't die" (police interview with GD, 14/ 9/ 92, p. 16). The brothers jointly searched the house. They found no cash but took a jar full of coins, a VCR, a gun, cigars, a silver cigarette lighter, a cloth bag, a can of beer and a framed picture of the victim's dog. BD cut the phone lines. While driving home they threw the tyre lever into bushland and placed the gun and VCR in a dam. GD burned his

trackpants, shoes and his “favourite blue jumper”. The brothers and GD’s girlfriend returned the next day to further cover any clues. The stated reason for the killing was the provocation deriving from the sexual advance on BD. Accounts offered by the younger brother appear more contradictory, but they also refer to the alleged sexual abuse as motive. GD visited SH alone with the stated intention to kill him and on return he declared “I killed him” and this was because “he was feeling his balls and his dick...he just got sick of [SH] touching him all the time” (police interview with BD, 14/ 9/ 92, pp. 3–4).

However, the actions of the key perpetrator in the lead-up to the killing appear to be quite methodical and did not signal what was about to happen. No direct objection to the sexual advances was voiced. When questioned by police, GD offered no reason why he kept ongoing contact with a man who allegedly assaulted him. He admitted that he took cash from the deceased to buy alcohol and other items and told police that “every chance I had I got money off him”. GD saw SH a few days before the killing and said he urgently needed \$150 for a court matter. SH readily gave him this amount and GD bought his girlfriend a new dress. He also owed \$600 to his girlfriend’s mother for “blowing up her car” and could not pay the registration fee on his own vehicle. On the afternoon before the killing, GD allegedly discussed his debts with his girlfriend and they resolved that a visit and a request to SH was the only solution. Just prior to his death, SH was asked about the sum and said that he did not have that amount to give away. Despite the alleged importance of the sexual advance as motive, GD later told a court psychiatrist that he quite liked the victim and that “he did not come across as a gay and seemed like a good bloke who had done his bit for Australia by working as a bus driver”.

The trial judge accepted the defence argument that the fatal attack was set off by sexual molestation of BD, and referred to a later police discovery that the zipper on the victim’s trousers was undone when they reached the house. The ongoing sexual abuse of GD and the alleged advance on BD were accepted as substantially true and explaining provocation to kill. Despite facts that suggested a premeditated killing motivated by robbery, a lighter sentence for manslaughter was imposed on the key perpetrator. This outcome appears to be an inevitable result of the total legal bar on any sexual activity with underaged perpetrators. This bar might prevent invidious legal inquiries about consent in the prosecution of many cases of alleged sexual assaults on children. However, when applied to the killings of

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homosexual men who appear to have made advances towards youths, this could also neglect consideration of the level of agency and criminal decision-making among young perpetrators.

A Homosexual Abuse Defence?

As the majority of the anti-homosexual killings involve male perpetrators who are notably younger than their victims, claims regarding sexual abuse will have a significant impact on related homicide trials. In some recent cases, the suggested causal link between an act of sexual abuse and the violent response to a homosexual advance appeared to be quite distant. Relevant acts of sexual abuse are said to have been perpetrated on someone other than the actual killer, by persons other than the deceased, and years before the actual killing that occurred in response to an alleged homosexual advance (most notably in the case of MG discussed in case study 8).

In such cases, a violent reaction reflecting the psychological effects of significant sexual abuse may be hard to distinguish from the circumstances of a mercenary attack or the defence of male honour by forcefully repelling a homosexual advance. But the courtroom impact of provocation pleas linked to evidence about some form of sexual abuse can be considerable, especially if this abuse is alleged to have come from the deceased himself. This seems linked to a widespread point of view in which homosexual desire is understood as a type of sexual contagion which young men with fluid sexual identities need protection from.

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A further means of understanding anti-homosexual violence is through considering the role of the protection of honour in fatal incidents, especially as it is linked to cultural expectations about responses to a homosexual advance. Male honour and the protection of the sanctity of the male body can comprise the critical aspects of motive. This is a key element of the controversy surrounding the use of the homosexual advance defence in criminal trials.

Social Honour and Male Violence

The previous analysis illustrated that some allegations made by perpetrators about a homosexual advance from the deceased victim appear fictitious. They seem more like post-hoc rationalisations for violence that was either linked to anti-homosexual sentiments or the intention to rob or bash a homosexual as a vulnerable or legitimate target. Additionally, there is a considerable diversity in fatal scenarios in which evidence suggests that the allegations regarding a sexual advance are wholly or partly true. A very small number of the incidents analysed suggest the possibility that the accused killer was subjected to a sexual assault that physically endangered him. More commonly, the circumstances of some of the killings seemingly reflect a perpetrator awareness of the sexualised context of their interaction with their victim. For example, some accused appear to consciously induce such an advance and then opportunistically respond with pretended shock, violence and robbery. Despite the brutality and callousness of their actions, these perpetrators typically act in a rational and methodical pattern to carry out some criminal action that they have intended.

With another more analytically difficult type of killing, the homosexual advance allegations appear exaggerated but have some relation to the real facts of the fatal incident. These are cases where an advance seems to occur and perpetrators react with a great level of violence reflecting irrational elements of shock and outrage. These attacks are best explained in terms of the affront that a homosexual advance can bring to the sense of male honour

and bodily integrity held by perpetrators. Just as gang attacks on homosexual targets reflect evident concerns with questions of masculinity, these incidents suggest a further relation between matters of male identity and the killings.

A key aspect of the criminological discourse which seeks to explain why violence is a predominantly male activity is analyses which suggest the importance of issues of personal honour and self-respect among the participants in many disputes, assaults and fatal attacks. Some perpetrator studies refer to the relation this has to violence against women, but this type of analysis is credited with its greatest explanatory power in regard to incidents of violence between men. A considerable literature now exists on the importance of male honour among peer groups of poor and minority men, and the connections that this has with the occurrence and escalation of violent incidents between them (Campbell 1986; Archer 1994).

This research suggests that many disputes between males that result in serious injuries and death are prompted by overreactions to minor affronts which challenge a social sense of honour. These may seem trivial in reason, but are often highly meaningful among certain groups of males, particularly younger, low-status men (Felson & Steadman 1983). These sorts of conflicts arise regularly in everyday activities like drinking in bars, driving in traffic, travelling and socialising in public space. There is very strong empirical evidence for this interpretation of much violence between men, especially public violence among male strangers and casual acquaintances. The usefulness of this form of analysing the social context of violent incidents has particularly extended understanding of many street attacks and homicides (Katz 1988; Polk 1994).

Two killings (in which the violence of accused men seems to be a very exaggerated and irrational response to a sexual pass) particularly illustrate the usefulness of the analysis of honour and interactive male violence to the circumstances of these crimes. The first of these occurred a few years after the killing of MM (case study 5) and also greatly exacerbated fears and concerns about these crimes and advance allegations.

Case Study 7

On 13 June 1993, KM, a 63-year-old invalid pensioner who lived in a flat in the Wollongong district, was killed at home. KM was sitting on the balcony of his flat when T, a local 17-year-old who had been drinking with a friend,

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walked past and spoke to him. T recognised KM, but was not personally acquainted. KM gave him a cigarette and invited him to share drinks. After they had been drinking together, an alleged sexual pass by KM resulted in a physical confrontation and his death. This episode was summarised by the presiding judge at T's trial:

At about 7.30pm on 30 June 1993 the prisoner visited a friend, L, at his home... While amusing themselves with a computer they consumed some drinks which were based upon a liquor called Tropical Ice. Tropical Ice contains 21.5 per cent alcohol by volume. The consumption was significant but did not extend over a long period of time and the prisoner had separated from L and another companion by about 8.40pm. Shortly thereafter the prisoner was walking along Matthews Street where he encountered [KM] who was passing the time smoking whilst standing on the verandah of the block of flatettes in which he resided. [KM]—who was to become the victim—invited the prisoner to come in for a couple of beers, which invitation was accepted and they proceeded. There is no evidence that they were previously acquainted. Subsequent to conviction the prisoner has told a probation officer that “although he was aware of the victim's reputation, he succumbed to the victim's offer of a few free drinks”. After consuming some liquor the prisoner sought to leave... at some stage the prisoner became concerned that his exit from the flat may have been going to be impeded. This concern was magnified into a loss of self-control that followed the victim coming behind the prisoner and grasping him on the buttocks... the prisoner's reaction to molestation was to grasp a concrete object which was used as a door stopper and which was referred to as a garden gnome. It was not constituted of light plaster... The prisoner struck the victim on the head with the gnome, thereby crushing his skull and causing death. Immediately thereafter—although death had already been caused—the prisoner acquired a kitchen knife and stabbed the deceased many times.

(R v. T, NSWSC Grove J 14/ 7/ 94, pp. 1–2)

T took a set of keys from KM's pocket and left with the remaining cigarettes. A neighbour later told police that he had seen “a baby-faced teenager” leaving the building with a knife in his hand. T threw the weapon under a tree and went to his parent's house. He got rid of his shoes because of the blood on them and drove his mother's car around the local area. In the following hours, T took a VCR from L's house and sold it to get money for fuel. He met friends at a local service station and was alleged to have told

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them he had “freaked out” in response to a pass from a man he had killed (*R v. T*, NSWSC Grove J 14/ 7/ 94, p. 39). According to these witnesses:

He said, “I just did old [K] over” and I did not believe him ... He said [K] took hold of his behind and then he hit him and [K] fell down and he turned him over and hit him again ... He said “you should see my shoes” because he had a little bit of blood on his hand and he opened the door and he had no shoes on.

(*R v. T*, NSWSC Grove J 6/ 4/ 94, pp. 44–5)

He said that he bashed a bloke, and then he turned around and said he killed an old bloke in Berkeley ... I told him he was full of shit ... then he showed me his hands and they were all busted up, his knuckles. There was skin taken off both his knuckles.

(*R v. T*, NSWSC Grove J 7/ 4/ 94, p. 61)

He seemed drunk. Like he'd been drinking ... at one stage he was scared, completely different to what I know him. He is usually a happy sort of guy, very unviolent. That's why I did not believe him and he was sort of acting really strange, acting weird ... just weird ... just in a scared type of way.

(*R v. T*, NSWSC Grove J 6/ 4/ 94, p. 49)

Police were first called to the crime scene after neighbours noticed a pool of congealed blood under the front door of the flat. The injuries to KM were very extensive. A post-mortem report indicated that he had been punched about the head and then died of the severe head injuries he sustained from being struck with the gnome. The victim was then stabbed 12 times with a knife, but had probably already died before this happened. Press reports looked for the lighter side of the death of the “bachelor recluse”—“Killed by a gnome” (*Sydney Morning Herald* 1993).

On his arrest, T immediately claimed that a homosexual advance provoked his violence:

I done it but I done it in self-defence. I came down the alleyway, then went into [KM's] place and had a couple of beers. He tried to crack on to me.

(Police interview with T, 2/ 7/ 93, p. 4)

He cooperated with police and helped locate the knife. In further interviews he admitted the victim was already lying face-down when struck and killed with the gnome. KM was on the floor (and possibly unconscious) when he was turned over and stabbed so many times and with such force that the

knife blade bent out of shape. T could not explain why he did not leave the flat after punching KM to the ground, and offered a contradictory account of how the first violent blow was struck and by whom. In his trial, T gave a dock statement in which he described himself as the victim of a sexual molestation:

I had a fair bit of drink that night but I wasn't really drunk so I can remember what happened... I can't recall which friend I was looking for at the time I saw the man on the verandah, I saw he was smoking and he gave me a cigarette. He invited me inside for a couple of beers and I do remember the words "a couple of beers". I agreed. He entered the unit and I followed. I felt uncomfortable when I was in there but I sat down and stayed for 20 minutes or more. I stood up, I said goodnight to him and I think I said "ciao". I think I said, "no more beers thanks". I got near the doorway and he grabbed my bottom hard, both hands and he said something. I pushed him away from me as he swung the punch back at me. I punched him a couple of times and he fell to the floor and was still coming back at me. I was really frightened and I picked up the doorstopper. He was still coming at me. I have never been molested in this way before ever. I hit him with the doorstopper. I don't know how many times. I did not mean to kill him. That thought never crossed my mind. I only wanted to stop him. He was still coming at me. After I hit him with the doorstopper I saw a knife on the coffee table. I stabbed him with it, I don't know how many times. I went to the door, security door. It wouldn't open. It was one of those—[KM] had locked me in. I was really frightened although I was trying to get the keys from his pocket. I got the keys, I let myself out. I threw the keys on the ground. I ran home, I took mum's car. I did some really crazy things around Berkeley but they won't matter now. I think I was trying to tell people what happened. I wasn't proud of myself. I think I was still frightened... I never deliberately hurt anyone in my life. I'm terribly sorry.

(*R v. T*, NSWSC Grove J 11/ 4/ 94, pp. 99–101)

The apparent principal motive for this killing was not the theft of property, although T obtained free smokes and drinks and took the victim's cigarettes. T also knew of the victim's reputation for homosexual interests, admitting to police that he had heard "just rumours and that like he had to be a poofster or something" (police interview with T, 2/ 7/ 93, p. 17). There was no evidence of any suggestive comments prior to the conflict, but it is likely that T knew his sexual attractiveness to KM was the basis of the hospitality and it must

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have seemed likely that a sexual proposition was forthcoming. But the line between gratified narcissism and sudden hostility to homosexual objectification could have been crossed when KM affronted T's masculinity by touching him on the buttocks. T then carried out a killing characterised by its frenzied nature, and the multiple stabbing of a victim who may already have been dead. As T told police, KM grabbed his buttocks with "a good grip" and this was the critical moment in the lead-up to the slaying:

I was gonna walk out and he come up behind me and grabbed me on the backside [p. 8]... he was just moaning and groaning a bit... you know like he was getting turned on or something... and then I turned around and pushed him and he punched me and I started [p. 15].

(Police interview with T, 2/ 7/ 93, pp. 8, 15)

According to the trial judge, T had an "immature personality" reflected in the act of going near KM despite him being "an older man about who the prisoner had some knowledge of adverse reputation" (*R v. T*, NSWSC Grove J 14/ 7/ 94, remarks on sentence, p. 4). T had no previous criminal history and was not known for acts of violence. Equally, T appears to have had genuine feelings of remorse. When talking to friends he did not brag of his attack on a homosexual and thereby claim the male status that this sort of violence could give him. The presiding judge described T's violence as a "gross overreaction" to the sexual overture from the deceased (*R v. T*, NSWSC Grove J 14/ 7/ 94, remarks on sentence, p. 5). But, despite the perpetrator's extreme reaction and the gratuitous level of violence, the court accepted the plea of provocation. T was convicted of manslaughter.

A second example of a killing in which the sudden and extreme violence of the perpetrator arose in response to a probable homosexual advance seems also to have been linked to the importance of defending male honour and vigilant guarding against male sexual touching.

Case Study 8

On 19 May 1993, DG, aged 36 years, was killed in the house where he lived in the rural town of Mudgee. He was a local businessman and well respected in the community. His killer was MG, a 22-year-old friend of five or six years who had performed paid casual jobs for DG. On the day of the killing DG invited MG to the house to eat and socialise. DG lived in this house with his mother, though she was away visiting relatives. MG arrived just after 7pm. The two ate together and drank heavily. Later in the evening DG made

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alleged sexual overtures by touching the younger man on his buttocks, groin area and penis. MG responded with a frenzied round of retaliatory violence. The severe injuries sustained by the deceased were fully documented in the post-mortem report and summarised by appeal judges as:

Ten stab wounds, all of which were on the back of the chest and had the appearance of having been caused by the blades of a pair of scissors. These wounds were in the shape of a butterfly. In general, the wounds passed forward into the chest itself. As a result of the stab wounds there was injury to the lung tissue and a quantity of blood in the chest cavity. The other wounds were generally limited to the head. These included three large grazes on the left side of the head in the area of the temple, an area of grazing and bruising over the left temple, an area of grazing immediately behind the left ear and an area of bruising and grazing of the left cheek and a triangular graze on the left cheek. There were black eyes and small grazes on and under the eyelid. The entire nose was bruised, a large area on the right side of the face was bruised, there was grazing on the right side of the cheek and on the right side of the jaw, the upper lip was lacerated, both lips were very swollen from bruising and there was an area of bruising and grazing on the back of the head on the left-hand side. The skull bone between the eyes and the brain was very severely fractured with the fracturing extending down into the facial bones. The nose was fractured, as was a bone near the right cheekbone...the deceased had inhaled a large quantity of blood, probably originating from the fractures in the face. There were fractures of three ribs; these were unrelated to the stab wounds. A large amount of blood was lost.

(R v. Green, NSWCCA 8/ 11/ 95, pp. 9–10)

The medical report concluded that the deceased sustained a combination of multiple stab wounds and blunt injuries to the head. He had been punched and then stabbed many times in the back while falling from the bed. The weapon used was a pair of scissors that MG found lying on the floor of the bedroom. In addition to the stabbing wounds, the victim had received an estimated 20 blows to the head. These injuries also suggested that his face had been slammed against a wall. MG at first thought he should try to conceal the crime but instead phoned his brother-in-law and asked him to come and get him. He then made a request to be taken to the police. On his arrival MG told police “I have killed [DG] because he tried to root me” and, soon after that, “he did worse to me. I killed him and I will tell you about it.

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He put it on me and I just snapped” (*R v. Green*, NSWSC Abadee J 7/ 6/ 94, p. 9). He cooperated fully and outlined the night’s events:

I arrived after [C] dropped me off to the back door of [DG’s] house. I knocked on the back door. There was no answer. I adjourned through that door to the next door. As I was knocking, [DG] came out and greeted me. We went to the kitchen because I was invited there for a steak... He had wine and I had a beer... [DG] asked if I would like another beer. I said yes. I also topped up his wineglass as well as I got another beer... Then [DG] ran out of wine so he asked me if I would like a scotch and ice. I said yeah, okay. So we drank the scotch through the movie A Fish Called Wanda. Two brands of scotch, roughly half a bottle in each. Then [DG] started talking about sex and headjobs from the girl on the movie called Wanda. That went on ‘til halfway to the end... He asked if I would like to stay and I said I have to get up early in the morning for work. [DG] said, “I’ll get up at 7.15”. I said, “I’ll stay”. We had a couple of more straight scotches with ice... and he showed me to the bed I was sleeping in. After a while when I was fully unclothed, [DG] entered the room I was in, slid in beside me in the bed and started talking to me [about] how great a person I was. Then he started touching me. I pushed him away. He asked what was wrong. I said, “what do you think is wrong? I’m not like this”. He started grabbing me with both hands around my lower back. I pushed him away. He started grabbing me harder. I tried and forced him to the lower side of me. He still tried to grab me. I hit him again and again on top of the bed until he didn’t look like [DG] to me. He still tried to grope and talk to me. That’s when I hit him again and saw the scissors on the floor on the right hand side of the bed. When I saw the scissors he touched me around the waist, shoulder area and said, “why?” I said to him, “why I didn’t ask for this”. I grabbed the scissors and hit him again. He rolled off the bed as I struck him with the scissors. By the time I stopped I realised what had happened. I just stood at the foot of the bed with [DG] on the floor laying face-down in blood. I thought to myself how other people can do something like this and enjoy what they do. I did not get off [on] this and like it, not just because he was someone I knew, even though he resembled someone I knew. I didn’t know what to do, didn’t know where to go.

(*R v. Green*, NSWSC Abadee J 7/ 6/ 94, pp. 10–11)

This killing resembles other cases in which the affront to male honour and to the killer’s sense of identity and self-worth was so threatened by a homosexual pass that circumstances triggered a frenzy of violence. The

violence was characterised by the trial judge as an “explosion” (*R v. Green*, NSWSC Abadee J 7/ 6/ 94, p. 18). As with the death of KM (case study 7), the critical moment in this episode was the sexual touching of sacrosanct areas of the male body:

He grabbed me by both arms and pulled me towards him 'til there was no room in between us. Then he moved his hands down my backside, arse. I pushed it away. Then he slowly touched my groin area. That's when I got aggressive and hit him.

(*R v. Green*, NSWCCA 14/ 12/ 94, p. 5)

MG clarified this by remarking about the advance that “I suppose it was gently but I didn't respond” (*R v. Green*, NSWCCA 14/ 12/ 94, p. 5).

Although MG was intoxicated at the time of the killing, and his friend was a larger and older male, he does not appear to have been placed in a situation with the real possibility of homosexual rape or an injurious assault. The violent struggle did not begin until MG punched DG, and was a one-sided encounter. Whereas DG was completely naked, he was partly clothed. As in the confrontation between T and KM, the deceased may have already been completely disabled as both a sexual or physical threat before he was repeatedly stabbed and killed. In this case, also, the perpetrator agreed in police interviews that he could have left the room or house at any time when the advances were made. He said that he was instead “trapped” and scared by his own confusion and feelings of betrayal. MG was obviously angry with the deceased but there was strong evidence of remorse and that he took no pleasure from the act of killing. The perpetrator and DG were close friends. One witness noted MG always “spoke good” of the victim and only had to ask DG and he would try to aid or assist him with any problems. He was “like a father he never had” and a “good bloke”. The trial judge described the homosexual advances as “out of character” and noted that there was no evidence of previous homosexual overtures (*R v. Green*, NSWSC Abadee J 7/ 6/ 94, p. 24). However, MG had heard “rumours” about DG but only stated that he did not know if they were true (*R v. Green*, NSWCCA 8/ 11/ 95, p. 6). There may have been a wider cultural basis for this naivety in the regular denial of homoerotic sentiments among non-homosexually identified men and in rural areas.

The perpetrator was not regularly employed at the time of the offence. He had a minor criminal history comprising prior convictions for assault and drug matters, but the probation service report suggests he had a “disturbed

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upbringing". In police interviews, MG claimed that his sisters had been previously abused by their father and that when subjected to the advance he could imagine seeing his father "over two of my sisters...and they were crying and I just lost it...lost control" and that "...I couldn't stop myself or control what went through me" (*R v. Green*, NSWSC Abadee J 7/ 6/ 94, p. 25). A psychiatrist characterised the killing as "a period of extreme discontrol due to sexual touching", but did not suggest that MG had a personality that rendered him distinct from the general population. The sudden and frenzied violence of both T and MG, which in both cases far exceeded the level needed to rebuff an apparent sexual pass, could be viewed as actions that were seemingly "out of character" for both young men. More deeply, they reflect widespread notions of the integrity of the male body and its sexual parts on which a sense of masculine status is founded. Evidence in both trials leads to the view that their male honour was temporarily undermined by the emasculation of homosexual touching, and then in part restored by the immediate and exaggerated violence which is commonplace masculine behaviour in such situations of personal anxiety of threat.

Homophobia or Male Honour?

Cases in which accused perpetrators have made allegations regarding a sexual advance from their deceased victim include a variety of scenarios. Instances of a serious attack, from which the accused had genuine and reasonably founded fears about his physical safety, do exist. It would be difficult to distinguish such genuine cases as it is in the best interest of each arrested perpetrator to suggest that the killing was of this unusual type. In a much larger number of cases, homophobic views and the motive to rob or attack homosexuals as soft targets structure the real interests of perpetrators. The examples of T and MG involve matters in which these claims about a sexual advance appear to be true, but their heightened level of retaliatory violence is explicable only as it is linked to issues of male identity.

Masculine heterosexual identity is built around ensuring the sanctity of the body, with rigid limits imposed on the circumstances and socially admitted forms of male physical contact. The matter of bodily touching features as a critical aspect of this provocation to violence. The accused in these and other similar cases strongly stressed the threat involved in sexual fondling.

Non-contrived responses to such advances also have a real force that underlies a substantial number of killings. A vivid reminder of the influence

of this male code in causing fatal violence was the so-called “bottom pinch murder”, a 1987 case where a Sydney man shot a workmate (MJ) dead for pinching his buttocks and then held police at bay in a subsequent siege (Sydney Morning Herald 1988). Other detailed examples of the male honour scenario were found in this study: the killings of NW (1991), RK (1992), BW (1992), RM (1992), BW (1993) and GM (1994) were seemingly of this sort. Homophobia and criminal opportunism still have an evident role in some cases, but the issue of male honour appears to be paramount.

Questions of the male honour of accused perpetrators have been critical to the recent controversy surrounding the use of the homosexual advance defence in homicide trials in the United States, Australia and other nations. In part this could be because these notions may have an even wider level of community respect than obvious homophobia. But due to the masculinist understandings of violent behaviour that are inscribed in the law, they also have had a substantial level of courtroom impact on trials. In 1994 MG was found guilty of murder. In 1997 a majority of the Australian High Court granted him the right to appeal. At his re-trial in 1999 he was convicted of manslaughter on the grounds of provocation and received a maximum sentence of 10 years and six months. The High Court case attracted much national and international interest. Although this may have further entrenched the use of the homosexual advance defence in law, two dissenting judgments, including that of Justice Kirby who criticised the anti-homosexual prejudice inscribed in the defence.¹⁶

Given the apparent number of cases in which allegations of a sexual advance may be true, considerable difficulties surround the inevitable need to distinguish such advances by degree. Warding off the dishonour that can result from a homosexual pass is distinct from fearing or fighting a sexual assault. But aggression and violence are viewed by perpetrators and some others as the most appropriate response to a sexual advance by another male.

¹⁶ For comment on phases of the legal response to this killing see Coss (1996, 1998a, 1998b), Molomby (1998), Howe (1997, 1998), Buchanan (1998) and Marr (1999).

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Most of the killings analysed in this study were the crimes of “heterosexual” perpetrators. There is no evidence for the popular notion that many perpetrators of anti-homosexual assaults and killings are closeted homosexuals. Yet confirming the critique of essentialist notions of sexual identity, variations in sexual practice and desire arise in some incidents. These variations produce uneven relationships, with dominant and marginal forms of masculinity that shape the actions of perpetrators. Victims and killers include homosexually active men who do not identify as gay/homosexual. A small but regular number of fatal attacks are carried out by male prostitutes and other killers who have a history of same-sex relations. This does not warrant the generalised use of the homosexual panic excuse by perpetrators. Nevertheless, some case histories do suggest that these men experience a heightened anxiety about sexuality and this has significant implications for masculine social identity linked to their violence.

Masculinity, Violence and Sexual Fluidity

Confusion arises in criminal courtrooms in explaining and reacting to situations that suggest the involvement of killers in same-sex activities with their victims. In incidents involving underaged perpetrators this activity is classified as abuse. But in matters that involve adult perpetrators, an engagement in homosexual activities is often unconvincingly viewed as signalling a psychological disturbance that was the predominant cause of the fatal violence. This sexual activity is also deemed to mark a past history of abuse or repressed homosexual urges that produces extreme guilt and self-loathing. The view that hostility and violence towards homosexuals is often linked to repressed sexual desire is commonly suggested in popular representations of homosexuality. This means of explaining anti-homosexual violence and same-sex activity among men shares with the dominant culture of the contemporary West a commitment to the centrality of the hetero/homo dyad as the key means of understanding human sexuality. A related notion is that although many people may be confused and mistaken about

their positioning in this simple sexual hierarchy, each individual has an essential sexuality to which they will be inclined.

The analysis of some killings and related trials gives a different and more blurred view of male sexuality than this dominant discourse suggests.¹⁷ Variations in practice, desire and identity produce a complex and uneven relationship with dominant and marginal forms of masculinity that inflect the interactions between perpetrators and victims and the self-understanding of individuals in either category. Both the killers and their victims include homosexually active men who are not homosexually or gay-identified. Involvement in same-sex practices has mixed implications for their masculinity. Although there is a real level of fluidity and frequent diversity of practice in men's sex lives, this desire and activity does not occur in a social vacuum. The force of the culturally dominant distinction between heterosexual and homosexual identities gives this hierarchy a reified status. It has become the most important reference point for individuals who assign a key identity for themselves based on their sexual experiences. Within this hierarchy, heterosexual acts and desires have become the fundamental embodiment of a dominant ideal of empowered masculinity. Consequently, men have constructed and lost masculine identities around their same-sex activity. In closed male institutions such as prisons, this is elaborated around relations of domination, force and sexual submission (Heilpern 1998).

A heightened tension about sexuality marks the consciousness of perpetrators who have engaged in publicly known same-sex activities when this has serious implications for their masculine social identity. The anxiety of perpetrators and courtroom confusion in dealing with the meanings of same-sex activity were very evident in a case that involved a killer who (like many other men) did not identify as homosexual but found pleasure in covert homosexual encounters. Speaking openly about this activity appears to have threatened a sense of male honour in a way that resulted in explosive fatal violence directed towards a homosexual friend. Neither the social and psychological difficulties of the parties involved, nor some of the macabre features of the killing, can be denied. However, this crime can be viewed against the cultural backdrop of heterosexual male anxiety about the

¹⁷ The analysis in this section suggests that a widespread anxiety about identity that is the consequence of fluid sexual desire (rather than the very disturbed mental state of some perpetrators) signals the relevance of analyses of male homophobia that incorporate a critical understanding of the male unconscious (see Chodorow 1994; Lane 1997).

significance of homosexual practices for sexual identity and personal masculinity and the pressures to deny either pleasure or subjective emotional content in such contacts.

Case Study 9

At around 10pm on 23 August 1990, 43-year-old GW was killed in a motel room in the outer-west of Sydney. GW was an alcoholic with a criminal history and had just been released from gaol. His killers were 26-year-old GH and his 27-year-old girlfriend, TJ. A police officer described the crime scene as follows:

[GW] had suffered three open wounds to the lower portion of his back and two open wounds to the upper area of his back. Each of these open wounds appeared to be very deep and were consistent with the appearance of stab wounds caused by a knife. I saw two further open wounds to the back of the neck. I then rolled [GW] onto his stomach. I saw that the strip of linen had been wrapped around his neck. I then removed this piece of linen. I then compared this strip of linen with the torn sheet and found the two to be consistent in material type and the shape of the torn edges of both to be consistent in shape. These open wounds also appeared to be deep and were consistent with stab wounds caused by a knife. On examining [GW's] chest I saw three open wounds. One of the wounds was on the lower portion of the chest and two were located in the middle of the chest. I saw a large amount of blood in the singlet when it was rolled back to examine [GW's] chest wounds.

(R v. Hort, NSWSC Finlay J 18/ 5/ 92, p. 7)

A post-mortem report indicated that death was caused by blood loss from multiple stab wounds. GW had been stabbed at least 10 times, and the state of the room indicated that there had been a violent struggle. The word "poof" had been cut into the mattress that covered the corpse. GH and TJ were arrested while staying in Kings Cross in the inner city. GH confessed candidly to the crime and cooperated by showing police his bloodied clothing and the knife used to kill GW. He told how he dumped the victim's wallet in a rubbish bin and then threw his prison identification over a cliff.

GW had a chance meeting with the killers on the day of his death. The couple had just hitchhiked from Adelaide in search of work. They met up with GW, whom GH knew from the Sydney circuit of homeless men's hostels. The three spent hours drinking in a local hotel. At about 5pm they

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went to a nearby motel. GW confided to TJ that he had sexual contacts with her boyfriend and suggested that one day GH would leave her. GH described these events and the attack in a police interview:

We met [GW] at... that's St Vinnies hostel, and then he said he would lend us some money to help us out and we went to Social Security at Campbelltown. Then [GW] got his cheque and then we went to, I'm not sure of the hotel, I think it was the Leumeah Tavern... We had a few drinks at the hotel and [GW] booked a room at the motel. He called a taxi and we went there... [GW] booked in and then we went to the room. [TJ] had some mozzelle [sic] and we had some of that, and [GW] was abusing me about an incident that happened last year when we were staying at the hostel in Surry Hills. Then [TJ] made a few phone calls and I rang for a pizza and then I went up to get the carton of beer. When I got back [TJ] was very distressed from what [GW] had told her and then we had another argument and then we had some pizza and beer and then [GW] went to sleep. Then [TJ] and I were just talking and I said to [TJ] "I should stab the cunt for what he said to you". [TJ] then said, I can't remember the exact words but I think it was yeah. I got the knife out of my bag and I got the pillow and put it on his face and I stabbed him in the heart. I think I stabbed him twice in the heart and then he struggled a bit and fell off the bed and then he said, "why [GW]?" And I said to him, "why don't you die cunt?"

... he was laying on his stomach and I stabbed him again and once, he was in like a kneeling position. I stabbed him in the back where his lungs would of been and I stabbed him on the other side where the other lung would of been, that's left and right. And I stabbed him another two times in the lower back where his kidneys would of been, that's left and right, one on either side. Because he was still breathing I stabbed him two or three times in the throat. And then [TJ] stabbed him once or twice, I think, in the back. I then smashed some glasses, drinking glasses against the wall near the body. And then I kicked the beds over and carved the word poof in the base of the bed with the knife. [TJ] and I then just tipped some beer all over the bed. I think we had a beer each. We just made love, I don't know why. We got the garlic bread and put it in a cross and then [TJ] ripped a page out of a book I had and she put the page near the cross. (Police interview with GH, 27/ 8/ 90, pp. 2-3)

GH was charged with murder and TJ gave evidence against him. When asked about why he carved the word poof into the bed, he only responded,

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“Because I was angry, I don’t really know why I carved it in there” (police interview with GH, 27/ 8/ 90, p. 8). He offered no explanation as to why he placed a foil cross and a page from a book on occult experiences on the corpse or why the killing made them sexually aroused. An unsworn statement delivered to the court concluded with “I’m sorry for what I have done and understanding just how bad it actually is...I think that’s about all” (*R v. Hort*, NSWSC Finlay J 13/ 5/ 92, dock statement, p. 23). There was a possible motive of robbery as \$70 was taken from the victim’s wallet. But the murder seems to have been principally motivated by rage and GH’s anxiety about his own sexuality and his relationships with the victim and his girlfriend. His confession suggested that the attack was a conscious act of killing. GH turned the knife around in his victim’s chest when he was not yet dead. He then tried to suffocate his victim by tying the ripped piece of bedsheet around his mouth as “he just seemed to be taking a long time to die” (police interview with GH, 27/ 8/ 90, p. 7).

After sexual intercourse, the perpetrators shared a drink and smashed glasses against a wall. GH showered to wash blood away and they dumped some of the victim’s belongings. But there was no fully consistent attempt to cover up the crime or mislead police once detected. GW was openly homosexual and this never prevented closeness to GH. According to TJ, the two men socialised and even engaged in playful homosexual talk with each other while they were walking to the motel. The killers only tried to justify the crime by reference to the troubling remark GW made, not his alcoholism, criminal history, homosexuality or HIV-positive status.

The official examination of GH’s motive refers to his substance abuse and troubled family upbringing. He was a frequent user of alcohol and amphetamines. His actions were also explained in terms of childhood difficulties with a strict father and an incident of alleged sexual abuse. He was diagnosed as potentially having a borderline personality disorder and was described at various points in his trial as a homosexual who denies that he is homosexual “in his head”, and then as a sexual enigma who engaged in regular sexual activities with other men. Notions of repression were related to his ambivalent attitude to homosexuality and suggested the killing was an instance of homosexual panic. GH’s anxiety about this was said to be reflected in his fear of other inmates that reflected a “rape mentality” (which the court was also told is not unusual in raped women) (*R v. Hort*, NSWSC Finlay J 14/ 5/ 92, p. 44).

One psychiatrist disagreed with the diagnosis of a personality disorder and noted that GH “was puzzled about the crime and said he could not make sense of it” (*R v. Hort*, NSWSC Finlay J 18/ 5/ 92, judgment, p. 18). This expert noted that if GH was released and continued to drink and lead a “disorganised lifestyle” he was:

... likely to encounter further situations with other men where doubts about his sexuality will again arise, and this would put the other person at risk. The situation is well known in legal history in New South Wales.
(*R v. Hort*, NSWSC Finlay J 18/ 5/ 92, judgment, p. 20)

GH was diagnosed as a confused heterosexual without the skills to cope with homosexual advances. He had previous relations with women that “were not too bad” (*R v. Hort*, NSWSC Finlay J 18/ 5/ 92, judgment, pp. 38, 14). But within this explanation, homosexual contact was still viewed as suggesting significant psychological problems.

No expert or counsel at the trial fully considered the possibility that the accused was a homosexually active male who derived real physical pleasure from his regular same-sex encounters. GH also denied that he had oral sex performed on him because it was physically satisfying. In interviews with police he voiced disgust and confusion at his sexual activities or explained them as a result of financial need or drug use:

I was ashamed of it. I did not want her or anyone to know what had happened. I did not want her to know that I had sold myself to him for money and for drugs... I used to feel disgusted with myself and hated myself... I could not understand why I did it.
(*R v. Hort*, NSWSC Finlay J 18/ 5/ 92, judgment, p. 24)

GH interpreted his participation in homosexual activity as unemotional, telling interviewing police that, “He gave me a couple of head jobs. He thought that there was more in it than that” (police interview with GH, 27/ 8/ 90, p. 7). The killing may have been due to alleged needling comments (made directly to GH) or the publicising of GH’s homosexual activities. Due to uncertainty about what offensive remarks were made by the deceased, and the evidence regarding previous sexual contact between the accused and his victim, the presiding judge rejected claims of provocation. Nevertheless, considerations regarding the sentence imposed referred to alcoholism and the effects of the alleged homosexual assault on GH when he was in his teens. A maximum term of 14 years (with a nine-year minimum) was imposed for the crime of murder (*R v. Hort*, NSWSC Finlay J 18/ 5/ 92, sentence, p. 6).

A fatal encounter at a park in suburban Sydney is another example of the deep significance of this process of classification of accused perpetrators and deciding whether or not the killer was a “true” heterosexual with a positive outcome for an accused killer. In 1999, KG (a 20-year-old “heterosexual” male) left a message calling for companions on a telephone sex line for “men seeking women”. Nevertheless, when he received a positive reply from BM (a 29-year-old gay male) he agreed to a meeting at a beat in the northern suburbs. KG alleged that he attacked and killed BM as a result of a provocative homosexual advance that comprised a suggestion that KG perform oral sex on BM. He was convicted of manslaughter with a sentence of three to five years imposed (*R v. Graham*, NSWSC Whealy J 10/ 11/ 00).

“Gay” Killers?

“Homosexual panic” is a term derived from psychological research with links to early research on homophobia. This has suggested that episodes of violence directed against homosexuals may result from a lack of sexual integration in an unstable individual, characterised by guilt about some past homosexual experience or homosexual desire. It is the case that some of the perpetrators who bash and kill homosexual men appear to fit this pattern. However, this particular model is too narrow and simplistic in that it fails to account for the widespread levels of both homophobic sentiments and homosexual desire in the general population of men who do not manifest any psychological abnormality.

The analysis of anti-homosexual killings suggests that some instances of such victimisation do occur, though if these are wrongly taken as typical of the majority of cases of killings of homosexual men the result appears to justify the traditional trivialisation of this form of crime. Additionally, this research confirms that allegations of a homosexual advance by the deceased are more powerfully raised by perpetrators in regular courtroom claims of provocation which do not use the specific psychological defence of homosexual panic and rely instead on conventional notions of the protection of masculine honour.

But the controversial circumstances of trials in the United States in which homosexual panic has been raised as a possible (though consistently unsuccessful) defence have led some to argue this creates the misleading impression that many perpetrators have a pathological condition which seemingly exonerates this violence (Comstock 1989; Mison 1992; Sedgwick

1990). By stressing that the perpetrator himself had uncontrollable feelings of homosexual desire or guilt, it appears to re-pathologise homosexuality. Furthermore, this “panic” discourse seems to justify the sensationalised media focus on anti-homosexual killings by men who do appear to be homosexual. As killers and homosexuals, these perpetrators have become folk devils of doubly bad repute. Even more fascinating for the tabloid media is the triple deviance of the relatively small number of homosexuals who become serial killers. The media focus on the police hunt for Andrew Cunanan (as the alleged killer of Gianni Versace) exceeded even the previous high interest in the crimes of such serial killers as Dacy and Dahmer in the United States, or Nilsen, Ireland and Moore in Britain (Carr 1997).

The panic discourse of anti-homosexual killings has been evident locally in some media speculation and official inquiries. In October 1981, GC, a 27-year-old gay man who was holidaying in Sydney, was found dead in a friend’s inner-city flat. GC was killed by an unknown person who cut his throat and stabbed him 64 times. No property was taken. Police believe that the victim met his killer in a local homosexual bar and they found evidence that sexual activity had occurred. This incident was close in time to the killings of two other men by male prostitutes who were later charged and convicted. It therefore set off Sydney press speculation that a “gay blade” killer was frequenting bars in search of victims. Police commentators also suggested that the perpetrator who killed GC was probably a homosexual who was disgusted by his own activity, reacted with extreme violence and murdered his sexual partners.

The popular notion that whoever has same-sex relations is a “homosexual” (conflating identity and sexual practice) is contradicted by research evidence about the casual same-sex activity engaged in by many men (including prostitutes) with no identification as homosexual. But in these killings, evidence of sexual activity usually gives rise to speculation about a psychologically disturbed homosexual killer. For example, in June 1995, KB, a 53-year-old gay man, was stabbed to death in his flat in Kings Cross. Police found no signs of a break-in, although a violent struggle had occurred. Impressively detailed investigations did not result in any arrests. The unknown killer’s act in wiping down the victim’s body was formally reported as a gesture of tenderness reflecting remorse and guilt from a psychologically confused perpetrator, rather than a likely strategy to elude identification by fingerprints, blood or semen. It also led to the conclusion that the “perpetrator or perpetrators may be homosexual or homophobic”

(police statement, 18/ 1/ 96, p. 54) and that these were “the two ends of the spectrum, if you will” (coroner’s report, 11/ 9/ 96, p. 55).

Sex Workers as Perpetrators

Evidence suggests that a regular number of fatal attacks were, or appear to have been, carried out by a subgroup of men who are heterosexually identified but whose culturally shaped relationships to dominant notions of masculinity are continuously destabilised. Male prostitutes have featured as suspected or confirmed perpetrators in the deaths analysed in this research (including three killers in 38 tried matters). In other studies, they have formed a larger proportion of the perpetrator group. It is difficult to gauge the reasons for these different findings, as considerable variation exists across location and time in such factors as the extent, form and regulation of commercial sex work and the ready availability of other outlets for male homosexual activity.

Unsolved homicides that may have been perpetrated by male sex workers include the deaths of WD, a regular purchaser of sex services, who had been bashed and robbed by a male prostitute just prior to his death. Some insights into related motives can be found in the trial records of two perpetrators who jointly killed two victims in separate incidents in the 1980s. As mentioned, these deaths occurred close in time to the unsolved slaying of GC, and led to fear in Sydney’s gay-male community about the apparent likelihood that a homosexual serial killer had carried out these fatal attacks.

Case Study 10

In October 1981, PP, a 41-year-old teacher, was found dead in his flat in Kings Cross. A diplomat aged 47 years, CG, was also killed in his harbourside home during the next month. He had been tied up and stabbed to death in a similar fashion to PP. The high social status of this victim, and the circumstances of his death, led to media interest and speculation (Jenkins 1981a; Molloy 1981). MC, aged 19, and AT, a 16-year-old youth, were charged with the killings. AT lived with MC and MC’s girlfriend. He had befriended PP and had sex with him twice before the killing.

On the night of the first killing, MC suggested that they visit and rob someone. The pair called at the home of one other man who had paid them for sex. Because he was not there, they visited PP at 4am, stating that they had nowhere to stay. The diplomat was similarly visited and killed in the

next month. Property was taken from both victims. AT later insisted that he disliked CG but would contact him when he could not get any other clients; and CG paid him whether they had sex or not (*R v. AT*, NSWSC Lee J 26/ 11/ 82, p. 6). AT also told a psychiatrist that the “gays” were always very kind to him (p. 14). By contrast, he told a psychiatrist in a later statement that CG treated him with disdain and had once tried to cheat him out of a \$20 fee (p. 19). He also said that PP was derogatory towards him in their sexual encounters. AT repeatedly stated that he did not like being a prostitute and one psychiatrist suggested he had a “hatred of homosexuals who he felt degraded him” (p. 23). The presiding judge at AT’s trial noted disapprovingly that there was “no evidence to suggest that the prisoner ever made any worthwhile effort to keep away from homosexuals or to find another job” (p. 24). Both killers were convicted of two murder counts.

In this and other similar killings, it appears that the typical perpetrators are young heterosexual men who are not acting on a major psychological crisis of personal identity. They seem more like calculating killers who view the men using their services as ready targets for extortion and robbery. They may also be participating in sex work to meet the cost of their own drug habits. Fatal incidents can arise out of disputes over payment for sexual services or where such amounts are insufficient for the perpetrators’ needs.

In these two killings, both of the accused were admitted prostitutes but strongly denied during legal proceedings that they were themselves homosexual. They insisted that they had sexual contacts for profit only. Their subsequent statements suggested a mix of resentments about their male clients and ambiguous views about homosexual men and the commercial homosexual subculture. The occasional expression of anti-homosexual animosity might be expected, as the relations between these prostitutes and their clients were underwritten by the tensions of commercial sexual transactions. However, this apparently straightforward dislike of homosexual men sits incongruously with the intimate sexual, and sometimes positive, social contact with homosexuals that was necessitated by their form of employment.

In particular, this contradiction suggests the precarious state of the masculinity of the perpetrators due to the cultural responses to male prostitution and homosexuality. In certain circumstances, same-sex relations can be sheltered from notions of being unmanly for some or all participants. But a lowered male status is especially likely when these are not entered freely or have become a principal source of livelihood. The resulting stigma

that heterosexually identified male prostitutes experience due to their work could lead to the mixed hostility and dependence towards clients that MC and AT clearly demonstrated in their actions and statements.

Sexual Panic, Masculinity and the Disturbed Killer

These tensions about the unmasculine implications of engagement in same-sex activity were also pronounced in the small group of double killers who appear to have had a deeper psychological disturbance and whose violence most closely approximates the unusual instance of "homosexual panic". The first of these perpetrators took the lives of both a homosexual and a heterosexual victim, but it was apparent that an awareness of the homosexuality of one of the deceased shaped the decision to victimise him. This case suggests a further view of the homosexual stranger as an appropriate soft target, not merely for robbery but also for experimentation with sadistic violence and murder.

Case Study 11

On 17 November 1994, EB, a taxi driver on Sydney's northern beaches, was stabbed 36 times and killed by customers. These were RL and his girlfriend, DS. The couple later explained that they wanted to evade paying their fare and were heavily influenced by LSD. No property was taken from the driver. The couple drew suspicion from hospital staff and then police by suggesting the injuries they acquired during the incident were the result of their own zealous episode of sado-masochistic sex. On 2 August 1994, RL killed SD, a 34-year-old gardener, at a suburban bush area that functioned as a beat. He later confessed these crimes to an official at a church that he and DS occasionally attended.

When arrested, RL alleged that he killed SD to ward off persistent sexual advances. SD's motor vehicle was recovered but police found no trace of SD until late in 1994 when his body (without its head and limbs) was found wrapped in chicken wire and floating in water north of Sydney. This corpse was found one month after EB was slain. SD was killed by a single arrow wound to the heart. His body had been dismembered but the arrowhead failed to dislodge. Parts of the body were stored in a refrigerator before they were dumped. DS helped with the task of concealment.

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RL pleaded guilty only to the murder of his second victim. At his trial for killing SD he claimed that provocative sexual advances (an offer of oral sex) by the deceased prompted his violence at the beat, and that he was only armed with a high-powered crossbow for catching fish. RL insisted he was compelled to threaten and then kill SD. On arrest he told police:

If somebody pointed a bow at me and said, you know, go away, right, I would, I would tail it right out of there... I mean how, how is somebody meant to react if somebody's holding it like that and saying, don't come any closer, and a person says, "I don't believe you"... I thought I could frighten him away... and he said words to the effect of—of, "you're not going to use that". He obviously didn't feel threatened by, by me at all and that, that made me even, even more scared.

(R v. Leonard, NSWSC Badgery-Parker J 10/ 11/ 97, judgment, pp. 8–9)

Evidence suggesting premeditation and guilt included statements by two men that they had been threatened by RL with the crossbow at the crime scene, and that RL engaged in later sadistic boasting about the killing to a prison inmate. The jury took more than four days to reach a verdict of murder. The presiding judge convicted RL to a life term, noting the fact “that the prisoner found that his victim was a homosexual added to the pleasure that the prisoner...evidently derived from committing the offence” (*R v. Leonard, NSWSC Badgery-Parker J 10/ 11/ 97, p. 26*).

The principal motive for this killing does not appear to be robbery, although some of SD's property and his motor vehicle were stolen. Police inquiries suggest the perpetrator was well aware he was at a homosexual beat and felt considerable animosity towards the men who went there. The perpetrator appears to have chosen a homosexual victim as his first target for experimentation with killing. He derived sadistic pleasure from the hunting of his victim and the dismemberment, storing and playing with parts of the victim's body which he joked about to another prisoner. The killing appears to have been linked to RL's unstable sense of sexual identity and a resulting fragile masculinity. Much expert commentary presented at his trial focused on the issue of whether or not he was truly heterosexual or homosexual. This question may have had no certain answer, although the discussion also convincingly suggested that RL was disturbed by his own desire for relations with other males.

In reality, there may have been more actual participation in homosexual activity than he admitted to. Trial evidence included taped phone calls in

which RL sought employment by contacting several gay escort services. This may have been compelled by a need to fund his drug habits, but it contradicted the claim that SD's alleged homosexual advance was shocking to him. The possibility that RL (like his girlfriend) was engaged in regular sex work with male clients also suggests that he may have experienced the resulting ambivalence to homosexual men and tensions in his sense of masculinity. RL was classified as a psychopathic personality with great anxiety about his "repressed" homosexuality. Other marks of his abnormality were his personal obsession and keen reading about killing and Satanism.

By contrast with these interests, a preoccupation with such matters as bodybuilding, motor bikes, horror movies and dangerous weapons, or bragging about involvement with violence, is not exceptional in young men. But in RL's case these may have signalled a degree of compensatory concern with establishing a masculine status due to same-sex desire or activities. The case of another double killer (who murdered two homosexual victims) suggests a similar level of psychological disturbance, sadistic pleasure in killing, and sexual guilt due to involvement in same-sex relations.

Case Study 12

In 1998, 19-year-old MV killed DO and FA in the Wollongong district. The presiding judge on sentencing summarised the discovery of these crimes:

[DO] was a 59-year-old man who lived alone in a townhouse... His body, horribly mutilated, was discovered on the floor of the living room in his townhouse on the morning of Saturday 13 June 1998... The scene that presented itself to those who entered the deceased's premises on that Saturday morning can only be described as gruesome in the extreme... The body of the deceased was found to be decapitated and the head had been deposited in the kitchen sink. The body was otherwise mutilated: the left hand was severed and it was found resting on a sofa in the lounge room; there were deep incisions to the abdomen, and wounding extended from just above the sternum down to the midpoint of the abdomen. Dr..., who conducted the post mortem examination, observed five intersecting and parallel incised wounds on the lower chest affecting both right and left sides, and the wounding of the abdomen exposed the shaft of a hammer which had been inserted through the anus. The head of this hammer was visible between the buttocks of the deceased and the deceased was lying with his jeans and underpants lowered to a point

about the knees. The deceased's penis had been mutilated and intestinal material had been disturbed. Indeed, near the foot of the deceased was found a silver-coloured tray on which a section of bowel was resting. On the breakfast bar in the kitchen a number of sections of intestine were found lying. There were found on the floor near the deceased a number of knives and implements either used to mutilate the body or put there in contemplation of such intended use. These items included a small metal saw, four knives, a razor blade and a corkscrew. There was much bloodstaining on the carpet near the body and there was blood spatter on items of furniture and curtains. There was blood smearing on a table on which liquor decanters were located and the word Satan had been written on a mirror suspended above that table. The word Satan had also been written in blood on the wall above the lounge upon which the severed hand was resting and immediately above that word, and also written in blood, was a pentagram. On the wall beside the television set an inverted cross had been drawn in blood. The house had been searched and possessions of the deceased lay scattered on the living room floor and in the master bedroom upstairs. I pass to the discovery of the body of the deceased [FA] two weeks later on 27 June 1998. Like [DO], this deceased lived alone at his residence... This victim, who was the former mayor of Wollongong, was 68 years of age. His residence comprised a weatherboard house with an adjoining garage that had been converted into a granny flat. The body of the deceased was found lying on the floor beside the bed in the granny flat. The crime scene evidenced that this victim had been the subject of a savage attack. The deceased was found lying on his back with his legs outstretched, wearing tracksuit pants and a white singlet. The face of the deceased was heavily bloodstained and his head had been very extensively traumatised and was resting in a large pool of blood. Three tie pins had been placed in his person, one in the left cheek, one in the corner of the left eye and one in the right eyelid, and there was a splinter of timber found on post-mortem examination to have been embedded in the neck of the deceased. This plainly enough had broken off a timber peg, most of which was found on the bed. There was a leather belt lying partially around the neck of the deceased as well as the electrical cord of a lamp. Beside the bed was a broken timber lamp stand, which the evidence revealed had been used to attack the head of the deceased. Also used in the attack was a glass ashtray. There was a large quantity of blood on the tiled floor in the bathroom and in the doorway to that bathroom, indicating that the deceased had been in that vicinity during the course of the attack, and a pair of bloodstained boots and tracksuit pants (which the

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evidence proved had been left there by the prisoner) were found lying on the floor near the foot of the bed. In Dr... 's opinion, which I accept, the deceased died from the combined effect of blunt and sharp force trauma to the head and neck, and ligature strangulation.

In subsequent months, MV made a self-incriminating comment to his girlfriend and gave a fuller confession to his martial arts instructor. He then surrendered himself to police who found a book on serial killers at his home. This included notes that read:

My List— Who will be my No. 3. The possibilities are endless including... Some Satanic faggot, Some horny faggot, Some sexy prostitute male or female. Not anyone in particular... I'll kill anyone who gets in my way even... Who will be my No. 3. [DO], [FA] the first, who else? One is the best, you always remember your first, who's next.

In confusing accounts, MV suggested he had selected DO “at random” because he just felt like carrying out a killing. He knew FA (who was then subject to public allegations of paedophilia) by reputation and contacted him by phone and entered his house by pretending to be gay.¹⁸ Despite evidence of some sexual contact with both victims before the occasion of the killings (with DO on the morning of his death and repeated relations with FA over a longer period), he argued that he lost self-control due to a similar suggestion from both victims. Both allegedly commenced sexual activity with MV and then asked him to engage in anal sex. MV argued these suggestions set off memories of (unproven) sexual abuse by his father.

In these two killings, robbery does not appear to have been a significant motive, although DO’s house was ransacked for valuables. MV’s actions (which included making a list of other potential victims) suggested a high level of pleasure in killing. The extensive dismemberment of the victims’ bodies (which is not typical in most homicide incidents) also characterised RL’s killing of SD and the actions of the juvenile R, who killed TP in 1997. Expert evidence presented at the trial explored the vexed issue of MV’s mental state and suggested he had a real “abnormality of mind” linked to a crisis of sexual identity. Nevertheless, the presiding judge found his actions were deliberate “crimes of very great heinousness” and imposed two life terms for murder.

¹⁸ For a discussion of the tabloid press response to FA’s killing, see Clark (1998). Journalistic and “crime expert” speculation that the perpetrator was a victim of abuse by the deceased (offering a ready excuse for an unsolved matter) proved unfounded.

These various cases of same-sex desire and activity by perpetrators offer insights into male sexuality that verify growing evidence about the frequent homosexual activity of men who do not identify as homosexual and the distinctions between desire, practice and social identity. Although the great majority of perpetrators identify as heterosexual, several categories of killers have engaged in same-sex relations with important implications for their sense of maleness that appear to be linked to the violence. This occurs against the social backdrop of a general but contingent conflation of heterosexuality and esteemed masculinity. In different cases this involves issues of honour about a public knowledge of homosexual actions, the uncertain status experienced in sex work, or the heightened level of tension about personal identity that may arise from homosexual desire and activity. It is even possible that some of this latter tension is exacerbated by the contemporary expert-driven preoccupation with exclusive sexual self-classification.

In this way, the forces that have acted upon a range of psychologically conventional and disturbed killers who engage in same-sex relations cannot be disconnected from the issues of masculinity that influence other classes of perpetrators described in this research. It is typical of the most disturbed killers (RL, MV and R) to act as sole perpetrators. But in one case the deep animosity towards the sexuality of victims was reinforced by the shared homophobic values of other assailants. Psychiatric records indicate that D (one of the three openly anti-gay perpetrators involved in killing JM in a Sydney park) had a high degree of disturbance and mixed fear and hatred of homosexuals coupled with personal feelings of vulnerability and unmanliness (*R v. JA, PA & D*, NSWSC Simpson J10/ 2/ 95). The cases of RL, MV, R and D all reflect that even these disturbed perpetrators had a developed awareness of cultural homophobia (with rationalisations about victims who sexually advanced on them or were rumoured to molest children) and social understandings of the threatened or valued masculinities that they oscillated between. These cases (like those involving killers with serious drug dependence) suggest that the particular dangerousness of such perpetrators to homosexual men is reinforced by the secretive circumstances of anonymous homosexual cruising.

Violence, Sexual Citizenship and the Criminal Justice Response

Significant contemporary changes have occurred to the policing and investigation of anti-homosexual crimes in Australia. But elements of homophobia and masculinism still permeate in the criminal justice system, most obviously in the use of the homosexual advance defence to partly excuse male violence. Furthermore, the courtroom depiction of some victims has been stereotyped and negative. The social and psychological ordinariness of most perpetrators is obvious in attacks where common forms of resentment about male homosexual activity form a primary motive. Even the socially marginal perpetrators hold to mainstream notions of sexuality, and their violence reflects the contradictions and the condoning of anti-homosexual violence in attitudes promoted in the wider culture.

These sorts of perpetrator views are indirectly linked to the culture of the criminal justice system and the historical legacy of the criminal law as an instrument of repression against homosexuals. Despite new claims of legitimate victimhood, this masculinism and a related homophobia are still evident in the response to such violence in veiled and open ways that can include the stigmatising of homosexual victims. In particular, the masculinist model of appropriate violence that is inscribed into the criminal law of provocation is evident in the pattern and outcome of the trials of perpetrators who successfully use the homosexual advance defence. The accepted status of this defence serves to shore up the inviolacy of heterosexuality and the male body, and it naturalises hostile responses to homosexual objectification. Its legal status also reproduces essentialist notions of male sexuality that disregard the sexual ambiguity that characterises the real circumstances of many killings.

The Homosexual as a Legal Subject

There has been a contemporary shift in the status of male homosexuals from criminals to legal subjects whose sexual identity accords rights of citizenship that include a legitimate claim on protection from violence. This has been most evident in improved relations with police. A remarkable refiguring of

gay men and lesbians in policing has taken place in little more than a decade. These changes have assumed an uneven pattern throughout Australia (Baird 1997; Cherney 1999) due to both the weakness of gay and lesbian organisations in some regions and the ongoing effects of institutional homophobia. Official concern about assaults and harassment formed the political backdrop for the 1993 enactment of legislation outlawing sexual vilification in New South Wales. Gay and lesbian representatives have attained positions on high-level bodies, including the Streetwatch Committee (coordinating government departmental involvement in the prevention of homophobic violence such as school bullying) in the mid-1990s, and the inquiry into the use of homosexual advance claims in criminal trials. The New South Wales Attorney-General's Department appointed its own gay and lesbian policy officer in 1999, as did the New South Wales Police Service in 1985.

Courts have appeared to be more ready to punish the obvious cases of planned and public homophobic attacks which are closest in type to the first common scenario of anti-homosexual killings. This may reflect the growing community sensitivity about violence against gay men and lesbians. Additionally, the actual legitimacy of the courts and the judiciary would be potentially undermined by any wavering response to obvious cases of hate attacks. The law's role in firmly punishing and discouraging hate-related violence among divided social groups is essential to ensure the smooth functioning of a pluralist democratic culture. Perpetrators who have indiscriminately targeted strangers in commercial gay and lesbian areas have been strongly punished. Most of the public space killings that have reached the courts have occurred at beats, though in these cases the likely offence to public morality by a victim's own "risk" behaviour now appears to be regarded as an insufficient reason for violence. It has been outweighed by the obviousness of the anti-homosexual motive and the difficulties experienced by most perpetrators in suggesting plausible explanations for their presence at these crime scenes and their use of extreme force.

The outcomes of trials in the early 1990s that resulted from the investigation of public gang attacks offered a reassurance that these killings were being taken seriously by the legal system. All three assailants in the killing of KR at Bondi cliffs (case study 2) were convicted of murder with heavy maximum sentences. Three of the youths involved in the killing of RJ (case study 3) were convicted of murder with lengthy maximum sentences, and another five were convicted of manslaughter. In the midst of considerable media attention, and apparently to repel the direct criticism of the courts in the

local gay and lesbian press, the sentencing judge also voiced a clear warning to any perpetrators of homophobic violence (*R v. AM, H, RM, & Y*, NSWSC Badgery-Parker J 15/ 4/ 91, remarks on sentence).

It is interesting to contrast these outcomes with the legal response to an earlier crime. In 1982, IB was killed by two brothers in a park next to the Nepean River, west of Sydney. This location was a known beat. After being outraged by seeing the victim seated in his parked car, the perpetrators travelled home to get a shotgun. Soon after, they were witnessed by a group of fishermen chasing IB along the riverbank as he begged for his life before being shot several times in the back. Both perpetrators were convicted of manslaughter due to the “provocative” behaviour of their victim (Sydney Morning Herald 1982a, 1982b).

The new determination to severely punish killers is not so unambiguous in cases where perpetrators allege that fatal violence was needed to repel, or was provoked by, a sexual advance from the victim. Difficulties with evidence arise because these incidents usually occur as part of a dispute conducted between two men in private space. A further variation on this type of claim is the possible impact of evidence concerning previous occasions of alleged sexual assaults, often from years ago. Misgivings about such cases and their outcomes are still justified, as these claims regarding self-defence and provocation against a homosexual assault have been effective in reducing sentences.

Depicting the Dead

Community discomfort about the frequency of trials involving the homosexual advance defence is due to the difficulty of judging the truthfulness of allegations about the sexual behaviour of the deceased. These are made about a person who is not alive to speak on his own behalf. Furthermore, the courtroom expression and weighing of such allegations may be characterised by controversial depictions of the deceased. An emphasis on the heterosexuality and male honour of the accused may run alongside a negative pattern of representation of victims and their “lifestyles” in court. As social and legal attitudes towards homosexuality (even at the end of the 1990s) can still be described as contradictory and in a state of flux, this can take the obvious form of stereotyping homosexual victims as sexually predatory and deserving their fate. The importance of legal discourse to regimes concerning sexual boundaries are evidenced in

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these responses to allegations of a sexual advance through what has been termed a “doubly minoritising taxonomy” of the hetero/ homo divide (Sedgwick 1990, p. 19).

A pattern of courtroom representation of perpetrators (quite distinct from any “panic” defence arguing for the repressed homosexuality of a perpetrator) is the frequent stressing of the normal identity of the accused. In the trial of the killer of TA, this assumed the pattern of an emphasis on the masculine heterosexual attractiveness of the accused (Tomsen 1997). In other cases, homicide victims have been depicted as marginal, and even as outsiders, to newly respectable notions of gay and lesbian identity. In view of the historical oppression of homosexuals in the criminal law, it is ironic that a more legitimate victimhood may now be accorded to those deceased who are assumed to have had an unambiguous “gay” identity. Victims with more unclassifiable and less respectable identities (that include a history of promiscuity or an evident interest in young, rough or “straight” men) can be more readily stigmatised in courtroom depictions such as those drawn during the trials of the men accused of killing KM and MM (see George 1995, 1997; Tomsen 1998). These negative depictions of the deceased and their sexual histories may run in tandem with sanitised accounts of the actions and character of perpetrators.

Conclusion

Claiming a legitimate victimhood in regard to the experience of anti-homosexual attacks has become an important issue of legal equality in many nations, including Australia. Such acts of harassment and violence are often described as hate crimes, constituting a form of victimisation and intimidation of the entire group from which an individual victim may be targeted.

It may be assumed that such acts are perpetrated by those who have an extreme or irrational contempt for strangers due to their assumed membership of a despised minority. References to these incidents as hate crimes motivated by the evident homophobia of perpetrators accurately describe the circumstances and motivation behind many attacks carried out on homosexuals. However, the present research has indicated that such a view does not reflect the complexity of the motives for many fatal attacks, or sufficiently advance an understanding of the links that such acts of violence and homophobic outlooks have to commonplace forms of male identity.

Homophobia among perpetrators must be more broadly conceived in its relation to the achievement and protection of dominant forms of masculinity. Savage gang attacks that are carried out in public locations with an expected availability of homosexual victims often closely approximate the typical pattern of hate crime. But perpetrators are also preoccupied with attaining a heightened male status for themselves and with policing the acceptable patterns of public male sexual identity. Fatal incidents that result from a dispute over an alleged homosexual advance between men who are known to each other, and which mostly occur in private settings, also reflect the importance of these matters of male identity among perpetrators.

The criminal courts often appear to be willing to denounce and seriously punish openly homophobic attacks. This resolve is less obvious in cases characterised by successful allegations about a homosexual advance from the deceased. These findings reflect the masculine model of violence, social honour and bodily integrity that is inscribed in the law of provocation. The abhorrent quality of the actions of the perpetrators who have been tried and

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prosecuted for killing homosexual victims is obvious. It is also worth noting that these perpetrators are overwhelmingly young and relatively powerless men who have acted out anti-homosexual attitudes and masculinist values instilled in them by the wider society.

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