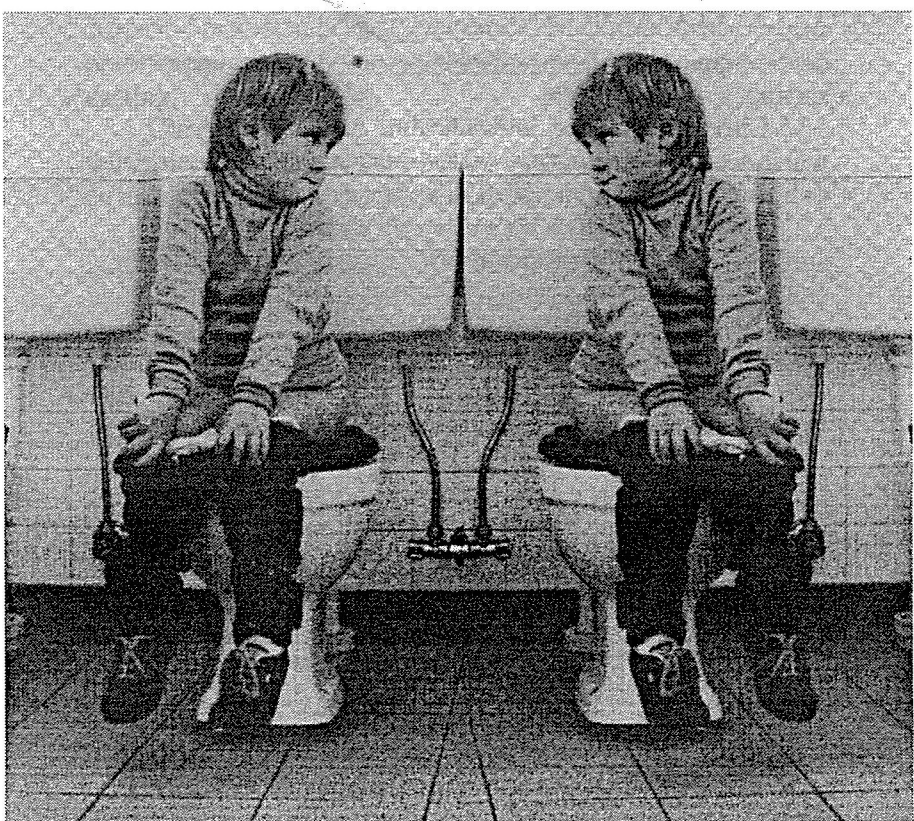


# BEATS, POLICE, HOMOPHOBIA AND HIV

## *Illuminating the "Shadowy World of Gay Beats"*



DRAFT REPORT  
NOVEMBER 1993



0000000000

AID/ AIDS Council Of New South Wales  
3EA Inc.  
.2 Beats, police, homophobia and HIV :  
"Illuminating the Shadowy world of  
Gay Beats".

BRANT REPORT  
NOVEMBER 1993

**DRAFT**

PART ONE: .....	4
EXECUTIVE SUMMARY .....	4
Summary of Research .....	4
Provisional Recommendations .....	7
BEATS, POLICE, HOMOPHOBIA AND HIV .....	10
Methodology: .....	10
The Social Context of Beats Surveillance .....	15
Beats Outreach: HIV Education in Context .....	20
POLICE SURVEILLANCE .....	25
Contemporary, Organisational, Operational, Historical Context .....	25
Analysis of Research Data .....	35
Complementary Surveillance .....	53
The Experience of Surveillance among men who do beats .....	56
IMPACTS ON BEATS AND THE MEN WHO DO THEM .....	74
Effects of Surveillance: .....	74
Beats Surveillance in Gay Community Areas .....	78
Factors Amplifying Surveillance Impacts: .....	79
IMPACT OF SURVEILLANCE ON BEATS OUTREACH .....	86
The Process of Beats Outreach: .....	86
Primary Impacts: Beats Outreach Operations .....	88
 PART TWO .....	 95
DISCURSIVE SURVEILLANCE OF BEATS .....	95
Explanations of Surveillance: .....	95
Discourse of Sexuality: 'Homophobia' and Intolerance .....	95
The Elements of the Conformist Discourse of Sexuality: the Social-Sexual Contract .....	97
Clarifying Beats within the Discourse of Sexuality: .....	99
Strains of Conformist Discourse: .....	100
Practical Significance: .....	104
Implications for Beats Outreach: .....	105
BEATS IN CONTEXT .....	106
Beats: Term Usage, Significance, Etymology .....	106
Beats are a traditional if unconventional use of Public Space: ... ..	107
ACON - POLICE LIAISON .....	117
Method: .....	117
Overview: .....	117
Sydney Office Operational Liaison: .....	119
Outcomes of Initial Liaison: .....	120
Regional Experience: .....	123
ACON liaison with State Command: .....	128
Commonwealth AIDS Research Grant Project: .....	128
Continuing Ad Hoc Liaison: Incidental Contacts .....	129
Post-Script: ACON involvement in Gay-Police Liaison .....	130
Liaison Perspective: Police Interviews .....	131
ACON Police Liaison Working Group: .....	134
ACON-Police Liaison: Pros and Cons .....	135
DISCUSSION OF POLICING: ATTITUDES AND REFORM .....	136

**DRAFT**

How Beats Should Be Policed: .....	136
Public Comments on Beats related Public Policy: .....	138
Future Surveillance: Operationalisation of Dominion .....	141
Specific Ethical and Policy Issues in Policing: .....	143
Gay Liaison: .....	147
Community Policing: .....	148
Reasons for Police to reduce Beats Surveillance: .....	149
Issues and Interests in the Policing of Beats: .....	149
OTHER PROSPECTS FOR REFORM AND LIAISON .....	152
Law reform: .....	152
Lawyers and Magistrates .....	154
Rights and Men who do beats .....	155
BIBLIOGRAPHY .....	157

**DRAFT****PART ONE:****EXECUTIVE SUMMARY****Summary of Research***1. The HIV/AIDS Pandemic.*

HIV/AIDS is a major social challenge for the 1990's. After the initial hysteria which accompanied the advent of the epidemic, HIV prevention, the needs of People Living with HIV/AIDS and HIV related discrimination have become serious issues of central importance to Governments, bureaucracy, community organisations and the general population. The social presence of 'AIDS' has also stimulated debate around the sexual diversity of contemporary society. The subject of this report, the 'beat scene', uniquely challenges assumptions about sexual identity and represents one of the most complex and elusive 'problems' within our social sexual fabric.

*2. Beats Outreach:*

The AIDS Council of NSW's Beat Outreach project and similar programs interstate are central to HIV prevention within the Australian National HIV/AIDS Strategy. The importance of prevention initiatives like Beats Outreach is recognised internationally and was recently emphasised in Parliament by the Premier of NSW (1). Beats Outreach is directed at Men Who Have Sex With Men (MSM) who go to beats (2). Research has established that beats provide access to men with a range of needs in relation to safe sex knowledge, HIV health services, counselling and other issues. The relative absence of 'gay community attachment' among men who go to beats and the informed social support which encourages sustainable safe sex behaviours, means that beats are unique environments for health educators and service providers. Beats Outreach seeks to encourage the development of a safe sex culture among men at beats through personal contact and the development of peer group and social networks.

*3. Project Background and Objectives:*

The need for this project became apparent from increasing reports of police and council surveillance of beats over the period from 1988-1992 to the AIDS Council of New South Wales (ACON), Gay and Lesbian Rights Lobby (GLRL), and the Gay and Lesbian Legal Rights Service (GLLRs). Further evidence of surveillance came from media articles in the gay, local and mainstream press on arrests, and court cases related to 'offensive behaviour' at beats.

Primarily this report attempts to improve our understanding of how the Beats Outreach project, in its efforts to encourage HIV prevention and health maintenance, has been and will continue to be affected by the actions of other organisations, especially the Police and Local Government. The report contributes to an evolving process of HIV prevention, research, debate and community liaison by :

- \* exploring patterns of police and other surveillance

---

1) Speech to Parliament: March 2, 1993, p.2

2) Men Who Have Sex With Men is a term used in HIV related public health to refer to 'homosexually active men' regardless of how they identify - ie it includes men who do not identify as gay. The abbreviation is used throughout the text.

**DRAFT**

- \* critically examining the myriad assumptions which hamper debate and policy
- \* suggesting ideas for policy change and liaison

**4. Levels of Surveillance:**

Project interviews with police, men who do beats and other stakeholders confirmed that despite New South Wales Police Service (NSWPS) <sup>(3)</sup> measures to improve policing standards and extend its gay liaison services, beats surveillance remains part of the NSWPS's operational landscape. Key findings in the research include:

- \* beats are an on-going operational concern in a range of police patrols resulting in regular surveillance and occasional arrests
- \* most beats-related policing would appear to be uniformed patrolling calculated to disperse men from beats
- \* beats remain periodically subject to plain clothes operations in certain areas
- \* the practice of plain clothes investigation and enforcement retains operational police endorsement
- \* beats continue to be 'policed' by councils and shopping centre managers
- \* the media continues to stigmatise beats, particularly in the suburban press coverage of beats-related stories.

**5. Impacts on Beats Outreach:**

The experience of Outreach workers has shown that surveillance poses continual practical problems for their work. It affects the project because it:

- \* suppresses beats and disempowers the men who go them, individually and collectively
- \* hampers access to the target group through the suppression of beats and the dispersion of men who go to them
- \* interrupts the processes of Peer Education and Community Attachment which are central to the establishment and sustainability of a safe sex culture
- \* creates a language and mindset around beats and homosexuality which restricts ACON's power to liaise with other organisations on 'equal terms'
- \* contributes to the persistent intolerance of 'homosexuality' and the continuing silence which surrounds HIV/AIDS and sexual diversity within the community

**6. Surveillance and Social Context:**

Beats unquestionably pose complex and controversial problems for policy makers. The issues touch on deep seated convictions about public health, the use of social space, personal rights, morality and sexuality. Surveillance is generally informed by a discourse of conformist sexuality which produces negative stereotypes about beats and the men who go to them.

Surveillance continues at a time of shifting community standards and strengthened 'political clout' within the gay community. These changes have contributed to an emerging 'normalisation' or acceptance of beats and added to debate around the issue: the silence is not as deafening as it was. 'HIV prevention' has contributed significantly to the dawning of tolerance around homosexuality and beats. More

---

<sup>3)</sup> New South Wales Police Service is abbreviated to NSWPS throughout the text.

## *DRAFT*

generally, the process of the decriminalisation of private, adult male homosexual sex acts has been directly linked with the objectives of HIV prevention in some states in Australia.

### *7. Official Responses to Beats:*

Against this background, police, councils and other organisations are beginning to respond to the HIV/AIDS public health imperative by alerting their organisations to the responsibilities they have to the men who go to beats, as citizens, and the general public to assist state sponsored HIV prevention.

Beats surveillance poses key ethical dilemmas for the NSWPS:

- \* Informal police patrolling to disperse men from beats would seem to infringe on the freedom of movement and association of the men concerned.
- \* The continued practice of covert surveillance is questionable. Although complainants may desire the suppression of beats, whether the police methods employed are in the public interest or endorsed by the community is an open question.
- \* More generally, police surveillance raises many questions for the role and limits of community policing and gay liaison. Operational policing can exhibit a tendency towards intolerance of difference which sees the interest of the majority given priority over minorities.

### *8. Stereotypes and The Debate on Beats:*

The debate on beats among ACON, the police, and representatives of the 'broader community' has tended to polarise with the police asserting that they merely act in response to genuine complaints about socially unacceptable behaviour, while the gay community and ACON largely attack surveillance by alleging 'entrapment'. Notwithstanding grains of truth in these perspective, they both radically oversimplify empirical evidence and the ethical issues associated with the diverse realities of beats and how they are policed within and by the community.

Stereotypes need to be examined on 'both sides' of this debate. The diversity and perspective of the people, social groups, phenomena and organisations have to be acknowledged for progress to be made. Emotionally potent oversimplifications about the nature of beats and the men who use them, and the motives and 'essential nature' of those who police and suppress them are not useful for public policy.

Above all, the sexual diversity of our community should be taken seriously for the widespread and commonplace reality it is. Many men who go to beats identify as gay, and many do not. Moreover, the so-called 'gay community' is not a homogenous group whose identities and interests can be squeezed under the one social or political umbrella. 'Gay community' is internally diverse and geographically dispersed: gay men, lesbians, 'bisexuals', ostensibly heterosexual 'rent boys' and trans-gender people, do not only live in the Sydney inner city but throughout suburbia and country areas.

Beats can be seen as part of our society, rather than as an exotic or 'deviant' aberration. Like gay men and other men who have sex with men, they are scattered around the country and have been for many years. Further, beats have a social dimension which is overlooked in many moralistic characterisations. Similarly, moral outrage often obscures the reality that the men who go to beats reflect a broad cross-section of the community.

**DRAFT**

This report engages these complexities and the various perspective on beats to provide a balanced and non-moralistic view of issues surrounding the persistence and surveillance of beats. It attempts to offer suggestions or explanations as to how and why beats exist and how society is best served by public policy in relation to them.

The priority of our society has been the maximisation of the invisibility of publicly recognisable homosexuality. The consequence of this misplaced priority for HIV prevention as well as the damage done to the personal lives of the men subjected to surveillance (and indirectly to their friends, families and communities) have been and largely remain ignored. This remains true despite increased 'tolerance' and specific reform and liaison initiatives.

HIV prevention - especially the work of Beats Outreach - is only required because of the limited tolerance of homosexuality and the silence or misinformation which surrounds HIV within the broader community. If people were more accepting of homosexuality then the public could speak openly about sexuality and HIV/AIDS and the resources would not have to be allotted to 'prevention'. A sober examination of the evidence suggests that our society does not have a 'culture' of safe sex, but that it does have a destructive reticence about sex and (homo)sexuality.

The primary public policy question has to be which is more 'dangerous': the prevalence and persistence of beats or the silence which surrounds HIV and its implications this has for our society?

**Provisional Recommendations***Objectives:*

- \* To promote awareness within the NSWPS and the broader community of beats as a public health issue.
- \* To develop and implement standards mechanisms to improve the policing of beats in order to minimise adverse impacts on Beats Outreach

## PROVISIONAL OPERATIONAL GUIDELINES:

*Ethical Detection:*

\*Police conduct should not be deceptive to men who use beats. Except in exceptional circumstances plain clothes should not be used because this approach is deceptive and may produce particular offences which would not occur but for the presence of police. Undercover operations also create the possibility for police impersonators to operate at beats which is criminal, encourages harassment and extortion, and affects public confidence in the police.

*Discretion and Liaison:*

- \* Discretion should be exercised responsibly: the Police's commitment to "arrest as last resort" should be adhered to and all other options from cautions to breaches should be exhausted before arrests are made.
- \* Police should attempt liaison, especially through beats patrol officers, with men at beats. Other community policing strategies are probably inappropriate. Officers should recognise that men at



**DRAFT**

beats are part of their community rather than "deviants" and begin to talk to them in the spirit of community policing rather than law enforcement.

- \* Police should liaison both with gay liaison representatives and ACON before conducting planned operation in beats.

*Arrest and Prosecution Policy.*

- \* Police should desist from arresting men whose alleged offensive behaviour occurs only in the presence of a Police Officer.
- \* Police should only proceed with prosecutions where there is a citizen prepared to testify against a defendant.

## PROACTIVE MEASURES:

The NSWPS may undertake proactive measures to improve policing standards and remedy the perception of police harassment among men who do beats. Gay Liaison strategies give insight into how this could be achieved: ie the use of promotional material to improve image of police and publicise contact points - ie Liaison officers. In relation to beats, such measures may include:

- \* sticker campaigns in beats showing police sensitivity to public health priorities; and policing priority of homophobic violence.
- \* sticker campaigns in beats (perhaps in liaison with GLRL and with Beats Outreach co-operation) to encourage men who do beats to report crime, especially homophobic violence and over-policing; to encourage men who do beats to use Liaison officers to this end.

## Police Response: Training and education

The NSW Police Service has already begun an educational process on beats surveillance. This development can be enhanced by incorporating an awareness of the HIV prevention implications in training packages. The NSWPS could consult with ACON and other interested parties (eg NSW Health and Gay Community Organisations), to provide input to training materials and workshops. Avenues for educational initiatives include:

- \* input into NSW Police Academy courses for recruits as part of their regular training; and into special programs for officers more senior officers including Senior Police and GLLOs.
- \* input into "On-the-Job" training and "Training Day" workshops for general duties officers

## ACON-POLICE BEATS OUTREACH AGREEMENT

*Reasons for Formalisation:*

A formalised agreement between the AIDS Council of New South Wales and the New South Wales Police Service may contribute to overcoming the problems experienced in past liaison and maximise co-operation between ACON and the Police to the mutual benefit of both parties. A liaison contract would

**DRAFT**

help to clarify the rights and obligation of both parties to resolve inconsistencies between respective organisational objectives and reduce adverse surveillance impacts on Beats Outreach.

The agreement could clarify the terms of the liaison, provide a means of resolving disputes, encourage uniformity across patrols and minimise the compromise of ACON objectives, especially in regional areas. Focussed and streamlined liaison could also reduce time wasted by ACON in their 'day-to-day' liaison with police.

The success of these developments would depend upon the endorsement of senior representatives of both organisations. The process may also be assisted by the involvement of relevant Government Ministries, and gay community representatives.

*Content:*

1) *Conditions of co-operation*: to clarify the rights and obligation of both parties to resolve inconsistencies between respective organisational objectives, the agreement could identify and clarify:

- ACON's policy on co-operation in the suppression of beats
- the extent of ACON's obligation to act as informants for police
- the police's obligation to inform ACON of operations to be conducted in beats relevant areas
- the police's duty to advise general duties officers of ACON activities
- guidelines on content of advice to officers
- the role of Gay Liaison and Training Officers

2) *Form of relationship*: to establish simple and flexible mechanisms for liaison and the communication of information the agreement could identify and clarify:

- who ACON should contact to establish liaison in particular areas (eg Patrol Commanders)
- who ACON should immediately contact in the event of reports from men who do beats or other parties of police concern (eg allegations of bashing, impostors or police misconduct etc)
- who police representatives should contact at ACON on issues of concern to police: eg information about beats, expression of public complaints, investigation of impostors, evaluation of training and liaison efforts

3) *Regulation*: to establish monitoring mechanisms to oversee the implementation of the agreement, the agreement could:

- establish a monitoring body
- specify times and places for meetings
- create a process for the expression of complaints
- require that arrests made would have to be explained and accounted for by Patrol Commanders to the Monitoring Body

*Development:*

The document could be developed by the present Steering Committee in consultation with relevant Regional, District and Patrol Commanders; \* ACON Police Working Group; and perhaps the Ministries of Police, Health and the Attorney-General.

**DRAFT****LAW REFORM:***Outline of Possible Recommendations:*

Law reform to enhance the effectiveness of Beats Outreach could involve two sets of proposals:

- \* Provisions to Narrow Police Discretion. Recommended amendments to the Summary Offences Act (1988), such as those proposed by the Gay and Lesbian Rights Lobby reducing the scope of police discretion could be submitted to the NSW Law Reform Commission. Further consideration could also be given to enacting a more precise definition of "public place".
- \* Provisions to Prevent Covert Surveillance/Entrapment. Amendments to the Summary Offences Act could be considered which establish codification of the principle of Inglis v Fish: that police officers cannot go out of their way to witness offensive behaviour. Further, other options include: a "rule of evidence" which makes evidence which obtained by deception, ie in plain clothes, inadmissible in Summary Offence matters; or the possibility of "a stay of proceedings as an abuse of process" to be ordered where evidence is obtained by deception, ie in plain clothes.

**LEGAL SECTOR LIAISON:**

Liaison with the legal sector could reduce the incidence of beats related prosecution and discourage over-policing. To this end, ACON could consider:

- \* Liaison with DPP: to develop guidelines on beats related prosecutions
- \* Preparation of education kit/pamphlet for distribution among the Law Society, Legal Aid Duty Solicitors, and Magistrates

**BEATS, POLICE, HOMOPHOBIA AND HIV****Methodology:***Project Summary: Objectives*

1. The objectives of this project set out in the original Commonwealth AIDS Research Grant Application were:

- \* To examine the impact of police policy and practice on HIV prevention and education in beats (public sex environments)
- \* To determine the difference between the policing of beats within and outside the 'recognisable gay community'
- \* To examine other surveillance, its effect on HIV prevention and education in beats and the extent of its co-ordination with police activities.

*Purposive Research:*

**DRAFT**

1. This project has emphasised research data, insights, arguments and proposals for practical change designed to contribute to a practical and existing process of liaison between the New South Wales Police Service (NSWPS) and ACON. In this it has been conducted *to assist the ACON Beats Outreach HIV prevention project* and its efforts to provide outreach services at beats to men who have sex with men. Therefore, this report does not present a generalised view of police attitudes and practice within a certain framework, rather it emphasises police attitudes and practice as they affect Beats Outreach. It is different from recent work conducted for the NSWPS eg *Policing in a Multicultural Society*, 1992, Dr Janet Chan and *Complaints Against Police in New South Wales*, 1992, Julie Stubbs. It is more similar to the work conducted for the *Streetwatch* (ADB 1992) and *Off Our Backs* (1992) reports into violence within the lesbian and gay communities.

2. This research perspective was clearly set out in the original CARG Application's statement of the project's 'potential significance':

- \* The research will provide valuable data and recommendations which can inform future policy decisions and police practice. This may assist in:
  - i) redefining beats as an issue of public health rather than one of law enforcement;
  - ii) establishing practical strategies to minimise the impact of police practice and attitudes on HIV education;
  - iii) resolving the inconsistency between the police's supportive role in the "recognisable gay community" and its apparent antagonism to beats outside it;
  - iv) developing guidelines for accountability mechanisms for Local Government and Shopping Centre Management surveillance.

*Action Research:*

1. This report does not represent all the work conducted under this project. Its 'action research' incorporated directly 'practical' activity which is not thoroughly examined in this text. Action research initiatives included, for example:

- \* the contribution to and co-facilitation of Workshops on Beats at Goulburn Police Academy and Campbelltown and Ryde Patrols
- \* contribution to the process of the appointment of a Gay and Lesbian Client Group Liaison Officer in one rural Police Patrol
- \* the contribution to and co-facilitation of a 'Police Liaison Working Group' within ACON
- \* continual 'participant observation', informal and semi-structured discussions and interviews with BOWs (Beats Outreach Workers) <sup>(4)</sup>

2. Action research also meant that project interviews were intended of foster liaison among stakeholders. Interviews therefore often prioritised 'discussion' over formal 'questioning'. Considerable emphasis was placed on providing information or referrals to other parties on stakeholders' interests and needs.

3. The parameters of this approach were set out in the original CARG Application.

---

<sup>4)</sup> BOWs is used throughout the text to abbreviate Beats Outreach Worker.

## *DRAFT*

- 1) The *action research* component of the project will:
  - i) bring beats and associated HIV issues to the immediate attention of the Police Service, Local Government and Shopping Centre Management; and
  - ii) reinforce Beats Outreach work by providing further contact with beat users and an avenue of expression for their needs and experiences.

### *Qualitative Methods :*

1. This report emphasises qualitative analysis to capture the complexity and diversity of the *personal experiences* and *organisational and social forces* associated with beats. A qualitative approach is often adopted when dealing with subjects of a controversial or underground character, and this reflects the trend in public health and criminal justice studies and reports: see, for example, the 1992 HIV Discrimination Report and the 1991 National Inquiry into Racist Violence Report.
2. The project data derives from a range of interviews conducted between August 1992 and April 1993 with men who do beats, police, ACON workers, lawyers, politicians, council representatives and shopping centre managers.
3. Documents and literature on topics from the police reform process and HIV education principles to internal departmental letters and suburban newspaper articles have been used to contextualise analysis.
4. The report attempts to explain *how* it is that beats receive consistent if periodic surveillance. Consequently, when:
  - \* a police officer, in plain clothes, arrests a man in at a beat behind a beach for offensive behaviour; OR
  - \* a beat user breaks the locks on a toilet door which have been put there by council to 'stop the beat'.

This report emphasises:

- \* why and how this happens?
- \* under what circumstances?
- \* what are the ideas which produce and justify these behaviours?

5. The report identifies dominant attitudes and tendencies in practices. This orientation allows an understanding of the dynamics of surveillance and offers clues as to how we can address these realities for the purposes of HIV prevention. It provides information, insights and questions which may help police, ACON and other stakeholders reflect on their actions to this end.

### *The Measurement of Impacts on Beats Outreach:*

1. Surveillance impacts are not amenable to quantitative analysis for largely practical reasons. By their 'underground' and ephemeral nature, beats are elusive phenomenon for social research. A beat cannot be defined with any quantitative accuracy or objectivity because its determining characteristics cannot be defined or isolated in order for impacts on them to be evaluated. For example, if a beat is defined by the number of beat users at a beat there is the problem that this is not measured - there are no statistics we can refer to which allow us to say, eg that Obelisk beat has 35 users on an average day. Further, there remains the fundamental problem of how to identify men doing the beat. In any case the number of beat users varies - for many reasons - over time and any attempt at measurement would produce artificial results.

## *DRAFT*

2. Consequently there exists no 'objective' means of measuring the variation of the number of beat users as a result of surveillance. Yet, even if we could, quantitative analysis could not effectively isolate the particular causes of variations in beats use.

### *Emphasis on the Perspective of Men Who Do Beats:*

1. Debate about beats rarely includes the views of men who do beats. Media articles invariably prioritise the views of community representatives, local residents, proprietors, police, HIV health workers, and gay community leaders. Clearly, the social stigmatisation of beats inhibits the public expression of men who do beats. When their interests are promoted, this occurs through the statements of people speaking 'on their behalf'.

2. This analysis provides the first concerted attempt to express the views and document the experiences of men who do beats in relation to surveillance in Australia. However, it does not claim to be comprehensive or 'statistically representative'. Limited resources, coupled with the difficulty of obtaining recruits because of social stigmatisation and personal desires for privacy, have necessarily restricted the scope of this research.

3. The collection of this data is informed by established sociological methods of 'sub-cultural ethnography', 'participant observation', victimisation surveying and the recent practice of community 'self-surveying' conducted on 'anti-gay and lesbian' violence' (egs Off Our Backs 1992, Streetwatch 1989, the Lesbian and Gay Rights Lobby's Anti-Violence Project).

4. These methods are directed toward the 'public' articulation of socially suppressed or muted voices and provide powerful tools for the expression and analysis of experiences and 'problems' which government, bureaucracies and the broader community may not be aware of. Their utility is well explained by Braithwaite when he notes that: "victim surveys conducted by an organisation independent of the police can solve the problem of the cynical police service fiddling its crime statistics" (1992:20).

### *Focus of Research: Interviews and Areas*

#### 1. Beats Outreach

\* This project has emphasised the study of impacts on Beats Outreach within the Sydney region. The project researcher was based in Sydney Office and primarily interviewed and interacted with the Sydney and Western Sydney Office based Beats Outreach Project Officers. Other input was also received from Regional Beats Projects (ie Hunter, Illawarra and North Coast) and the ACON Rural Project.

\* The project's emphasis on Participant Observation means that much of this report is based on the *experience* of working and socialising within ACON and the gay community in general and the perspective this suggested. The 'data' derived from this experience was recorded in journals and notebooks, often formally and frequently informally.

\* The project also incorporated more formal data collection through semi-structured interviews, group interactions and meetings of Beats Workers and other ACON workers and members in the Police Liaison Working Group. These interviews etc included:

- Interviewees: BOWs: 15; ACON staff and members: over 20
- Interviews, Meetings and Group Interactions: 37

**DRAFT**

- Police Liaison Working Group: 4 Meetings; 3 Follow-up Sessions

## 2. Beats and the Men who use them

The research produced 44 reports from and interviews with men who do beats. The data emphasised beats within the areas covered by Beats Outreach, but also provided information on beats across a very broad range of areas within Sydney. Beats referred to by men interviewed were located in these areas:

Parramatta; Blacktown; Richmond; Milperra; George's Hall; Centennial Park; Penrith; St. Mary's; Ashfield; Mosman; Albury; Epping; Eastwood; Castle Hill; Taree; Bass Hill; Seaforth; Mona Vale; Forestville; Windsor; Inverell; Lismore; Auburn; Spit Junction; Manly; Narrabeen; North Sydney; Gore Hill; Liverpool; Sutherland; Fairfield; Ryde; Lane Cove; Sydney CBD (City Circle Railway Stations).

## 3. Police areas

Formal interviews and written submissions generating data on the incidence and nature of the policing of beats was obtained from a 42 operational police in a total of 4 Regions, 9 Districts and 23 Patrols.

Interviews: 13 <sup>(5)</sup>

Interviewees: 32

4 Regional Commanders; 8 District Commanders; 4 Regional Staff Officers; 1 District Staff Officers; 11 Patrol Commanders; 4 Patrol Tacticians; 1 Station Controller

Written Submissions: 13 <sup>(6)</sup>

1 Patrol Intelligence Officer; 2 Patrol Tactician; 1 Senior Constable; 6 Patrol Commanders; 1 Station Controller; 1 'Beats Sergeant'; 1 'Station Inspector';

Patrols: 23

Sutherland; Wollongong; Warilla; Corimal; Albury; Collaroy; Parramatta; Blacktown; Castle Hill; Revesby; Bass Hill; Goulburn; Ashfield; Mona Vale; Mosman; North Sydney; Manly; Seven Hills; Wentworthville; Merrylands; Fairfield; Cabramatta; Wetherill Park.

Preliminary Interviews:

Head Office: Directors of Training and Education; Planning and Evaluation; and Media Units.

Gay Liaison Unit: Gay and Lesbian Client Group Consultant and Assistant; meeting of Gay and Lesbian Liaison Officers.

Supplementary Interviews and Interactions:

---

<sup>5)</sup> Note these interviews are tagged in the text as P:01 to P:13 in the order they appear in the transcripts of police interviews.

<sup>6)</sup> Note these interviews are tagged in the text as PWS:01 to PWS:15 in the order they appear in the transcripts of police written submissions.

**DRAFT**

Goulburn Police Academy: meetings with 5 instructors; the Dean of the Academy; the Director of the Police Recruit Education Program (PREP) course program; class of over 20 PREP course students  
 Patrol Training Workshops: Ryde and Campbelltown, both involving over 20 operational personnel.

## 4. Councils (and Parks): 5

Baulkham Hills; Bankstown; Parramatta; Sutherland; Centennial Park Trust.  
 Blacktown (contacted but did not participate).

## 5. Shopping Centres: 2

Greenwood Plaza, North Sydney; Mid City Centre, Sydney CBD.  
 Westfield, Parramatta; Patrick Mall, Blacktown (contacted but did not participate).

## 6. Other Interviewees/Stakeholders:

\* Lawyers: 11; \* Health Workers: 3; \* Gay Community representatives: 6; \* Academics: 13

*Gay Community Areas:*

1. The question of the relative difference of surveillance within gay community areas has only been indirectly addressed by the research, primarily because Beats Outreach does not operate as in these areas as popularly defined (ie areas of the eastern suburbs and inner city of Sydney including Darlinghurst, Paddington, Surry Hills and Newtown). Applications for funding in relation to the extension of the Project into the Eastern Suburbs and Inner City have been consistently rejected by NSW Health (AIDS Bureau). Consequently, in-depth analysis of surveillance within these areas would have been of marginal value to Beats Outreach, so interviews conducted did not focus on these areas. Further, the planned police interview with one patrol which has a large 'gay population' did not eventuate.

**The Social Context of Beats Surveillance***Policing in Context:*

1. This part of the report stresses the social context and the dominant discourse of sexuality within which surveillance occurs. Policing and other surveillance are not unilateral acts which come out of a vacuum. To understand them properly, they have to be placed within the context of our socially regulated sexuality.
2. The actions and perspective of 'non-police' interviewees presented and analysed in this report help to clarify the pressures, motives and responsibilities which exist for police in relation to beats. Police and the other organisations, including private citizens and 'bashers' are part of a complex matrix of social forces which regulate beats and ultimately inhibit the work of ACON.
3. Surveillance of beats is a social practice which takes many forms. These include:

\* *'private' citizens or groups:*

- complaints to police and others
- 'ordinary' presence and actions at beats;
- violence, harassment and extortion



**DRAFT***\* police action:*

- incidental patrols which may result in 'clearing out' and involve 'questioning', 'warrant checks' etc
- planned operations for offensive behaviour using plain clothes for 'intelligence gathering' and 'enforcement'
- operations for another purposes within beats areas
- investigation of violence and exploitation offences
- improper police activity vilification and intimidation, bribery or extortion

*\* councils, parks, shopping centres, railway stations:*

- property maintenance and control
- rangers, private security or other de facto policing
- co-operation with police
- use of signs and video camera monitors for 'deterrence'
- uses of 'cleaners' as de facto security

*\* self-surveillance among men at beats:*

- informal 'self-surveillance' among beat users to protect each other from aggressive 'outsiders'
- violence 'between' men who do beats

*\* Beats Outreach:*

- interventions within the scene to conduct interactions with men
- placement of stickers in beats etc

*\* HIV research:*

- the monitoring and use of beats for research purposes: including field work interventions and action research

4. Surveillance is also '*discursive*': that is, contained in and supported by ideas, images and attitudes about beats. The social existence of beats is regulated by 'meanings' or 'language' in research, media expressions and bureaucracy. This affects practical action in all areas of surveillance from policing to HIV prevention. Its forms include:

*\* articles with titles such as*

- "Park Infested with Gays";
- "Blitzkrieg in Nudists";
- "Residents Rally to Rid Park of Undesirables";
- "Business Outrage Over Gay Haunts"

*\* policy or research:*

- NSWPS workshops designed to improve police operational surveillance; NSWPS education manuals which attempt to explain the existence of beats and the 'motivations' of the men who go to them

**DRAFT**

- HIV prevention research which creates images of beats for the purpose of studies and reports, including this report you are reading now.

5. Discursive surveillance creates strong images - most commonly stigmatic and negative - which become understood as the 'reality' of beats and form the assumptions upon which decisions to conduct physical surveillance are based.

*Homophobia and Intolerance (7):*

1. This report considers 'homophobia' a simplistic explanation for the social practice of beats surveillance. The variety of actions involved in the regulation or suppression of beats are not the result of the simple fear of 'homosexuality'. Particular acts by police, councils, Beats Outreach and men who do beats themselves are understood in this analysis as a result of the conformist social discourse of sexuality. Beats are subject to surveillance because they transgress dominant cultural norms of sexuality *and* the 'conditions of tolerance' of 'homosexuality' within this discourse.

2. This approach is conceptually more adequate and allows the report to :

- i) avoid a narrow analysis which could encourage 'scapegoating' any particular organisation; and
- ii) informs constructive strategies and proposals for reform and liaison.

*Politics of Research, HIV Prevention and Gay Rights:*

1. To many, this report would seem influenced by a radical critique of sexuality or an advocacy of 'gay rights'. Such a view overlooks the intimate connection between legal rights and health. This has been established in various contexts, including HIV prevention and education (see Inter-Government Committee on AIDS Legal Working Party Reports). This report seeks simply to analyse the operation of power upon a particular marginalised group (MSM who use beats) and how this hampers a particular public health initiative (ie Beats Outreach).

2. The research is informed by national public health policy which endorses Beats Outreach's *empathic acceptance* of the behaviour of men who go to beats to meet or have sex with men. ACON and Beats Outreach workers do not make moral judgements about beats; and resile from co-operation in their suppression. ACON's Beats Policy (1992) clearly sets out its commitment to the belief: "that beats will continue to exist, regardless of regulatory, coercive or harassment measures various authorities attempt".

3. HIV prevention is often accused of 'proselytising' or the promotion of homosexuality. However:

\* Sexual identification is not as easily manipulated as dominant cultural myths would suggest. As BOWs experience shows, many men who have sex with men maintain a rigid division in their life between practice and identity. A conversation in a beat about safe sex is unlikely to cause a men to embark on a course of action which would jeopardise identities rooted in the dominant conformist culture. Further, ACON explicitly sees the project target group as MSMs rather than gay men and BOWs are trained to be sensitive to the diverse (sexual and other) identities which are formed by men who do beats.

---

7) See Section 6 for more detailed analysis of 'homophobia' and surveillance.

**DRAFT***The 'Political Assumptions' of This Report:*

1. Essentially, this report assumes a 'consensus' about the basic rights and obligations 'ought to be held' by individuals and groups in a 'liberal democratic society'. These are familiar principles, eg:

- \* the right to freedom of movement and association
- \* the right to freedom from interference and physical harm
- \* the right to 'equal treatment'

2. These principles are more or less embodied in our common law and specific statutes, if not as 'absolute rights', as social principles of highly persuasive value. Their acceptance is reflected in the principles outlined in the NSWPS 'Statement of Values'.

3. Obligations are similarly assumed to include:

\* for 'individuals':

- the respect for the freedom of movement of others
- the respect for the values (including sexuality) of others

\* for 'organisations' and their agents:

- a 'civic responsibility' which reflects our cultural commitment to respecting these rights and in particular the interests of marginalised social groups.

4. Again, this is uncontroversial and is reflected in the NSWPS's commitment to community policing and minority group liaison.

*Dominion and Empowerment: Tools for Analysis*

1. The existence of rights within our society does not mean they are necessarily respected. Contemporary theory and research within criminal justice and public health share core concepts which understand this social reality: ie the notions of '*Dominion*' in criminal justice theory and '*Empowerment*' in public health.

2. '*Dominion*' attempts to theorise the 'freedom of the individual' within a liberal democratic society (Braithwaite 1992). It expressly extends conventional liberal notions of abstract freedoms to include the subjective experience of those freedoms and stress what is sometimes called 'negative liberty': ie the 'freedom from', as well as the 'freedom to'.

3. In plain english, it is not enough to have 'rights' in legislation or social custom - these must be respected to the extent that an individual feels that they are 'free' and is allowed to flourish. As Braithwaite says:

"being objectively free from interference is not enough; we must also be subjectively free of fear from interference" (1992:12).

4. The essence of dominion is the "condition of living in the world in which we enjoy the assurances of full citizenship" (1992:12). It is this dominion which the principles of professional responsibility and

**DRAFT**

community liaison (should) seek to protect and promote. For men who use beats, this dominion means the package of positive and negative liberties which includes:

- \* the right to freedom from discriminatory treatment and harassment (in relation to police action, complaints about police and in making reports about behaviour which has harmed them)
- \* the right to freedom from violence (personal integrity).

5. 'Empowerment' refers to the both the state and process of identifying and developing the 'untapped potential' of individuals to make "safer health choices" (Aggleton 1989). In defining and promoting empowerment "[i]n addition to the argument about impediments to HIV preventive measures, consideration must be given to both human rights and the development of a positive individual and community identity" (IGCA Legal Working Party 1991). Empowerment is synonymous with dominion to the extent that it involves the promotion of personal freedom and power which results from the 'condition of living in the world in which we enjoy the assurances of full citizenship'.

6. These ideas help us describe what is potentially affected by the surveillance of beats: that is the individual and collective dominion or empowerment of men who go to beats. Significantly, they point to the need to consider both objective or social forces *and* subjective or personal factors in our analysis and suggest that remedies need to engage both of these dimensions.

7. For example, if a beat is subject to a police operation in which men are dispersed after threats 'never to come back here again, because we don't like homosexuals in this area', both the dominion and empowerment of the individuals involved is adversely affected. In Braithwaite's theory the individual's dominion is not respected because they are made to feel 'socially excluded' because of their (apparent) sexuality. In public health terms, the same event 'disempowers' a person through humiliation and potential disconnection from the beat scene.

8. Consequently, it is not enough, within the republican theory of 'dominion' for the NSWPS, for example, (or any other police service) to merely provide a mechanism for complaints from men who do beats. Rather, that mechanism must be subjectively judged to be accessible - men must be able to expect that the mechanism is worth using and that there is a prospect of 'fair treatment' within that structure.

9. In terms of public health and the new concept of a science of policing, NSWPS bureaucracy and operational personnel have an obligation to the community to consider the impact on other state funded activity. This involves taking the implications of policing for HIV seriously and considering how police may act to minimise the damage done to HIV prevention.

10. This report uses 'dominion' and 'empowerment' as relatively interchangeable terms, to describe the interests of men who do beats which require protection in order to encourage the effectiveness of the Beats Outreach project.

*New Models of Police Practice:*

1. The NSWPS has been engaged in a process of reform since the mid 1980's. This process has involved, among many other things, a reconceptualisation of the role of policing within a democratic society. This policy commitment is embodied within the NSWPS Statement of Values. The traditional authoritarian image and role of the police officer is being re-evaluated and commentators are now encouraging officers to:

**DRAFT**

"become defenders of democracy's commitment to the protection of individual rights" (Sparrow et al 1990:196).

2. Commentators observe that police bureaucracies across the world are engaged in a "concerted move towards the development of a 'science of policing'". (Eijkman and Moir 1992:3).
3. In this context police officers are recast as "reflective practitioners" (Eijkman and Moir 1992:4). This role requires reflection which incorporates "a critical reassessment of the moral ethical and political principles and criteria involved in all aspects of police practice" (Eijkmann and Moir 1992).
4. The transformation of the 'office of constable' also involves the application of a model of policing which might be called a new 'welfarism'. This sees policing as a form of service to the community or social work. In the context of this project this may include the incorporation of public health issues as ones of practical concern to police.
5. These new visions of policing emphasise 'ethical standards'. This report's understanding of these ethical standards again derives from Braithwaite and his conception of 'good' and 'bad' police services (Moir and Eysenck 1992: 11-19). Broadly, the ethics of police practice depend upon their respect for dominion: this is the yardstick for judging the merits of police practice. To elaborate, the bad police service is one which:

"sees its role on the streets as the reproduction of the majoritarian order of respectable society ... (it) indulges in dominion destroying disciplining of unconventional or anti-authoritarian behaviour which is legally permissible. It tramples on diversity, on the assurance all citizens should enjoy of the right to be deviant outside the constraints of the law".

By contrast, the 'good police service' among other things:

"investigates complaints of racial prejudice or any other form of bias in its practices and seeks to put remedies in place to protect against recurrence. Police training and socialisation emphasise these values".

The good police service and its reflective practitioners also realise that:

"It is bad to reproduce an order where Aborigines are not free to walk late at night in an affluent suburb, *where homosexuals are not as free to display affection in public as heterosexuals*" (italics inserted).

### **Beats Outreach: HIV Education in Context**

Beats and the Men who use them:

*What is a beat?*

1. The term is not in common usage and is almost exclusively used by gay men, or people with some 'work-related' interest in them.
2. A 'beat' can be uncontroversially defined as one avenue or environment through which men meet other men for the purposes of sex and/or company. Men contact male sexual partners through a variety

**DRAFT**

of means including: personal networks, social groups, gay and straight venues, masseurs, saunas, contact magazines and gay publications and RSLs, Leagues Clubs (Goodbun 1993, O'Reilly 1992).

3. Research confirms that men who do beats come from a diversity of backgrounds and anecdotal evidence suggests that men arrested for beats related sex offences invariably have no prior criminal record.

4. Environments which are or can become beats are "places which are often designated for other, often public uses" (Dowsett 1992c). These include some public toilets in parks, railway stations, car parks and shopping centres; isolated roads; beaches and areas in secluded parks. Beats can be found in the middle of the CBDs of Sydney, North Sydney or Parramatta - even in department store toilets or in picturesque environments such as national park and beaches. Self-evidently, the environments are most commonly controlled by government bodies and to a lesser extent by private property owners.

5. Beats reflect the prevalence of homosexual desire and practice in our society. Nonetheless, beats have a significant social dimension which is invariably overlooked, particularly by surveillance agencies and the media. This dimension is crucial to the process of Beats Outreach in that they provide the social and peer networks needed for the promotion of a safe sex culture within the beats scene.

*Terminology: 'Beat Users'?:*

1. Obviously, the term Beat User/s refers to men who go to beats. It was developed for the purposes of HIV education and is used by ACON and other organisations to characterise the subset of MSMs who are the target group of their projects. The major reason for the development of the term was to allow a distinction between gay men and men who use beats. However, the term is somewhat dehumanising or bureaucratic. To enhance an understanding of the identity and experience of those who experience beats and their surveillance, the term is used sparingly in this text and the phrases 'men who go to/do/use beats' are preferred.

*Project Profile: What is Beats Outreach?*

1. ACON employs Beats Outreach Workers (BOWs) to provide 'safe sex education' to 'men who have sex with men' (MSM) in beats. The project follows a Peer Education (and Community Attachment) model of public health promotion. This means that the project workers work in the field at beats to establish face-to-face contact with men to encourage the development of a safe sex culture among men who use beats which can influence their sexual practice at beats and where ever and with whomever they have sex. Part of this process involves providing information, referrals, condoms and lubricant to men at beats.

*Aims and Objectives:*

1. Beats Outreach July 1992 workplan sets out the Project's formal aims and objectives:

Aim: To reduce the number of new HIV infections and to explore different ways of building a safe sex peer culture within the target population.

Target Group: MSM at beats

Objectives:

**DRAFT**

1. To develop our understanding of the use and culture of Beats and use this knowledge to assist in the development and targeting of HIV prevention strategies for MSM at beats.
2. To promote behaviour change to safe sex and safe injecting practices among MSM at beats.
3. To provide support, counselling and advocacy services to men in the target group.
4. To ensure the availability of appropriate staff development activities.

*Personnel:*

1. The number of ACON workers engaged in Beats Outreach varies according to funding levels.

\* For most of 1992, Sydney (and Blacktown) Offices employed four full-time workers. These workers are paired in teams which are responsible for different areas within the Greater Sydney Metropolitan Area.

\* Hunter Region Office employs two full time BOWs; and Illawarra Region employs two workers in a job share of one position

\* ACON's Rural Branches in Coffs Harbour and Lismore also employ BOWs. ACON's Rural Project Officers also have Outreach work as part of their job description and develop the skills of Peer Education Training workshop participants to practice outreach informally within their local rural communities.

\* ACON's Sydney project is now managed from its Blacktown Office by the Western Sydney Co-ordinator (as one of a range of responsibilities); ACON's branches now have independent management control over local Outreach work; and Rural Outreach falls within the responsibility of the Community Development Unit Manager.

*Geographical Spread:*

\* The Sydney Beats Outreach Teams cover a very wide area which extends to Palm Beach in the North, Cronulla- Sutherland in the South and the Blue Mountains in the West. Beats Outreach has never been funded to work in the Eastern Suburbs or 'inner Urban' Sydney.

\* In 1990 the area covered by Beats Outreach was estimated to be 8,927 sq. km. (van Reyk 1990:17).

\* the number of beats identified within these areas by the Sydney Project exceeds 200.

\* the number of beats visited by BOWs can vary significantly. For example, one team visited 23 beats in 9 full days of Outreach work in January 1993 over an area including Parramatta, Dee Why and Milperra; while another team visited 71 beats in 12 days of Outreach in December 1992 across an area reaching from Burwood to Katoomba.

*Funding:*

1. ACON's funding is received from the NSW Health AIDS Bureau. Beats Outreach has been traditionally funded per worker, rather than as a recurrently funded project. The project, despite its efficacy and significance to the National HIV Strategy has always had a precarious existence and is not guaranteed a future.

*Background: The Advent of Beats Outreach:*

**DRAFT**

1. The project is conducted by the AIDS Council of NSW (ACON), a 'community based organisation' whose mission statement "is to bring the AIDS crisis to an end" <sup>(8)</sup>. It strives to do this by:

- \* building on the response of the gay community
- \* empowering all affected by the epidemic; and
- \* achieving self-determination for people with HIV/AIDS.

2. The Beats Outreach project came into existence after research into sexual practice and sexual 'behaviour change' among MSMs revealed that education and prevention approaches primarily addressed to the gay community were not reaching all those potentially at risk of infection.

3. Macquarie University's AIDS Social Research Unit's 'SAPA' project found that "sexually confident, well educated gay men, who live in Sydney or Canberra, who are sexually and socially attached to the gay community, and who are well informed about 'safe' and 'unsafe' sex are more likely to have changed their sexual behaviour than gay men who are not attached to the gay community, who live in extra-metropolitan NSW, who have little contact with the epidemic and are unsure of what is 'safe'" (Kippax 1990)

4. The need for HIV preventive education targeted at MSMs who use beats was reinforced by a 1988 study conducted with a sample of 114 beat users in Western Sydney which revealed that a significant number of men attending beats were practicing unsafe sex - including men who tested positive for HIV antibodies (Bennett et al 1989; 1989a). It also noted that many men had poor knowledge of safe sex and HIV/AIDS because "they were not receiving AIDS prevention information appropriately from existing sources" (van Reyk 1990).

5. The research also identified beat users as a potential 'vector' of transmission into the 'heterosexual community'. Bennett (1989) reported that 80% of beats using respondents reported instances of unprotected sexual intercourse with female partners.

6. MSMs consequently became identified as a potentially high risk and hard to reach target group in terms of HIV/AIDS education and beats became a key avenue for reaching some of the population of MSMs (Davis 1990a). The proposal to conduct a Beats Outreach pilot was accepted by NSW Health in late 1988. After its successful completion, Beats Outreach began and it continues to evolve.

*The Importance of Beats Outreach:*

1. Research conducted by the World Health Organisation has found that HIV prevention programs such as Beats Outreach have contributed to halting the spread of HIV and affirms their key role in the continuing global campaign <sup>(9)</sup>. In Australia, ACON's Beats Outreach project represents an innovative and important part of the National HIV/AIDS strategy.

---

<sup>(8)</sup> ACON Annual report, 1992, p.8

<sup>(9)</sup> See for example: 'AIDS Prevention Does Work, Says World Health Organisation', WHO Press, No.22, June



## *DRAFT*

2. Beats Outreach style projects operate interstate and overseas <sup>(10)</sup>. ACON's Beats Outreach has been used as a model in the development of projects in other countries. It has also has been the subject of interest at International AIDS Conferences in Cameroon (1989?) Florence (1991) and Geneva (1992); and ACON workers have delivered papers at Australian National and International AIDS Conferences. The importance of ACON's work in the area is also recognised by continuing research (egs: Dowsett MSM study (1992); Macquarie HIV Social Research work, esp Project Male Call).

### *Beats Related HIV Risk:*

1. HIV risk associated with beats today is hard to quantify but remains readily apparent. BOWs and Men Who do Beats interviewed for this project reported that unsafe sex still occurs at beats. It can be assumed that 'unsafe sex' is therefore inevitably still practiced by men who do beats in other contexts of sexual contact (Bennett 1988). Beats remain in high usage and are still a valuable contact point for MSMs.

2. Beats are often perceived as environments which are inherently 'unsafe' in terms of HIV transmission. Saunas are also often represented as similarly 'risky' environments (Bolton 1992). This is in spite of the fact that it is sexual practice not the location of sex which determines 'safety'. The Glory Holes Study (1990) suggests that even among gay and bisexual men, beats are perceived as 'high risk' environments. It found that 68% of the men interviewed had been to beats and 49.6% considered that sex in a beat was "not at all safe".

3. This reputation would appear to be a function of the stigma attached to beats. Yet 'potential risk' has been empirically shown to be more likely to be linked to 'less stigmatised' environments: for example, Dr Julian Gold et al (1989) found that 68% of unsafe sexual events occurred in private homes.

### *Police and HIV Prevention: 'Drawing a Long Bow?'*

1. When negotiating access for this project one senior police official suggested it was 'drawing a long bow' to connect policing and HIV prevention. Yet, the link has been demonstrated in many contexts, including beats where the impact of policing has been noted in by the National Centre for HIV Social Research. Davis et al (1991) observed that:

" ... surveillance in all its forms hampered sex education in beats, obstructing access to certain areas, disallowing certain forms of education, heightening fears, and shifting the emphasis in men's minds from protecting their health in terms of AIDS to protecting their livelihoods and preventing physical attack"

2. The impact on Beats Outreach is largely the impact of surveillance on beats themselves: surveillance has never been directly targeted at Beats Outreach, police and councils have generally attempted to assist the project after direct approaches to particular patrols and councils.

3. The NSWPS are the primary focus of the report because they were identified as the major impediment to the work of Beats Outreach. Further, it is largely through liaison between ACON and the NSWPS that the reduction of the impacts on Beats Outreach may be realised.

---

<sup>10)</sup> Since the late 1980's there have been similar outreach projects operating in the UK, the Netherlands, the USA and Morocco.

**DRAFT**

4. The role of Councils and Shopping Centres is taken into account throughout the report. They are part of the social practice of surveillance which impacts on beats and Beats Outreach. However, their action is sometimes unilateral - eg Council action to close toilets and repair or alter property - but it most often involves co-operation with police. Consequently, their contribution is analysed predominantly in terms of its relation to police surveillance: ie police liaison.

*Police and HIV in other Contexts:*

1. The impact of policing and legal sanctions related to 'homosexual activity' on HIV prevention has been documented and discussed in other situations. As The Australian National HIV Strategy says:

"The criminality of these acts may jeopardise public health measures to prevent HIV transmission, by driving underground many of the people most at risk of infection. They potentially prevent or hinder government and community action to work against the further spread of HIV and may create conflicts in law between areas of government ... This can place health workers, counsellors and educators in possible conflict with the law and may create hostility, rather than trust between people at risk and authorities".

Policing contributes to this impediment to HIV prevention through its central role in the enactment of legislation which criminalises homosexual acts.

2. Policing can contribute more directly to frustrating HIV initiatives through 'public order maintenance'. Gary Dowsett observes the relevance of this to beats in a Federal Government report where he says (1992b):

"Busting some poor bugger in a public toilet is not going to stop HIV transmission; it will just drive such men further underground".

3. The accessibility of beats creates the possibility for Beats Outreach to develop in a 'collective' environment: the social networks and sub-cultural norms which exist there allow the fostering of a culture of safe sex. If isolated from this network, men can lose the influence of its norms; and this enhances the potential for unsafe sex. Surveillance can therefore hamper HIV prevention by pushing people out of the context in which safe sex can be promoted. The dynamics of police dispersion of people and groups in public places and its implications for HIV prevention have been further affirmed by the experience of HIV prevention programs provided for street Sex Workers (Legal Working Party Report 1992).

**POLICE SURVEILLANCE****Contemporary, Organisational, Operational, Historical Context***Overview:*

1. ACON, Beats Workers and the gay community invariably see the end result of beats policing and its damaging impacts. Notwithstanding ethical problems associated with policing, the police practices are often seen out of context. This section should provide new insights into policing for ACON workers and others who look at beats in a different way to police.

**The Contemporary Context of Police Surveillance:**

**DRAFT**

1. *Policing in a Multicultural Society* (1992), observed the paradox that senior police and community surveys indicated a "high degree of satisfaction with police service", while at the same time the "public image of the NSW Police Service has been marred in recent years by some high profile cases of blundering incompetence and unprofessional activities". It referred to incidents including the killing of David Gundy, the 'Redfern Raid' of 1990, the National Inquiry into Racist Violence, and the ABC's *Cop it Sweet* Documentary. Dr Janet Chan examined this tension between the NSWPS reform process and organisational practice, and concluded that:

"There appeared to be, therefore, two images of police - one being upheld by the organisation, mainly top management, which tended to be positive and optimistic and one being constituted by its environment, mainly the media and minority groups, which tended to be negative and critical".

2. 'Two Images of Police' are similarly generated by NSWPS policy and practice on beats surveillance. While, there is evidence of NSW Police Service's commitment to 'gay community' liaison and professional responsibility or 'ethical policing', this enlightenment is not universally reflected in continuing practice and organisational norms.

3. Senior Police and the Gay Community Client Group Consultant have made public statements to promote the NSWPS's genuine attempts to improve the policing of beats. Sue Thompson, quoted in the *Eastern Herald* (1992) said police operational surveillance of beats needed to reassess priorities:

"They have to act but they need to keep a clear assessment of priority. You get bashers in public toilets and this is a far worse issue and a far more serious issue than so-called offensive behaviour. You've got violence with potential murder happening and that's much more of a problem for police".

Also, the gay newspaper, *Capital Q*, (1992) ran a story entitled "Top Police Look at Beats" - an unimaginable headline in any context 10 years ago - in which Super John Garvey, Staff Officer, NSW State Command commented that:

"We will be developing operational responses to those problems with close monitoring of police activity, education and training and hence more professional conduct".

4. These public relations statements capture the spirit of the NSWPS's attempts to reduce 'homophobia' and promote 'equal service' and professional responsibility within its organisation. Efforts to encourage ethical policing in beats are evident in the on going liaison with ACON; the establishment of Working Party (1992) and the development of a Training Manual which includes a section on "beats policing" (encouragingly, within the broader context of "Policing Homosexuality") and a Patrol Training Officers Workshop (1993) which has already generated a number of patrol training seminars.

5. An increasing number of operational police are sensitive to the issues related to beats. Such police are aware of their professional responsibility: ie their duty to respect people's sexuality and freedom of movement (and assembly), the need to practice ethical detection and consider alternatives to arrest; and the NSWPS's organisational commitment to 'gay liaison'.

6. More broadly, senior NSW Police have similarly shown strong support for gay community institutions such as The Gay and Lesbian Mardi Gras. The NSWPS have also supported the Volunteer Community

**DRAFT**

Policing Centre in the heart of the gay and lesbian inner city community and GLRL's Anti-Violence project.

7. Police gay community liaison is not without its problems and critics, but there have been advances made which would have been scarcely thought possible even ten years ago. This project, for example, would not have been feasible. Participation in this project is innovative and probably unique in the world.

8. Yet, it remains the case that beats are policed and that some police do not reflect the spirit of the initiatives embarked on by 'College Street'. Police officers still periodically appear in the media making extremely derogatory remarks about gay men and seeming to make a virtue out of the suppression of beats. For example, one officer was reported as saying of men who do beats:

"A lot of them are poofers, you know, queers who sit in the dunes perving" (SMH 12/10/92).

In another article a police officer, when talking to a journalist about a beat in South Western Sydney, said:

"Unfortunately the bushland is riddled with little tracks and has become infested with homosexuals" (SMH 17/5/92).

9. Although invariably 'unauthorised' by Police policy or management, such negative and moralistic public statements reflect the antipathy towards beats which remains within the ranks of the service. Its persistence is acknowledged by the NSWPS's considerable resource commitment to 'on-the-job' training on the issue. Various media reports, particularly in suburban newspapers, also confirm the continuing reality in 1992-93 of beats surveillance across a wide area.

10. Reports such as these reinforce the perception among gay men that the policing of beats is discriminatory. The gay press still features stories about beats in which the police are broadly characterised as antagonistic and oppressive. In various contexts, prominent gay community spokespeople have made statements affirming that beats remain a significant issue for gay men. For example the lawyer Andrew Carter, Co-Convenor of Gay and Lesbian Legal Rights Service includes the following (wry) advice to partiers in a section on legal and safety tips in the 1992 Mardi Gras Guide (p.62):

"a person can be convicted of offensive conduct even though there is no one around for miles, except the arresting officer, and it's the middle of the night. It's amazing how many NSW policemen just happen to be at known beats in plain clothes when they get propositioned by someone, which (they say) shocks their bobby socks off. This nasty practice, known as entrapment, is against official police policy".

Similarly Paul O'Grady MLC notes in a 1993 GLRL Newsletter (p.11):

"Perceived increases in police harassment and entrapment at beats, especially in suburban areas, have caused me to start an education campaign among members of the press, the Parliament and the police. While bashers roam the streets, the Police service is content to sink resources and energy into entrapping men who are harmless and who act out of public view. What are the priorities?"

**DRAFT**

11. It should be emphasised that the interviews revealed several examples of constructive and rational policing of beats which indicated police respect for the dominion of men who do beats. Men who go to beats reported 'positive' treatment and police have genuinely responded to offences involving violence and exploitation in several areas.

12. This platform has to be built on by police for there to be any sustainable improvement in police response to beats. Only then will the negative impact of policing and other surveillance on Beats Outreach will be ameliorated.

This discussion, while critical of many dimensions of beats surveillance, is informed by the belief that 'the process of reform' is jeopardised by both:

- \* complacency within the NSWPS; and
- \* cynicism within the gay community about NSWPS initiatives

**The Policing of Beats in Organisational Context:***Background: The Recent History of the NSWPS*

1. Since the mid 1980's, the NSWPS has undertaken major reform of its organisation and operational practice. To understand the policing of beats, it is useful to provide an overview of these recent developments. The information is based on a range of NSWPS police documents including recent Annual Reports, Corporate Plans and internal articles, as well as academic research.

*Devolution:*

1. In contrast to the old centralised Police organisation, the NSW Police Service is now divided into Regions, Districts and Patrols. These changes have the intention of improving organisational efficiency and police service to the community.
2. The Patrol is conceptualised as the point of delivery of services to the public. The Patrol Commander is financially and professionally accountable for management, service delivery and local policy decisions. Patrols have developed 'strategic plans' or 'Patrol Profiles' which embody policy and ground rules for resource allocation; the identification of 'trouble spots' and 'police related problems'. Central to this reform process is a renewed commitment to Community Based Policing (Moir and Eysenck 1992).

*Strategic Services:*

1. The reform process has also seen the reshaping of the Police bureaucracy through the development of Support Services within the organisation. Under the rubric of Strategic Services, the NSWPS has separate units or offices responsible for Policy and Programs, Professional Responsibility, Education and Training.
2. The 'new philosophy' of the NSWPS and its commitment to core values of professional practice are epitomised in a 'bill of rights' style document - the NSWPS "Statement of Values".
3. This statement 'summarises' the broad principles behind the NSWPS reform process. Interestingly, a framed copy of this document hangs in all police stations as a symbolic reminder of the 'winds of change'. Of most importance to this project is the statement's third principle:

**DRAFT**

"(Each member of the Police Service is to act in a manner which will) preserve the rights and freedoms of individuals".

4. These commitments are reflected in the creation of the Office of Professional Responsibility which has attempted to improve the quality and accountability of policing and establish models of best practice to this end. Reform has also fed directly into the NSWPS' efforts to improve the policing of beats through policy development and training initiatives. The Training and Education section has developed an 'On the Job Training' package (1992-3). The section on beats in this document attempts to:

- i) contextualise beats within the broader phenomenon of 'homosexuality'
- ii) encourage 'ethical detection' and 'alternatives to arrest' of beat related offences.

*Community Based Policing:*

1. Despite disputes about what Community Based Policing (CBP) actually means, its core concept is *consultation with local communities*. Police have always liaised with representatives of local communities but reforms in this area have tried to create a greater awareness of the importance of accountability to and presence within such communities. This process has also sought to formalise liaison through mechanisms such as Community Consultative Committees, Neighbourhood Watch etc (Chan 1992)

2. Although there is a strong practical commitment to visibility and accountability to 'the community', the rhetoric has a strong public relations element. That is, community policing talk is used by the NSWPS - as it is by many police services internationally - in its efforts to maintain or retain public confidence. One of the principal, and expressed, objectives of the Avery reforms initiated in the 1980's was to overcome or turnaround the loss of confidence and crisis of legitimacy experienced by police - particularly with respect to the popular conception of 'the Police' as 'corrupt' (Chan 1992).

3. However, CBP is a double edged sword for minority groups (Chan 1992). Increased responsiveness to local communities tends to serve the interests of dominant representatives within those communities. If there is sufficient strength in local areas, CBP can improve the service provided by police officers to minorities - as has been the experience of the gay community of the inner city of Sydney. Nonetheless, the operation of CBP is more problematic for 'the Gay Community' in areas where it lacks social visibility: eg for gay men in rural areas and beat users generally.

*Gay and Lesbian Client Group / Community (sic) Liaison:*

1. The NSWPS have sought to incorporate a sensitivity to difference within CBP through the establishment of Community or Client Group liaison across a range of minorities including Aborigines, other ethnic minorities and the 'gay community'. Units such as these operate as a resource within the NSWPS. The central unit initiates or participates in proactive strategies both within the Police Service, the lesbian and gay communities and in the broader community - eg Anti-Violence Campaigns; High-School Workshops; Internal Working Party, Policy development and Education.

2. Gay Liaison at an operational level primarily works through Gay and Lesbian Liaison Officers stationed at particular patrols. They contribute to service delivery on issues which relate to the gay and lesbian communities and try to develop an awareness of 'gay and lesbian issues' among operational police.

**DRAFT**

3. The problems facing Client Group Consultants should not be underestimated. They are hampered by a lack of resources and find themselves "often sandwiched between the demands from communities and the lack of support from operational police" (Chan 1992:68). Nonetheless, this innovation has created political space and specific administrative channels through which the policing of beats may be negotiated and reformed. Further, as both a practical police resource and a policy discourse, 'gay liaison' offers many positive possibilities for the improvement of beats surveillance and the amelioration of impacts on Beats Outreach.

*Beat Police:*

1. One of the cornerstones the NSWPS's reforms is the increased deployment of officers in Beat Patrols. Its primary function is to create a police presence within the community. This is a key part of the NSWPS's strategic commitment to its 'Safer Streets' policy which defends and promotes public order and crime prevention.

2. Beat policing's primary concerns include commonplace issues such as car theft, public order maintenance in shopping malls, supervision of hotels. In our context, this new emphasis is significant because beat police are the officers mostly likely to encounter beats in their routine work. If anything, the practical "autonomy of constables" which is apparent in the conduct of public order policing (Hogg and Findlay 1988:49) has been enhanced by this organisational initiative. Consequently, this reform has both negative and positive implications for beats surveillance. Increased attention to 'public order' problems has the potential to intensify policing and/or enhance police sensitivity through direct experience of the nature and prevalence of beats.

**Operational Police Powers and Parameters:**

1. Despite the reform process of the NSWPS, the formal and informal powers and parameters of operational policing remain relatively constant. The power to police "public homosexuality" as manifested in beats derives from various State legislation, primarily the Summary Offences Act (NSW) 1988. To properly understand how beats are policed, we also need to recognise that the exercise of this power is regulated by formal and informal parameters. These informal parameters are particularly crucial in the analysis of the level and nature of police surveillance of beats.

*Legislation: Sexual Offences*

1. The majority of arrests and convictions for beats related behaviour employ the Summary Offences Act (1988). Most commonly the police invoke s.4(1) which prohibits "offensive conduct or language":

"A person shall not conduct himself or herself in an offensive manner or use offensive language in or near, or within view or hearing from, a public place or school".

This carries a maximum penalty: 6 penalty units or imprisonment for three months.

2. Less commonly police will use the relatively more serious provision of s.5 which prohibits "obscene exposure":

"A person shall not, in or within view from a public place or school, wilfully and obscenely expose his or her person.

**DRAFT**

This carries a maximum penalty: 10 penalty units or imprisonment for six months.

3. The Summary Offences Act covers only offences in 'public places' as defined by statute and developed in case law. Therefore, private homes and some commercial buildings escape it. However, many commercial venues - eg gay bars, discos, cinemas and possibly even venues where admission is by membership only fall within its scope. Significantly for beats and this project, public places include public toilets, beaches and parks. Further, the Act potentially covers any area within those places defined as public. Therefore, locked toilet cubicles or bushland, which obscure direct observation of any potentially 'offensive' behaviour, do not limit the operation of the legislation. In New South Wales, unlike Victoria, there is no restriction upon citizens, the police or anyone else "going out of their way" to witness such behaviour (See Inglis v Fish).

4. The legislation does not require:

- \* the offensive behaviour to be intentional
- \* offence to be actually taken by citizens
- \* for citizen (ie non-police) witnesses to testify

*Other Offences:*

1. More serious criminal charges are sometimes laid against men in beats related matters, but these are relatively rare. For example, of these, only Indecent Assault was referred to by any of the police interviewees in the course of this project. However, cases of sexual assault *upon* men at beats at Bondi and Sydney University have been reported in 1993.

*Non-Sexual Offences:*

1. A number of arrests also occur in connection with behaviour at beats which do not directly involve alleged sexual acts. These include:

- \* impersonation of police officers
- \* exploitation offences which include 'extortion', 'demanding money with menaces' and 'bribery'
- \* a range of violent behaviour ranging from common assault to murder

2. However, the quantitative incidence of these offences is relatively small and while at times they are on the police agenda, they are clearly not the primary practical concern of operational police in relation to beats.

*Formal Police Organisational Parameters:*

1. The NSWPS sets 'official' parameters which limit the exercise of police power, in general:

- \* power of arrest:

Section 352 of the *Crimes Act 1900* (NSW) gives police officers the formal power to arrest citizens upon suspicion of the commission of an offence (Oxley-Oxland 1988:62-68).

- \* Constable's discretion:

The Commissioners power of law enforcement is delegated to police officers through the convention of the 'office of constable'. Police power is exercised 'by discretion'. Officers possess a broad range of



**DRAFT**

options for 'law enforcers' which include 'non-enforcement' (ie encouraging conciliation, cautions, 'turning a blind eye') and formal responses - eg arrest and other options such as summons, CANs etc. The NSWPS is formally committed to a policy of 'arrest as a last resort' which encourages the exploration of 'alternatives to arrest'.

\* Commissioner's Instructions:

These administrative regulations provide the formal checks and balances for the exercise of constable's discretion. The most significant of these for beats surveillance is the instruction which prohibits the practice of 'entrapment'. Breach of these instructions can result in a range of internal disciplinary responses.

\* Policy and Other Formal Influences:

Many organisational policies also influence the exercise of discretion. These include the policies and practices encouraged by NSWPS in its 'statement of values' and its initiatives and standards on community policing, professional responsibility, gay liaison etc. These are largely of persuasive value, although breach of some standards can result in disciplinary action.

\* Regulation of Police Practice:

Police practice is regulated by both internal and external standards. The NSWPS 'Internal Affairs' branch is charged to investigate alleged police 'deviance' and in some circumstances is obliged to refer matters to the Ombudsman. The source of complaints can also be internal and external; and complaints are made either direct to the police or immediately to the Ombudsman (Police). If police deviance breaches provisions of the Crimes Act, then officers are subject to the same formal process as any citizen (Stubbs 1992).

*Informal Police Organisational Parameters:*

*Codes; Suspicion and Stereotypes:*

1. Australian and international research on the practical exercise of police power, especially for public order maintenance and/or 'summary offences' emphasises the limited influence of formal parameters:

"police behaviour is governed by informal rules and codes generated within rank and file sub-cultures rather than the legal and management structure of police organisations" (Findlay and Hogg, 1988:48).

2. These rules are more influential in the determination of specific police actions than legislation or formal police management. As Chan notes, "the control of police management over subordinate officers is extremely limited because of the nature of police work" (1992:154). She refers to a range of research which argues that:

"because police tasks at the lower levels are ill-defined, episodic, non-routine, accomplished in conditions of low-visibility, and are dispatched in ways that most often by-pass the formal chain of command in the organisation, control over the work itself resides largely in the hands of those who perform the work".

3. The majority of policing is related to apparently minor offences or issues (Hogg 1991:3). It involves providing responses to a "diverse range of calls for assistance and intervention to settle conflicts

**DRAFT**

outside, as well as within, the criminal law' (Findlay and Hogg, 1988:48). This policing has been described as "emergency public order maintenance" (1988:49).

4. These rules are not rigid but reflect broad motivations for a diversity of police activities. It is clear that these informal rules and codes stress 'conformity' and 'stereotyping'. Police are strongly influenced by community sentiment in the formation of these norms. Police are very much part of local communities and invariably see themselves as acting in the community or public interest; or justify their action by reference to what they perceive this to be (see White 1992).
5. Generalising about the nature or identity of 'the police' is difficult and we are not helped, in Australia, by the paucity of demographic or ethnographic study in the area. However, the little work that has been done, (Hogg and Findlay 1988) suggests that the police are relatively homogenous and conformist. The typical police officer is a young (under-35) married male with an Anglo-Saxon background. Of course this 'average profile' is changing with feminisation and ethnic integration within the broader workforce, but the generalisation of masculinity, conservatism and conventionality remain relatively accurate.
6. Similarly little work has been done in Australia and internationally on the attitudes of police officers to 'homosexuality' or 'Police Homophobia'. One UK study argues that intolerance of homosexuality is historically endemic to police forces. Burke (1992) analyses the relationship between 'cop culture' and 'homosexuality' through the themes of conservatism, machismo, 'mission', pragmatism, prejudice, stereotyping, and suspiciousness which encourage generalised intolerance within police culture.
6. In other contexts, research indicates that police are generally intolerant of 'difference' and traditionally pay relatively greater attention to marginalised or minority groups in the enactment of summary offences legislation (see Bonney 1988; Egger 1988). 'Intolerance' or the criminalisation of 'difference' clearly depends on context. That is, the (social) definition of what constitutes offensive behaviour varies according to its occurrence within social space (White 1992; Desroches 1991).
7. Research also suggests that police management is limited in its influence upon operational policing in that it is "the immediate work or peer group and not the larger organisation that motivates and controls the individual's behaviour" (Chan 1992:154; Reuss-Ianni and Ianni 1983:251). The police perception of the necessity and validity of beats surveillance is thus reinforced by the police sub-cultural or organisational norms which promote masculinity and heterosexuality, and stigmatise homosexuality.
8. The criminal law with its categories of 'crime' and the discourse of the 'criminal' encourages the formation of 'criminal' or 'suspect' stereotypes and this is extended by the demands of the practical work environment of operational police (Smith 1988).
9. Especially for public order, the police work context is characterised by diversity and unpredictability and this enhances the tendency toward abstraction and simplification. This process is essential to the fundamental formation of suspicion which is basic to the identification of potential suspects or trouble spots  
(Dixon et al 1989).
10. The social prohibition of this deviance is formalised by the very existence and the practical influence of the SOA category of offensive behaviour (Smith 1988). This legislative code provides the statutory force and the operational 'box' into which police try to fit beats. The open-ended significance of beats is closed off by the police's practical construction of what constitutes 'offensive behaviour' - by reference to supposed community norms, their perception of these and their own prerogatives.

**DRAFT****History of the Surveillance of Homosexuality:***Policing Homosexuality:*

1. Contemporary beats surveillance occurs against the background of the historical conflict between police and gay men/homosexuals. The phenomenon of historical police antagonism to 'homosexuals' and beats is self-evident and universal. The common experience of 'gay communities' across the world has been characterised by police harassment, oppression and violence - which has reflected the general 'homophobia' or sexual conformism of the societies within which policing takes place. Beats have frequently and consistently been one of the locations of this historical conflict. This is well documented both within Australia and abroad (Humphreys 1970, McGonigal 1970, Delph 1978, Lane 1988, Desroches 1991, Sears and Wolfson 1991, Seabrook 1992, Marx 1992).
2. Although much of the history of police gay relations remains unwritten and 'buried' in silence, there is ample evidence of this conflict in Australia (See eg Wilson 1971; Anti Discrimination Board Report 1982; Aldrich and Wotherspoon 1991 on arrests and prosecutions for sodomy, offensive behaviour etc).
3. Much of this conflict stems from the 'public display' of homosexuality. As is noted in the 1992 NSW ADB HIV Discrimination Report (at 67):

"Homosexual men generally face strong hostility to any expressions of affection in public. Indeed there have been cases in New South Wales of men being arrested, charged, and convicted under the legislation relating to offensive behaviour for such ordinary forms of affection as kissing".

4. Police have played an unfortunate role in many of the key moments of 'gay liberation' in this country. Police clashed with gay men and lesbians in seminal political struggles such as the first Mardi Gras march, June 1978 and more recently in the Festival of Light's Rally 1991 in Kings Cross. The gay community's resentment of these police interventions cannot be underestimated. People still often talk about '1978' and the 'bashings' at the 'Fred Nile Rally'. These events continue to shape the scepticism and disempowerment of gay men and lesbians when dealing with 'the law' (O'Sullivan 1991).
5. The historical practice of police violence directed at gay men in the Darlinghurst area of Sydney has also created a strong 'sub-cultural memory' which continues to affect contemporary perceptions of police within the lesbian and gay communities.

*Policing Beats: Peanutting*

1. The historical practice of entrapment or 'peanutting' is notorious both among gay men and within 'police lore'. Peanutting is used by police to describe a range of 'Vice Squad' practices which deceive suspects through the use of decoys. It was historically applied to gaming joints and SP bookies as well as 'beats'. In relation to beats, 'peanutting' refers to a practice which used 'agent provocateurs' - usually young and 'attractive' officers - who would induce men into alleged acts of indecency (or offers thereof) before making arrests.
2. This practice is well documented (McGonigal 1970) and was mentioned frequently by police and beat users interviewed for this project. One police interviewee said that he had participated in these operations when deployed in the Vice Squad as a young officer. He said 'peanutting' was then 'part of police culture' and involved the use of young police officers who were "unknown in the area". He also

**DRAFT**

thought that the term might have come from the fact that you were "paid peanuts" ie offered very limited expenses for this sort of work (P:06).

3. Police interviewees believed that peanutting had not been used for some time. If McGonigal's study is accurate, it would appear that the practice, at least in its institutionalised form, began to diminish around 1970. The practice was notorious when homosexual acts were criminalised and the perception of homosexuals as criminals - or criminal deviants - was dominant in police culture. With 'decriminalisation', increased emphasis on 'professional responsibility' and financial accountability, police have been arguably less inclined to regard homosexuals as criminals (or associate homosexuals with criminality) and this may have contributed to a decline in the practice. More recently, despite persistent 'homophobia' within the police service ranks, the practice of peanutting or entrapment would appear to be comparatively infrequent - despite continuing allegations.

4. Policing of beats remains part of the landscape of police-gay relations. The institutionalised practice of 'entrapment' is alleged to have persisted recently in Queensland (Lane 1988) and is still frequently alleged by gay community representatives. The surveillance of beats, including the use of plain clothes operations which employ similar methods to peanutting, continues. Moreover, NSWPS Patrol Commanders interviewed for this project consistently defended covert surveillance as a legitimate use of police coercive power for the purpose of beats suppression.

8. However, the realities and the problems associated with the policing of beats extend well beyond the narrow issue of police entrapment or peanutting. Although this is the clearest expression of police impropriety, it is not the most common. Beats are policed in a variety of ways, many of them informal. The Police do not depend upon the use of deception to satisfy their operational objective of suppressing beats. The range of approaches adopted are considered in the following discussion.

**Analysis of Research Data****Methodological Problems:****Problems in Estimation: Formal Policing**

1. The historical persistence of beats policing is evidenced by media reports, the caseload of lawyers and complaints made to the police, the Gay and Lesbian Rights Lobby and the AIDS Council Of New South Wales. Yet, an estimation of the incidence of beats related offences is notoriously difficult. There is only one Australian statistical analysis of this type of (formal) policing and this is well out of date (McGonigal 1970).

2. The means of data collection and presentation of statistics on the Summary Offences Act (and other legislation) is not detailed or specific enough to separate beats related offences (sexual or otherwise) from non-beats related offences under the same category. Inquiries to both the NSWPS Statistics Dept and the Bureau of Crime Statistics & Research for this project established that any serious attempt to conduct a thorough statistical survey of 'reported police activity' was going to prove too time consuming.

3. Formally reported police action could never account for all policing activity because it would exclude informal practices. Further, the statistics provide little qualitative information on the nature of beats policing - which is the most useful information for this project's purposes.

**DRAFT**

4. Beats surveillance is quantitatively a marginal concern in formal police work. Reported 'sexual offences' appear to traditionally account for less than 10% of all SOA offences (Bonney 1988). Anecdotally, academics interviewed for this project suggested that the proportion of beats related offences was in the vicinity of 10% of SOA sexual offences.

*The Nature of Policing: Data and Perspective*

1. Police respondents emphasised 'formal' policing: ie arrests and operations in their discussions of beats surveillance. Respondents tended to be senior police who were reporting on practices of their staff and had not directly participated in actual operations.

2. Police respondents often said that beats were subject to informal and periodic patrol by 'beats officers' and occasionally detectives but the nature of this policing was not described in any detail. The responses, upon which this section is based, disproportionately emphasises formal operations and offers little insight into the routine, informal patrolling of beats by general duties or beats patrol officers.

3. By contrast, the perspective of men who do beats interviewed for the project speak from the subjective personal and collective experience of this surveillance in practice. These respondents emphasised the specific nature and practices of more informal types of police surveillance.

*Profile of Incidence of Formal Interventions:*

Arrests / Summonses for beats-related sexual offences:

Period: 12 months to September/October 1992

Patrols: 20 (**3 patrols did not state incidence of arrests**)

- a. Total: 32
- b. Offensive Behaviour: 24
- c. Other Sexual: 3
- d. Other non-sexual: 5

Plain Clothes Operations:

Last twelve months: 3 (Parramatta, Windang, Collaroy)

Previous Operations: 3 (Ashfield, Sutherland, Milperra)

Notes on Beats Related Sex Offence Arrests:

Incidence:

\* Arrests were limited to 5/20 Patrols: ie 15 reported no arrests in 12 months to Sept/Oct 1992

\* Other patrols reporting past arrests included: Revesby, Manly, Sutherland, Blacktown, Corimal, Ashfield

\* Mosman Patrol: did not state whether arrests in last 12 months, report of high incidence of complaints (40) suggests there may have been some

Circumstances:

\* Arrests were all made by police officers in the course of investigations of beats

\* Police were the sole witnesses in all subsequent prosecutions

\* 'Members of the public' did not witness the particular acts for which men were arrested, charged and prosecuted

**DRAFT**

## Outcomes:

- \* All matters proceeded to court
- \* Information offered on outcomes of cases was patchy, but the research suggests:
  - defendants convicted were fined
  - only 1 acquittal out of 27 arrests/charges
  - s.556 given in a very small minority of cases

## Managerial Perspective on Police surveillance

*Dominant Social Attitudes toward Beats:*

1. The surveillance of beats conducted by police and others is connected to broader social perceptions of homosexuality and the 'gay community'. Historically, it has been crucial for heterosexuality's sense of 'normality' to maintain the myth of the homosexuals' literal and symbolic position of being 'outside' society. As Samuel Delany wrote (1988):

"When newspapers would report, every tenth time it occurred, 'Eight men were arrested last night for indecent behaviour at the Christopher Street docks', with no mention of the hundreds who escaped, it reassured the city fathers, it reassured the policemen who'd made the arrests, and it reassured the men arrested as well as the ones who escaped that the image of the homosexual as outside society ... was somehow, despite the arrests, intact".

2. This mindset is expressed in periodic local media reports which have the subtext that 'there are no gays in our area'. Suburban notions of respectability are hypocritically invoked to deny the existence of gay men and lesbians within local areas, beyond the 'gay ghetto'. For example, one Western Suburbs Courier article from 1991 quotes an Ashfield resident complaining about a local park which has been used as a beat for many years as saying that: "you wouldn't believe it was a suburban park". This has the clear subtext that suburbia is no place for homosexuals and ignores that homosexuals and 'gay identified' men, and 'lesbians' live throughout suburban and rural areas.

3. This myth and the practical invisibility of gay men and lesbians in suburban areas operate to prevent the broader community from directly engaging the gay community or gay men and lesbians. This process of denial and 'transference' illustrates how shallow the degree of acceptance within the broader community actually is. The acceptance of the gay community to a large extent depends on its confinement or quarantining within a small geographical area eg Inner City areas of Darlinghurst, Kings Cross, Paddington, Surry Hills, Newtown, Glebe, Balmain.

4. Police interviewees consistently reflected these perspective in their adamantness that 'beat users' were not from their local area. Some examples:

\* One Patrol Commander (PC) <sup>(11)</sup> said that "Windang's, been one for 10 years, a nudist beach, but development caught up with it. It gained 'acceptance', was advertised in gay avenues - attracted a lot of people from outside". The PC added that "even at McCabe (*ie a park of Wollongong*) it was probably not always locals there" (P:13).

---

<sup>11)</sup> Patrol Commander is abbreviated to PC throughout the text.

**DRAFT**

\* One Regional Commander (RC) <sup>(12)</sup> said he was aware that men would commonly drive some distance to a beat, eg from 'the northside' to Kogarah to go to a beat outside their area where they would not be recognised (P:03).

\* A District Commander (DC) <sup>(13)</sup> thought men who do beats knew about beats through 'word of mouth' and had also heard of them being 'advertised' which attracted people from 'outside the local area' (P:06).

\* One PC reported that from conversations with men who do beats, arrests, CIUs and checking plates 'we identified the men as visitors. They come over here, particularly during the Christmas period. They're not known over this way, it's not happening where they are. They don't want to be identified by neighbours or friends ... I'm sure there's a network. There must be for people to travel' (*ie out of their area to go to beats*) (P:12).

5. Other officers expressed the belief that either there were no gay men in their area or that they were not aware of any beats which existed. For example one PC in Sydney's West said:

"It's not the scene here. Knowing the people who live here - the 'westies' - the 20 to 30 year olds - they'd (*ie men who do beats*) be dealt with. It's just not tolerated. It (*ie beats*) may be a different kettle of fish, but really underground" (P:10).

*Conditions of the Social Acceptability of Homosexuality:*

1. Another condition of tolerance for the gay community and homosexuality is its 'respectability'. This dictates that the sexuality of 'ghetto areas' remains strictly regulated. Gay sex is structured by the conventions of confining sex to private homes and the commercial organisation of sex on premises venues, such as saunas and 'sex clubs'.

2. More generally, 'homosexuality' is now tolerable if it is contained within a public event like Mardi Gras or a recognisable form such as a business. Via these avenues, the gay community is engaged by the dominant culture - through filters of legitimacy. It is almost as if 'straight culture' can forget that it is engaging 'sexual difference' because it is dealing with homosexuality dressed in the familiar clothes of the dominant culture.

3. This dominant attitude was reflected one PC's statement that he 'accepted homosexuality' and thought that beats only became 'problems' because of complaints. The same man could 'accept' men in 'couples' who lived 'like husbands and wives' and 'in magnificent houses', but not the sexual or social practice of men who went to beats (P:12).

4. The conditions of acceptability are also in evidence in ACON's dealings with local Councils in efforts to co-operate on HIV prevention. Although willing to assist attempts to 'stop AIDS', many councils were reluctant to place stickers in council facilities because they did not want to be seen as 'encouraging homosexuality' and, some, if they did co-operate, insisted on censoring the messages proposed for HIV prevention stickers in order to avoid offending 'members of the public'. Beats Outreach has suffered similar difficulties and misunderstandings in their isolated dealings with shopping centres.

---

<sup>12)</sup> Regional Commander is abbreviated to RC throughout the text.

<sup>13)</sup> District Commander is abbreviated to DC throughout the text.

**DRAFT**

5. The defence of the 'normal use' of public space and sexual practice is also evident in characterisations of men who do beats as 'dangerous' and 'predatory'. They are often described in media articles and were seen by many police and other interviewees as 'dominating' public space. Police interviews were peppered with remarks that public areas, such as parks and toilets "should not be the province of a select few". For example, as two police interviewees said:

\* "it's the intrusion on public space", ie which is the problem with beats (P:11?);

\* "it gets to the stage that people won't use a public toilet", ie people complain to police because they perceive their freedom to use public facilities is being curtailed (P:11).

6. This echoes similar characterisations of People Living With HIV/AIDS as a threat to 'society': ie as AIDS Carriers (Watney 1987; Kippax 1991). Such stereotypes pathologise 'ordinary people' as 'monsters' of contagion - the disease defines their life and is viewed as life-threatening to kill 'innocent people'. Consequently, as noted by the Anti-Discrimination HIV Related Discrimination Report found, the real suffering of these people is ignored and, worse, the process of stigmatisation deepens their inability to control their lives and obtain support and treatments for their conditions: their oppression is amplified by their stigmatisation (ADB 1992a).

*Express Negativity: 'Homophobia'*

1. Police interviewed for this projects had varied opinions about the level and nature of **homophobia**: ie express negativity towards 'homosexuals' or 'gays'. A minority suggested that police officers, implicitly because of their sense of public duty, were more tolerant than the community (egs P:10 and P: 09)

2. Other police respondents' comments were less sanguine. For example, one Staff Officer said that homophobia is persistent in the police "more so than elsewhere" but that it "varies across patrols" (P:02). A District Commander similarly believed that:

"most operational police have the attitude that homosexuality is not acceptable" (P:06).

One Regional Commander suggested that:

"The fellas do tend to talk down to them. It's just a male attitude. It doesn't fit into their view" (P:03).

He added that there was a level of police resentment of "minorities getting sway", and suggested that in this context that the raising the issue of beats in the interests of reform may only provoke hostility (P:03).

3. Consequently, the dawning of tolerance of homosexuality within the ranks of the NSWPS would appear to be limited. As Chan found in relation to ethnic liaison, the liberal vision of police service 'reformers' conflicts with that of more 'old fashioned' officers who reflect historically dominant and deeply ingrained prejudice and stereotypes (Chan 1992).

*Police Interviewees Knowledge and Perceptions of Beats:*

The police interviews engaged a range of questions which provided indications of operational knowledge and perceptions of the realities and dimensions of beats. The overall impression created by the data is



**DRAFT**

that police are generally ignorant of the social realities of beats and predominantly view them from a limited operational perspective which defines them as a police-related problem: ie as a public order problem or a public nuisance.

1. Interviewees responses indicated a varied knowledge of the *term* 'beats'. Invariably, the term required some explanation or clarification in the course of interviews.

\* Some were completely unaware of the term: (eg P:13, P:11 - Wollongong, Warilla, and Parramatta)

\* Some expressed the belief that either there were no gay men in their area or that they were not aware of any beats which existed (eg PWS:11,12).

\* Both acquaintance with the term itself and knowledge of particular features of how beats worked seemed to depend to a large extent of the work experience of the officer within the police service. Those senior police with relatively superior knowledge had engaged in either liaison with 'the gay community' through gay liaison or within Internal Working Parties (egs: P:03, JJ, CMcL).

\* Other officers' knowledge resulted from either liaison with ACON, experience in 'inner city areas' (P:12) or work in special units such as the Vice Squad (P:06).

\* Conversely, those officers whose knowledge was relatively inferior seemed not to have dealt with the gay community or had significant contact with the police-gay liaison unit. Another factor may be the visibility of gay men within their area. Some confused beats with sites used for soliciting by male sex workers servicing a male 'clientele' (P:01, P:07).

2. Interviewees responses reflected limited knowledge of the whereabouts of particular beats.

\* The specific locations referred to by police included toilets and parks, malls, car parks and beaches.

\* Knowledge varied according to rank: the 'closer to the patrol' the better the knowledge.

\* Invariably the numbers provided by police were less than the number estimated by Beats Outreach to exist in some areas.

\* Some respondents thought that more beats existed within their patrols than they were aware of (eg P:06; P:12)

\* Both types of response suggest that police only 'identify' beats if they become problem areas. It is reasonable to assume that some of the 'quieter' and more secluded beats which Beats Outreach target are not 'visible' to police.

\* Beats were generally considered to be 'public areas', although some interviewees described their locations as secluded (eg PWS: 02, 01).

3. Respondents were generally uncertain or ignorant of how beats work, and frequently asked why men use beats.

\* Several respondents said that they 'knew nothing', for example : P:01, P:06.

**DRAFT**

\* Some police recognised their social role as meeting places:

- (P:03): "The purpose is to pick up or to have sex at the toilet. Not really aware of the details. An area of friendship".

- (P:06): "members of the homosexual or gay community use them as a meeting place".

- (P:04): "In Centennial Park, eg, some go there to meet. Others just wait around, or sit in the toilets, or sit in their cars. Never seen anyone in the act".

- (P:08): "it's a meeting place, people come from all over the state. It's advertised in gay mags".

- (P:10): "Warwick Lane is a pick up area, meeting area"

- (B:13): described McCabe Park as "mainly a meeting place and people go off in cars"; and Puckey's Beach: "I think the community are aware and have been that Puckey's Beach is not a place for families and don't go there".

\* Again the personal professional experience of the interviewees gave individuals more clues about the rhythms and characteristics of beats.

\* However, police were generally unaware and uninterested in the internal or sub-cultural workings of beats. Their remarks rather emphasised operational prerogatives: ie 'information' which would help the police manage the 'policing problem' and identify who was involved (eg P:12, P:13 etc).

4. The police interviewed varied in their knowledge of the sexual identities of men who do beats and variously described them as "gays", "bisexuals", "married men".

\* A minority referred to beats users simply as "gays".

\* Significantly, some were well aware of the diversity of the men who use beats. Again, these were the officers with the direct experience of gay community or liaison.

- (P:03): "Seems it's all sorts. Marrieds. Businessmen. Unemployed people. Cross section of people. You get businessmen and musos ... In Newcastle yes they are. The men are not prepared to admit they're gay. It's a problem for them. There's no more gay people now than there were. They were more sensible then. I wouldn't wanna go to toilets find a man to make love to. I wouldn't wanna go to toilets to pick a woman up".

- (P:06): thought that there would be "a span of people indicative of the community - just like homosexuality is ... "How do you know? There's no pink triangle on the forehead".

- (P:12): indicated that he was aware of "a distinction" and described men who do beats as "closeted men".

- (B:13) said she was "aware of some - prominent people in town. Some could be gay, some bisexual. I know they're married".

\* One interviewee conscientiously drew the distinction between flashers and beat users:

**DRAFT**

- (P:06) indicated that he understood the difference between beat users and "flashers" when he referred to "the situation in Palm Beach" as involving "flashers", and remarked "it's not a beat".

\* One very senior officer drew a clear distinction between the "organised gay community" and beat users:

- (P:04): "A practising gay man has sex in private. So, 'beat dwellers' are mainly married men, with a want, with a family. I know one. I've seen his car there. He's not there to go to the toilet ... What they're doing (*ie men who do beats*) is morally wrong, not so much to himself, but morally wrong to his family ... these men are looking for sleazy sex. I wouldn't go looking for sex in a public toilet. There's no worse place in the world".

5. Police perceptions of HIV risks associated with beats were varied.

\* Many responses were generalised, ie talked about known means of HIV transmission without particular emphasis on the special case of beats:

- (P:01): "AIDS is associated but in no way exclusive to the gay community. One way is sexual contact. Contact with an open part, a cut. So it is connected yes".

\* Some referred to the risk of 'bisexuals' transmitting the virus to their wives (P:04):

- (P:04): "It's more dangerous there (*ie at beats*). Cos I don't think they practice safe sex do they?"

- (P:12) suggested that because many men who do beats were identified as married men, "the wife, the family unit is in danger ... this is a problem which stems from beats".

\* One officer showed some understanding of the potential implications for Beats Outreach associated with police operations when he alluded to "some problems with safe sex" with "men being away from the gay community" (P:06). He also said that "AIDS is not getting the publicity it deserves". He said this was because of a "sensitivity to the norm, but what's the norm?"

\* Respondents invariably commented on drug use/needles in terms of their HIV risk. This may reflect a general organisation trait that HIV is largely conceptualised in terms of the risks posed to officers in the course of their work.

\* More sophisticated responses or perspective came from officers with personal experience of the epidemic. One training officer with such experience had exceptional knowledge of HIV and 'homosexuality'. Her sensitivity to beats and the objectives of Beats Outreach was greatly enhanced by her familiarity with associated issues (Ryde Training Workshop).

*Police Perceptions of the Problem of Beats:*

1. Beats are considered by operational police to be a 'public order' or community policing problem driven by the incidence of public complaints. Suppression of beats and the dispersion of men who do them are the predominant operational objects of surveillance. This deterrence objective can introduce a punitive dimension of surveillance. For example, as one PC said, police operations:

\* "endeavour to create a feeling of disquiet among offenders" (P:09).

**DRAFT**

3. The discourse of law enforcement within police organisational culture operates to justify the use of coercive power: ie dispersive, suppressive responses to beats in the service of a 'community concern' expressed in complaints.

4. The specific knowledge that police sometimes have about beats does not appear to displace the sense of moral disapproval which pervades police surveillance. The following range of statements from police interviewees indicate these perceptions and the combination of issues involved:

\* "It's not offensive in private but it still falls within statute to stop other people in public seeing it" (P:12).

\* "The majority of citizens don't like to see this sort of behaviour in the toilet blocks" (P:12).

\* "(nudism is) 'ok, but other activities - we found obscene publications, condoms, bondage ropes and systems - it led to quite a number of complaints. (We had a) responsibility to the community led to operation" (P:13).

\* "(It's) a haven for indecent behaviour ... masturbating, unnatural sex acts" (P:13).

\* "(Beats) upset the community at large". (Police operations in beats were a result of) "reasonable complaints from the public". (His advice was to) "knock the toilet block down, or put it in a more public area where there were more people, nobody about to be offended".

*Police Tolerance:*

1. The social intolerance of beats reinforced by the imperatives of operational law enforcement practices indicates the challenge that beats pose for police reformers. In the context of the moralist's nightmare represented by beats, the promotion of professional responsibility and 'reflective policing' is a relatively blunt tool against the momentum of the conditions of tolerance, and the traditional practices of public order policing.

2. Nonetheless, police react in different ways to beats. The same problem: ie the incidence of complaints about allegedly offensive behaviour can produce police action with a more sympathetic approach in which police exercise greater discretion in the application of formal mechanisms. Significantly, in these cases police seem to accept the right of men to meet and 'pick up' partners (see Inverell; Wollongong). Men were told by police that they could meet at the beat and would not be arrested or otherwise be subject to surveillance if they refrained from sex in public at the beats.

3. Police can also respond positively to the interests of men who do beats when they are victims rather than perpetrators of offences. For example, some men who subjected to violence or exploitation have received sympathetic treatment by police (ie Lakemba, Bondi, Collaroy etc). This can even apply to areas where beats have been subject to antagonistic surveillance. It would appear that this is possible because of the mediation of their status through a different category within law enforcement: ie they are not the suspect but the victim.

*Qualified Success of Beats Suppression:*

1. Police surveillance is never more than a qualified success and 'eradication' is widely recognised by police as impossible. For example:

**DRAFT**

\* "You'll never stop the problem. Gays and lesbians are on the increase" (P:04).

\* "We know we can't stop these activities" (P:06?).

One PC suggested beats could not really be "controlled" because, "the behaviour was back there then - with the Greek armies - they had their little boys with them for years, like prostitutes. It's not going to be stamped out" (P:12).

2. Further, in cases where operations had been conducted, police invariably acknowledged that beats remained active, but at a lower level. (eg P:09, P:08)

3. Nonetheless, police did not see this as a failure or reason for not intervening in beats:

"It's the same as Domestic Violence, again. It continues but you still have to do something" (P:07).

Ultimately, despite police rhetoric, and the moral anxiety which informs complaints, the surveillance of beats largely becomes a question of controlling or 'management' - ie minimising public visibility and in turn complaints. As one Patrol Tactician put it:

"We have to keep at some level we can handle ... keep it at a level of very few complaints" (P:12).

*"Community" Complaints and Police Policy:*

1. As with many other policing issues, especially in relation to 'public order', beats surveillance is not motivated by 'express policy' but driven by community complaints. One Regional Commander explained this when he said that beats "upset the community at large" and that police actions were a result of "reasonable complaints from the public" (P:03). Another DC said of one concerted campaign against a beat in Southern Sydney that "the police were responding to complaints" and it was these which led to subsequent arrests for "offensive behaviour" and "wilful and obscene exposure" (P:01).

*Level of Complaint:*

1. The level of complaints varies across patrols and over time. At certain times in certain places, complaints can result in petitions to local council and parliamentarians, as well as letters to the editor of suburban newspapers and even the formation of residents action groups.

2. In a range of areas, police said that beats were not an on-going police concern. Several patrols reported that there has been no recent arrests or complaints. For example, one DC affirmed that there had been no recent arrests, despite sustained surveillance of one beat in the past (P:07). In this area, beats were "no real problem" to the local patrols. After a recent resident complaint at Ramsgate, "the beat police went down and nothing happened" (P:07). Other interviewees reported a similar pattern throughout South West Region and other patrols (see esp. P:09)

3. However, there is no doubt that the level and intensity of complaint can become very high. One patrol reported 40 complaints over the last twelve months prior to the interview (PWS:02). In another area, one beat at a sports oval was perceived as "a problem for (the) Patrol" which generated "an unending stream of complaints" (P:01).

**DRAFT***Sources: Community Representatives*

1. The source and nature of complaints is also significant. Complainants are usually 'community leaders', 'respectable citizens' or 'representative bodies'. For example complainants include retailers, sporting groups, schools, resident groups, councillors and politicians. In one area, police attention was attracted after 'publicity in the local press' and elsewhere, complaints were received from shopping centre managers after "signs of ejaculation" were observed in centre toilets (P:06).

2. Respondents also indicated that 'community interest' can be selectively defined and even assumed to be represented by a single complainant. When asked how he judged who represented the community, one PC said:

"it's not 33,000 people - the people at Cromer don't go there (*ie to the areas where the local beats are situated*) ... but one individual is still the community, part of the community" (P:12).

3. These factors of quantity, intensity and social standing unquestionably places strong pressure on police officers to respond in some way. One District Commander pointed out that whether it was "appropriate to respond" also depended on "relative community standards" and the "relative public perception of problems". For example, one local community in his district was dominated by "elderly people, seventy plus, and their perceptions are more old fashioned, conservative than most of society". To affirm his point he added that "if theoretically, the Gay Mardi Gras was planned for Ramsgate, it would get extreme opposition" (P:06).

*Moral Anxiety and Police Response:*

1. The intensity of the 'moral anxiety' of complainants also has persuasive power upon police action. The tone of the complaints police receive is invariably one of moral outrage. This is typified in the sample complaint letter provided in the NSWPS "On-the-Job" training package on "beats policing" (1992-3:35), based on the text of actual complaints about beats received by police, which includes this passage:

"I consider this to be outrageous, offensive and an offence against the law. Such incident practices should not go on unchecked and I insist upon you taking immediate action to prevent any further occurrences. The full weight of the law should be brought against these individuals who are obviously without morals"

2. This is not the sort of complaint that any operational police officer is likely to ignore. It creates a strong imperative for action and activates the police sense of duty to respond to complaints and its accountability to the community.

3. This highlights the paradox of both community policing and professional responsibility. Under the same rubric of ethics or rhetoric, police officers are asked to respond to conflicting standards of what is in the community interest, and what is professionally responsible. This dilemma is real and understandable for operational police.

*The Text of the Complaint:*

## *DRAFT*

1. The embodiment of complaints within letters from the public as epitomised by the sample letter also increases the pressure on police to act on beats. The receipt of a letter - especially if from a perceived community representative - in itself carries weight and requires that it be taken seriously.

2. As Smith points out (1988), letters and other texts can be significant sources of motivation and problem construction) within the routine world of operational police work. Interviews with councils and park managers also indicated that complaints were only taken seriously if provided in written form.

### *Complaints: Doubts and Obligations*

1. Some police expressed doubts about the validity of the complaints they received. For example:

- One DC said that there was the "difficulty of rumour" and "like with anything" there were "probably some half-truths". He added "but can you afford to ignore them?" (P:11).

- An Acting PC in Sydney's South also referred to "paedophilia" as a concern and while he similarly thought fears of this "might come from emotional mothers", he asked "what can you do?" (P:07)

2. Clearly police still feel "obliged to respond", and see themselves as guided or even bound by the prerogative of the complainant.

- One PC said: "once you get someone complain you have an obligation; and to an extent we're guided by the public's demand" (P:13).

- Another PC noted: "with any complaint you've got to accept their word - whether assault or otherwise ... Someone comes in with a complaint and you've got to act on it. We have a responsibility to the community - our code of ethics means it must be looked at" (P:12).

3. In characterising this obligation and justifying police action, police often see themselves as the 'meat in the sandwich': ie ruled by the demands of the local community and criticise by 'the gay community' of more liberal citizens.

- According to one Regional Commander: "Patrol Commanders get complaints. We aren't proactive on beat dwellers. We have to show the community we're doing something. But can't do too much; otherwise it's harassment. We're the meat in the sandwich" (P:04).

- Similarly, representatives of one Patrol in Sydney's north said that: "I'm sure the majority of the community don't want this sort of behaviour and when there's complaints we've got to address them"; and "We're looked upon as the big bad wolf, cos we're the ones who carry out the tasks" (P:12).

### *Rationales for Intervention: Paedophilia and Complaints*

1. In those areas where beats were or had been a practical concern, police respondents generally thought that beats should not be policed unless there was a large number of complaints or a particular problem, eg 'paedophilia'. For example, one Regional Commander said police should conduct 'high profile' (*ie uniformed*) operations in response to beats related problems and added that:

**DRAFT**

"police should do it with respect. The objective is to deter, through a presence. A covert operation may be conducted if there's a threat to children; or danger to beat dwellers themselves. The pedophiles are the real problem" (P:04).

2. Many interviewees indicated that beats only required police response if beats "got out of control". That is, if they crossed what might be called an 'overt threshold'. Conversely, police recognised that beats went unnoticed and unpoliced if there were no complaints.

3. Police perceived that the threshold was crossed if beats became 'too visible'. Again, the determination of this visibility was a function of the number of public complaints ((see eg Loftus; Erby Place; Windang; Collaroy)). For example:

- One DC said in describing the reason for police response: "It's overt behaviour: people are being approached and propositioned. That encourages people to come to the police" (P:11).

- Another PC emphasised how the development of an area could make a previously secluded beat relatively more 'public'. In relation to one particular beat at a beach, he said there:

"used to be no one there, a few fishermen. But now there's families there ... it was bordering on a public meeting. Hundreds of complaints. They nominated a spokesperson. One guy took a fishing rod with him to beach, so he'd not be approached by them ... We are governed by the complaints ... it's a response to community complaints. With the housing development, children there and others. If there's no further complaints: no problems ... (however) we will be maintaining it (*ie police attention to the beat at Windang*)". I don't believe it should be done in public" (P:13).

4. Paedophilia (or the threat of it) was often seen as 'the real problem' related to beats. For example:

- One DC said that "other than involving young kids - beats are not a concern" (P:10).

- One RC said that the "safety of children" was the priority; while believing that "only a minority of beat dwellers are a problem (*ie in terms of "paedophilia"*)" (P:04).

3. Police respondents also mentioned 'violence', often as the most serious police-related concern for beats, but the number of reported complaints and arrests related to violence at beats was relatively very low. Historically, violence mainly concerned 'assaults' (eg P:09, P:12), although 'murder' was an issue for patrols in two areas (P:03, P:13). The investigations of these crimes led to increased patrols at the relevant beats. Other more serious police related problems such as extortion, sexual assault and police impersonation have been and remain patrol issues in some areas, but, again, these are isolated incidents (eg P:09)

#### *Rationales of Surveillance Methods:*

1. Police response employs both plain clothes and uniformed surveillance. The rationale for the use of plain clothes is its relative superiority to uniformed patrols for investigation and enforcement ie its success in achieving deterrence. Arrests appear to be crucial to the deterrence strategy and are unobtainable without the use of plain clothes. As one PC put it:



**DRAFT**

"This action is justified by virtue of the fact that when the police are in uniform, homosexual activity at that time ceases and offences don't occur. The analogy is unmarked police vehicles used to catch speeding motorists" (PWS:13).

2. Other justifications of covert surveillance were cast in very broad terms which invoked 'community concern'. As one Staff Officer said:

"... when you have major problem like (...) Oval, there was a plain clothes operation ... (because) the behaviour was clearly not acceptable to society in general" (P:01).

One Patrol Commander echoed these statements when defending the use of plain clothes in an operation conducted in his area:

"Considering the number of operations conducted with these areas and persons detected and arrested all operations have been carried out in a satisfactory manner from a Police and community point of view.

To effectively police the areas frequented by the homosexual community Police will continue to patrol the locations, both in uniform and plain clothes. I emphasise both from a community point, seeing the uniform officer *satisfies their* concerns and then in plain clothes for enforcement. The use of plain clothes is essential as the acts performed by persons who frequent these locations are within the view of the general public and with the presence of the uniform officer only prolongs the situation until police vacate the area" (PWS:5).

*Symbolic Significance of Police Interventions: Shaming*

1. These remarks also alert us to the symbolic significance of police patrols. This works on two levels:

\* police uniformed presence signals to the 'community' that police are responding to their complaints, taking action. The use of the media would also appear significant as a demonstration of the reality of police response (eg P:13, P:12, P:07?).

\* the spectacle of policing also has its own deterrence effect. The relates to both police presence in itself and police activity which 'publicly humiliates' men who have been apprehended at beats

2. This police practice applies in many contexts of public order maintenance. As Suzanne Hatty observes (1991):

"Foot patrol officers who use their relative invisibility like to make sure that everyone does notice when they make an arrest. If a drug possession charge is made in a park, the officer will take the accused out to the busiest gathering place; it makes like minded offenders scatter".

*Police Priorities; On-Going Concerns and Proactive Strategies:*

1. Beats were not expressly regarded as a patrol priority in any area. However, policing is not necessarily 'reactive' or confined to calculated operations. Beats become part of the routine concerns for operational beats police. As interviewees put it:

- beats are "part of the beat" (P:01).

**DRAFT**

- beat police routinely patrol beats: "on their daily round ... there's nothing untoward in that" (P:03).

Police respondents indicated the widespread use of uniformed patrols - especially among beat patrol officers who conducted routine, periodic surveillance of beats in their jurisdiction. The function of this policing was to deter beats not by making arrests but through a high profile presence which would have its own deterrence effect (eg P:12, P:11, P:04). Police also alluded to specific practices engaged in through this type of policing such as the recording of car registrations and name-taking.

2. After complaints 'identify' a beat it can get onto the patrol agenda of 'police problems'. Consequently, proactive measures become explicitly endorsed in certain circumstances: beats policing is not necessarily an isolated operation but can become long term practical concern within a patrol. For example:

- one PC reported that local beats were an on-going concern for his patrol:

"I'll be looking at it as a major operation around the family holiday period ... It will be an identified period when I'd say there'd be a problem" (P:12).

- Another PC expressed similar concerns and intentions. He believed that sexual activity at the local beat "will continue again this summer" and that "if there's no further complaints: no problems". He added, however, that "we will be maintaining it (*ie police attention*)" (P:13).

- Beats officers participating in a Patrol Training Workshop at Campbelltown said that they regularly investigated a beat in the middle of the local shopping centre without responding to specific complaints.

3. The perception of beats as an on-going problem is encouraged by police documentation of beats surveillance. Similar to the 'legitimation' of concern which flows from letters of complaint, police records - intelligence reports, crime incident reports, fact sheets etc - form a text which anchors the beat within the police bureaucracy (Smith 1988). These documents help construct police perceptions and also provide the basis for potential action at a later time. Should further complaints be received, these documents and police 'institutional memory' help frame the subsequent police response.

4. Beats are also subject to on-going policing where the areas they occur in generate other police problems. Many respondents alluded to circumstances in which beats could consequently be policed *inadvertently* (eg P:11; P:09). Either local detectives or beat police can have an area used as a beat 'on their agenda' because it is a 'black spot' for car theft. Beats can therefore sometimes be subjected to long term and informal policing in the absence of the level of complaints which is ordinarily the motivation for police beats surveillance.

*Stereotypes, Vagueness and Zones of Deviance:*

1. Police surveillance is largely maintained by the operational **stereotype** given to beats. This stigmatic oversimplification of the realities of beats endorses dominant cultural antagonism to their existence and provides confidence to police that they are dealing with a social presence which is against the 'community interest'. Beats become characterised as 'zones' of deviance worthy of general operational suspicion. For example, one PC, in describing the police concern related to one beach beat: said that the police operations:

**DRAFT**

"found obscene publications, condoms, bondage ropes and systems - it led to quite a number of complaints" (P:13).

Interviewees represent these attributes of beat areas as 'evidence' of their social undesirability and consequently a justification for police intervention.

3. Stereotyping allows police intervention based on the impression created by an area rather than specific acts; the nature of alleged offensive behaviour need not be specified with any accuracy. Interviewees frequently reported that complainants did not directly witness offensive behaviour but reported that they saw men 'hanging around' or standing together behind cubicle doors or that they 'heard noises' in beats (eg P:12). Yet these reports were sufficient to justify police response - in this case a plain clothes operation.

4. The practice of **stereotyping** also contributes to the widespread **association** of beats with other forms of 'deviance' ie drug use, prostitution and even car thefts. Certain people and areas become defined in the police imagination as 'outside society' or 'beyond the law'. An association is then made between people and acts or behaviours because of their presence in an area or participation in an activity, rather than through the direct observation of a connection between or involvement in these other forms of 'deviance'.

5. Other deviant activities with which beats were sometimes associated included 'soliciting', and other non-beats related offences eg drugs, car theft, sex assaults, as issues of police concern related to beats.

For example, one Western Sydney Patrol Commander identified a local public area as "notorious for both druggies and a beat". The PC also referred to an area near the local methadone clinic as a "beat" and said, "gay men gather there ... our experience is that gay men are also into drugs".

6. This stereotyping of people and areas appears to encourage presumptive surveillance for non-beats related or non-sexual offences because men are assumed to be 'suspects' for beats-related offensive behaviour. For example, the Patrol Commander and Patrol Tactician in one interview referred to one arrest which occurred at a beat in their area in August 1992 which involved a charge for the "possession of drugs and firearms" rather than "offensive behaviour" (P:12). The officers said that when his car was searched, officers found "porno material and dildos". In explaining the intervention, the PT said "it was obvious why he was there". The PC affirmed that the person was "identified as a contender for the beat situation because of the other gear and the photographs found in the car".

6. Some interviewees expressed the opinion that associated crime in areas regarded as beats can adversely and unfairly impact on men who do beats. As one Staff Officer observed that this can reflect badly on men who "legitimately" use beat:

"For example, maybe a park is a recognised meeting place. The same place can be the site for an attack on a child. It's quite a difficult area" (P:01).

**Policy Issues:***Entrapment:*

**DRAFT**

1. Peanutting was widely acknowledged as prevalent in the past but the contemporary practice of entrapment was universally denied by police interviewees. One Regional Commander raised the practice of '**peanutting**' during a discussion of entrapment and said:

"We used to stand around (*ie at beats*). I never did it. But they said 'blondes had a better chance'" (P:03).

Another Regional Commander offered this insight:

"the entrapment notion has been around; peanutting it used to be called. This is actively discouraged now" (P:1).

He indicated that he would be surprised if it 'went on now', then added:

"but I'm careful to leave the door open because you might tell me of reports. It would be taken very seriously. Besides if it is entrapment, you can't achieve a conviction and might have costs awarded".

2. Many interviewees' remarks were efforts to 'normalise' the practice of covert surveillance. In answer to questions which explicitly asked if officers "posed as gay men", police responses invariably denied this occurred and claimed that officers were merely acting or presenting themselves as 'normal members of public' (P:13, P:12; P:11).

3. Nonetheless, one RC acknowledged that a newspaper article which featured a photograph of a police officer in plain clothes at a beat after/during an operation 'showed concern' (P:01 on Windang operation).

4. Similarly, one DC when asked if police might 'initiate' recruits and young officers by conducting arrests at beats said this "was not a good idea" but when asked if he thought it still occurred, added "I daresay it does" (P:06).

5. One Patrol rejected outright the suggestion that police encouraged the commission of offences, and alleged that men at beats 'importuned' investigating officers (P:12). In this instance:

- \* the PC said: that plain clothes were used in the recent operations because "It'd be a stupid person who approached an officer in uniform";
- \* He affirmed that "police were briefed to act as a normal member of the public".
- \* Both the PC and PT were adamant that police did not elicit the offensive behaviour. PC affirmed that "no approaches are made by them" and said, for example, that at Deep Creek, one officer was "just walking along a path and the gentleman concerned grabbed his penis".
- \* PT added that in other instances, BUs "pushed cubicle doors open" and officers encountered "penises put through holes in walls".

6. By contrast, one Patrol Commander in another interview, acknowledged the argument that such offences would not occur 'but for' the presence of police officers (P:11).

*Discretion in Enforcement:*

**DRAFT**

1. Police respondents made a variety of observations about the exercise and limited capacity police management had to control 'discretion'. It was variously seen:

- \* as inherent to the office of constable and considered an individual officer's responsibility (P:01, P:07)
- \* variable according to the judgement of individual officers (P:12)
- \* as difficult to monitor in practice (P:01)

2. More formally, discretion was considered to be subject to general guidelines for its exercise which primarily encouraged alternatives to arrest. These were reflected in statements of police official policy provided by senior officers such as RCs (eg P:01).

3. More defensively, respondents suggested that discretion was satisfactorily exercised otherwise courts would reject evidence and prosecutions if it had not been: (eg P:03)

4. Alternatively, one DC said that arrest was preferred to other options in order to displace possible perceptions of 'bribe taking' among officers: (eg P:06)

5. Interviewees indicated a culture of pride in 'constable's discretion' which is jealously guarded. The possession of discretion is symbolic for police as an area of personal power. Attempts to regulate discretion are therefore potentially seen as both 'personal attacks' and challenges to their essential authority (<sup>14</sup>).

*Discretion in Prosecution:*

1. Respondents also indicated that the discretion of police prosecutors is rarely exercised for beats related offensive behaviour matters. Interviews suggested that relations between operational police and Legal Service Branch are unclear but little practical discretion is exercised. For example: one RC said there was:

"not much discretion, once charges were accepted. Police Prosecutors can suggest another charge, eg seek an adjournment and have new charge considered. Discretion is the Regional Commanders - they can decide if a case is in the public interest" (P:01).

2. Although the matter was not widely discussed, there would seem to be an institutionalised, organisational preference for resolution of matters in court rather than through the discretion which exists for operational police. This was affirmed by interviews with lawyers and men prosecuted for offensive behaviour.

*Community Policing and Liaison Initiatives:*

1. Interviewees provided varied responses on the approach to Community Policing in practice. Many stressed that direct consultation with men at beats was the key to developing appropriate police responses. These respondents referred to the possible usefulness of Community Consultative Committees (CCCs) in resolving beats-related problems: (egs P:01, P:03)

---

<sup>14</sup>) See eg SMH 8/10/92, p.13: Police Association story.

**DRAFT**

2. However, others who had pursued consultation in practice said this was unworkable. In one case, this was because men who use beats were perceived as not constituting a community for the purposes of a CCC (P:12) - largely because many of the men who used the relevant local beats did not live in the area.

3. Police invariably, in casual usage, referred to men who do beats in terms of the 'gay' or 'homosexual' 'community'. Yet, responses indicated that there were conflicting priorities for operational police and a tendency to explicitly endorse the interests of the broader community (the majority) over those of the 'gay' or 'homosexual' 'community' (eg P:09).

4. There was a varied understanding and sympathy for men who do beats problems in negotiating with police. One DC said that police consultation needs to develop trust and was sensitive to the problems which existed for men who do beats in approaching police. Others, however, while utilising the same 'rhetoric' of CBP, were 'astonished' that men who do beats would not approach police: (eg P:03).

5. This same senior officer exhibited a lack of awareness of the different problems associated with CBP in practice in different social contexts. He emphasised the success of gay liaison in one regional area and provided an uncritical assessment of the possibilities for liaison in Sydney Metropolitan areas. It would appear that the widespread ignorance of the nature of gay communities (and their different character and visibility in different areas) and their relation to beats represents a serious obstacle to the use of CBP mechanisms and principles.

**Gay Liaison:**

1. Respondents generally considered beats to be a gay liaison issue, although some simultaneously recognised that many men who use beats are not 'gay-identifying'. One RC suggested otherwise and insisted that gay liaison resources were designed to exclusively serve the interests of 'normal' gay identifying men (P:04).

2. There were also uniform statements from officers that there were no special guidelines/treatment for gay men in relation to beats in any other police related issue.

3. The advent of gay liaison within the NSWPS has clearly had some impact on police attitudes. Especially among the more senior police interviewed, co-operation with the gay liaison unit and the rhetoric of gay community liaison was invoked and emphasised. There were clear examples provided of positive co-operation between the police and the gay community at an operational level which in many cases has directly involved the Gay and Lesbian Liaison CGC or GLLOs.

4. However, the influence of gay liaison on the Police is generally limited, especially outside 'gay community' areas where police experience of gay men is extremely low. The interviews illustrate that there is apparently little co-op with the gay liaison unit in practice; and a persistently high level of ignorance of about gay community and the nature of beats.

**Complementary Surveillance****Councils, Shopping Centres, Media**

1. Police surveillance is often conducted in co-operation with other organisations which generally share the intention to suppress or regulate beats. In addition to liaison initiatives, these organisations also

**DRAFT**

engage in unilateral surveillance. These actions impact on beats and Beats Outreach because they reinforce police surveillance and enhance overall surveillance.

2. Yet, as with policing, these complimentary forms of surveillance are not universally antagonistic towards beats. The general, social tendencies which define beats as offensive and a nuisance are modified by specific discourses through which beats become defined as "problems" by various agencies. These perspective in turn suggest different policy responses from the different organisations. Further, within particular organisations, different discourses may be operating within the same context.

*\* Councils:*

Councils have a different professional perspective on beats from police. Its imperatives are local accountability, public sector managerialism and general public health. Beats are a problem which generate rate-payers' complaints; and property damage. Councils do not have coercive power in this context; although some park rangers have the powers of 'special constable'. Council functions also extend to providing services which relate to public health.

Therefore, councils may co-operate with police, lock toilets and paint over graffiti to deter beats and to protect council property; while they may also be aware of 'public responsibilities' to contribute to HIV prevention, and to men who do beats as citizens or rate payers.

Council interviewees reflected a range of attitudes towards beats. One council worker (a manager) saw beats users as "part of the community" to whom he has a responsibility in public health terms. While another (a maintenance officer) referred to beats as "poofter havens".

Public sector managers' professional practice would seem to encourage a greater tolerance and less moralism in their approach to beats, than that evident in the traditions of law enforcement. For example, a senior manager at Centennial Park had a very pragmatic view of the beats within the park under his management. Although they generated a substantial number of complaints, the manager considered that management had a responsibility to 'minorities' and was sceptical about the seriousness of the offensiveness they represented. The manager emphasised that park areas used as beats were secluded and the activities engaged in by men were 'discreet'. The manager also identified the need to maintain a delicate balance of beats within the park precisely in order to keep the rate of complaint under control.

*Council Action:*

Councils reported surveillance measures designed to deter beats, which were similar in effect to police plain clothes operations. Council employees conducted informal surveillance of the beats, and councils altered, redesigned or rebuilt beat areas to deter the beat in a number of cases. These included:

- \* David Frater (Parramatta)
- \* Loftus Oval (Sutherland)
- \* Milperra (Bankstown)

*Police Council Liaison:*

1. Operational police function within local communities and are part of the parochial power network constituted by councils, community interest groups and community media etc. (White 1992)

**DRAFT**

2. Both police and council interviewees frequently reported very close liaison with local councils. All major operations featured significant council liaison and input to community response to beats (eg Loftus, Parramatta, Collaroy).

3. Police often encouraged and endorsed measures and expenditures undertaken by local government in their attempts to suppress beats. In some instances (eg Loftus, Parramatta), the organisations approached local beats as an issue of mutual concern and pooled resources to develop 'problem solutions' or 'deterrence strategies' (eg Sutherland, Collaroy, Parramatta, Wollongong).

*Shopping centres:*

Centre managers also have a different professional perspective on beats. Its imperatives are "customer service", property management and accountability to private managers or building owners. Beats are a problem which generate customer complaints; and property damage. Yet day-to-day shopping centre surveillance depends on private security who lack coercive power, and men who do beats are also customers.

Therefore, shopping centre managers employ security guards to patrol toilet areas, and may call in police to arrest people in efforts to suppress beats.

Private sector managers may also reflect a greater tolerance and less moralism in their approach to beats than that prevalent among police. The Centre Manager at Mid City Centre expressed concern that over-zealous surveillance may alienate customers. While the manager said that the men may use the toilet for "undesirable purposes", he explicitly acknowledged that employees within the centre were gay and had been known to do the beat on the property. The Manager also insisted that: "I don't want my security guys brutalising the customers".

*Police Shopping Centre Liaison:*

1. Police routinely liaise with 'proprietors' in the regulation of commercial public space in Central Business Districts and Local Neighbourhood Areas (see White 1992).

2. This form of liaison appeared to be somewhat less significant and frequent than council liaison. The operation of this liaison depended on the context of the beat. Obviously, the beat had to be in a shopping centre.

3. To an extent liaison was framed by the attitude of the relevant shopping centre manager to police liaison.

- One reported occasional use of police to 'deal with' beats and pointed to regular liaison between their privately contracted security service and the local police. This had spawned a number of arrests and led to a diminution of complaints within that centre (North Sydney).

- By contrast, one centre manager was clearly opposed to the involvement of the police in resolving the 'problem' of beats within the centre. This was less a question of their appropriate involvement to deal with beats per se than a result of past experiences with local police which had made him sceptical of the value they offered (Sydney CBD).

*Media Surveillance:*



**DRAFT**

Media reports constitute another form of surveillance. Articles, particularly in local newspapers, are often published to express the concerns of local politicians, residents, business people and others about beats in their areas. The reports invariably project an intolerance of beats and indicate action being taken to suppress the beat.

*Police Media Liaison:*

1. Police media liaison is formally regulated by head office policy. Operational police are limited by this in what they can say to the press. Nonetheless one RC acknowledged the media's role in inducement and prevention of fear and that this could serve police operational interests: (eg P:01)
2. He also stressed that officers should show respect for citizens' privacy and not vilify men accused or convicted of offensive behaviour. On this point the SO in that region said that one particular public statement was regrettable: (Eg P:01 on Milperra story).
3. Some police tended to emphasise that they were the 'victims' of media misrepresentation, rather than manipulators of its power. (eg P:13).

**The Experience of Surveillance among men who do beats***Problems in Obtaining Data on Beats:*

1. Police Services and other bureaucracies generally assess 'problems' related to the ethics and propriety of practice in terms of the *number* of official complaints generated by particular police actions. Yet, it is axiomatic that the actual rate of complaint in any context underestimates the incidence of underlying defined 'problems', especially in relation to marginalised groups.
2. The social position of men who do beats presents serious problems for 'data collection'. The dilemma is common to other contexts, for example, that encountered by the ADB in its effort to investigate the incidence of HIV related discrimination. Its 1992 Report put it like this (p.115):

"Data on HIV and AIDS related discrimination is difficult to obtain. There is a widespread perception that complaining or (even reporting) achieves nothing and may lead to either to personal identification or some form of further disadvantage ... Many people with HIV and AIDS, or those from traditionally stigmatised groups popularly identified with HIV (My italics), simply accept that discrimination is part of their lives and something about which they, and probably everyone else, are powerless to do anything ... Formal statistics of HIV and AIDS related discrimination therefore can only represent a very small percentage of the whole".

3. Men who use beats are one of the most marginalised and stigmatised 'groups' in the 'community' and rarely register complaints through recognised channels eg Police Internal Affairs, Gay Liaison Officers or the Ombudsman.  
This contributes to the perceived absence of problems associated with beats surveillance.

4. BOWs reported a number of encounters with men at beats who complained of police practice, sometimes alleging 'entrapment' or 'vilification'. Yet, these men invariably did not proceed with official complaints, despite the encouragement to do so from BOWs who informed the men of the existence of police complaints mechanisms and 'gay liaison'.

**DRAFT**

5. Reluctance to report extended to incidents of violence. For example, in recent 'sexual assaults' at Sydney University, involving a number of young men, no official complaints were made. The matters were only pursued after the intervention of ACON, publicity in the gay press, and the action of the University's Student Representative Council.

*Qualitative (Empathic) Research:*

1. Analysis of the experience of surveillance is based on a range of qualitative interviews and reports on interactions with men who do beats. These take several forms:

\* interviews formally conducted by the project researcher with men at beats or at ACON either in response to an advertisement in the SSO, after referral by a BOW or through the 'community grapevine'

\* reports from BOWs on interaction with men at beats - BOWs were 'briefed' to report to the project researcher with information on surveillance relayed to them in the course of interactions

\* interviews with lawyers, other ACON workers and academics with experience of beats and the men who do them in their professional capacities.

*Overview:*

1. Suppression of beats and dispersion of the men who do them are the objects of policing. 'Eradication' or 'removal' is seen as impossible and police typically recognise the qualified success of suppression. Surveillance becomes a question of 'control' rather than elimination. What emerges from an analysis of the subjective experience of policing is that the enactment of these intentions relies on *informal policing strategies* which were not thoroughly canvassed by managerial police interviewees.

2. The research indicates that police practice possesses a *punitive dimension* which enhances problems for the Beats Outreach project. This is explicit in police statements about the intention of 'causing disquiet'. However, more significantly, this is the *common result* of police beats surveillance through either the intentional or inadvertent dispersion of men from beats.

**Indications of Prevalence and Continuity:**

1. The experience of interviewees and BOWs indicates that surveillance is practised and experienced across a very broad area. Their common experience of police beats surveillance is perhaps, then, less exceptional or infrequent than police interviewees considered. It would appear that beats are on the 'patrol agenda' in many areas, either continually or periodically. Consequently, if police patrols of beats are relatively pervasive, patrols which have conducted 'notorious' operations and alleged entrapments should not be overemphasised.

2. Interviewees widespread direct and indirect experience of surveillance in beats is affirmed by the experience and statistics of BOWs and other HIV workers.

\* One BOW working predominantly in one area in Sydney's West said that on the basis of Beats Outreach 'stat sheet' records which note the items discussed in interactions with men at beats: 34% of contacts over a 9 month period mentioned the police in the interactions. Where 'police' was recorded as an item of discussion, the BOW reported that:

**DRAFT**

- they were the main discussion point with men who do beats.
- Men who do beats were reporting "mainly direct, personal experience of dealing with police"
- this typically meant being asked by police "what they were doing there"; "having their names recorded, car rego taken in most cases and being told never to go there again".

\* The reporting BOW further noted that:

- "some reported being called poofers and mentioned the affect this had on their life - made them wonder about doing beats, apprehensive - wondered why police were doing this when there was real crime out there".
- there were no reports from men who do beats of "physical harassment" by police officers, he said the harassment was "mainly verbal"
- there was no evidence to suggest that there was 'video surveillance', which had been alleged at times in the past in connection with certain beats.

\* At the beginning of 1992 a worker with a State Government Funded HIV prevention project <sup>(15)</sup> contacted ACON to report his encounter with two police officers when conducting field work. He told the project researcher that:

- "The officers came to the beat in a paddy wagon and were in uniform. The worker reported that there was only one man at the beat at the time and that he was planning to drive away when the police arrived. The police went into the beat and the worker waited in his car. Subsequently, they returned to their car.
- When the worker started his car to leave, the officers allegedly "parked him in". They then questioned the worker, checked his license and asked what he was doing there and indicated that there had been reports about "homosexual activity". The worker replied that "I'm here for other purposes", informed the officers of the project and that he had been targeting this beat for 2 weeks.
- The worker reported that the officers asked "Do you do these things?". When he replied "Yes". They said "You're spreading AIDS to your wife". During the conversation, the officers interestingly and encouragingly asked if he could supply them with safe sex brochures which they would give to anyone they encountered. Nonetheless, the officers indicated the "intention" of the police to "pay attention" to the beat over the summer. They warned the worker that men found here would be "taken to the station". Apparently, two men had already been arrested recently at this beat.
- He added that during the interaction the male officer had said to him:

"If I had a son, I'd murder him if he was a poofter".

---

<sup>15)</sup> The 'SMASH' (Sydney Men And Sexual Health) project.

**DRAFT**

- The project officer indicated that police action was prevalent throughout the area he had worked in and reported that, in his experience:

- Spit Junction was regularly patrolled by police - mainly in uniform
- Police had been known to use plain clothes at beats around Collaroy
- Narrabeen was an area "known for thuggery" and that there had been good liaison with Collaroy about violence
- the tourist bureau at Manly was usually targeted by the police
- At North Sydney Shopping Centre: "You see them dragging them out there".

\* One gay man from a large rural centre described the patterns of the policing of beats in the area. He said that:

- there were 3 or 4 beats in the area
- "the majority of policing is in uniform"
- police action mainly consisted of "being asked if you're gay, names being taken down. Going to the beats is part of police foot patrol. The Gardens are part of the main block. They also use patrol cars".
- in the Botanic Gardens, one of the more popular beats, police have been known to "close off exits to car parks and chase people around parks and down gullies"
- at another popular beat, "Mungabarina", "cops'll go through with their sirens blazing and lights flashing. Some guys are 'proud' and it doesn't bother them. But others could find it horrific". Joe said he was sympathetic to their feelings.

\* However, the man added that there were:

"no reported arrests. I don't want to use the word harassment. People are being asked for their particulars and moved on".

*Interviewees Reports on Frequency:*

1. Men interviewed reported that direct encounters with police were an infrequent occurrence. Responses (short because of the wording of the question) included these remarks:

- \* "Up until a few months ago never, but recently quite often".
- \* "Infrequently".
- \* "Not often, occasionally"

2. However, interviews reflected that the beat scene has a constant flow of information about police and other surveillance across a range of areas. This grapevine or bush telegraph operates to make police surveillance a 'day-to-day' consideration among men who do beats.

*Police Surveillance: Old Timers*

1. Many men reported encounters with police over a long period of time. This included the experience of arrests and convictions. For them, police surveillance and its impact had become a fact of life. Many of these experiences reinforce perceptions that police can be and often are antagonistic to the men's social and sexual practice. This, in turn, can nullify their willingness to trust police.

Examples:

**DRAFT**

\* One gay man, now living in the inner city, reported that:

"I was arrested at Roselands when I was 18. I passed a note under the door and the guy pulled in security ... Overall, I've had good experiences with cops - I've been lucky - it's different out in the suburbs, like Campbelltown".

\* Another gay man, 60 years old, reported that:

"I've been arrested 5 times over the years. I've had 3 convictions - all fines - all involved agent provocateurs. The last time I was convicted was 1971. The last arrest was 1978. I paid off the officer. The charges were for "attempt to procure an act of indecency" - which could mean that you farted".

\* Another older gay man, interviewed in January 1993 in Parramatta, listed a string of experiences with police:

- 10 years ago A said he was arrested at a mall in Parramatta. A security guard apprehended him and called the police. He was charged with offensive behaviour, went to court and was fined. He said he was "shit scared" as he was married at the time. No longer married, he says he now has less to lose doing beats and is no longer closeted.

- in Auburn 'two weeks ago', A said he had walked into a beat in the area and found two plain clothes police officers talking to two guys inside the beat. One of the officers was female. He said that he told the officers that he refused "to piss" while the female officer was present and asked them to leave, which they eventually did. He also claimed that two beats in the area were being patrolled by plain clothes police and that they were "taking photographs of car number plates".

- two years ago A was at a beat in Campbelltown, two guys were "fucking through a glory hole" and he was "wanking at the urinal" when two police officers entered the beat. However, the officers did not see A wanking - they asked him his name and let him go and then questioned the other two men at the beat.

- "10 years ago" A was bashed by a group at a beat in Wentworthville. He had thought the men involved were interested in sex and they had been discussing having sex with each other when the men "turned on him". There was a struggle but A eventually got free and ran across median strip to somebody's house and called police - who responded quickly, "they were there in five minutes". A said however, that he was careful not to mention that he had been doing the beat at any stage - to the people who helped him, or the police. Surprisingly, the men were still in the area and A said the police were able to apprehend the culprits.

- in 1991, at George's Hall, police stopped and asked A his name, asked why he was in the area and asked him to leave

- at Parramatta Lake, "five years ago", A was having sex in his own van with someone he had picked up at a beat. The other man held a knife to A "after intercourse". A said he made no report because of the circumstances: ie because he had been having sex with another man. A added that he also thought the boy may have been seventeen.

**DRAFT**

- at Parramatta Lake, "2 years ago", A was "fucking" in his van when police arrived and questioned him. He and the other man "gave different stories". The officers "checked the van for drugs", but A said "they were ok" and eventually let them go.

**Experiences of Surveillance:***The Other Side of Plain Clothes Policing and Inducements:*

1. The perception that beats were policed by officers in plain clothes was widespread among men interviewed and this practice had been directly experienced by some.

\* For example, one interviewee reported that he had been subject to the historical practice of 'peanutting'. When asked if he had ever encountered police who participated in sex while patrolling beats, answered:

"No, but in the past they'd pretend they were gay, they'd be young officers, they'd show you their cocks".

\* The experience of men interviewed or encountered by BOW workers reflected that the practice was not uncommon but did not necessarily lead to arrest. One BOW reported that a young man, J:

"was at a beat near at his home in Parramatta and was mainly socialising. J said he was "cruised" and "flashed his cock" - ie cruised back, let the copper know what he was interested in. The copper made a beckoning movement, asking J to come outside, J followed because he thought the officer wanted to have sex with him. The man turned out to be a police officer in plain clothes. The officer took him out of the beat and let him go".

\* Another BOW report concerned a case of alleged entrapment which a man mentioned during a Beats Outreach interaction at Windsor. The man said a friend of his was doing the beat at Castle Hill Mall when a man "asked him outside". The BOW said the man reported that his friend "believed the 'officer' wanted to pick him up and have sex with him, definitely. And this suggestion was the only reason why this guy went outside to follow him. His friend thought that the man was 'doing the beat' but he turned out to be a police officer". Again, in this instance, the man was not arrested, just spoken to.

\* A barrister reported a number of cases in 1992 in which he appeared for men charged with beats related offensive behaviour. In an interview for this project, he summarised the facts of two of these as follows:

- i) "A man in mid 40's, no prior criminal record, well regarded school teacher. Very large public park in Sydney. Beat had been there for at least twenty years. Secluded area of the park, where it's extremely unlikely that anyone visiting the park would go. There's no way a person could be spotted in there. He was in this area. Saw two people approaching, wearing shorts and a t-shirt, t-shirt and jeans. They made some eye contact. And as they got closer, they hovered around him, made eye contact, but said nothing and they gave the man the impression they were other gay men who were looking for some kind of contact. What these people were doing might be called cruising. This person unzipped his fly, and went to pull his penis out. He wasn't entirely sure if he had or was about to - he believed he was about to, when they identified themselves as police and arrested him. It's entirely possible that he (*ie the defendant*) pulled his penis entirely out.

**DRAFT**

- ii) "(The area was) a gay beat for a long time, my client had gone to use the public toilet. Pulled up in car. Sitting in his car, a man started hanging around. He then went into the toilet, the cubicle. This man then came into the toilet didn't do anything, just hung around there. My client came out after a few minutes use of the toilet and this man was hanging around at the urinal. My client just went up to him and stood next him - no words were spoken. My client went back to the wash basin and washed his hands. This man came up him and stood next to him. My client said to me in instructions that he gave him 9/10 for cruising. No words were spoken, this guy was just hanging around. But this guy turned out to be a park ranger. My client then went into the cubicle and closed the door. The door's lock was broken and couldn't close properly and proceeded to masturbate and had a quick look to see where this person was, couldn't see where but this person was just hanging around in there.

The stories diverge now. My client says that he stuck a badge over the top of the door and said you're under arrest. The ranger said my client had the door wide open which is probably impossible (*ie when a man is sitting on the bowl*) because of the smallness of the cubicle. He was then taken out, under arrest, a few words were spoken. The ranger, again wearing plain clothes and around that time a direction had been given by the people running the park that rangers were not to wear plain clothes. Because anecdotally, they're arresting people left right and centre there".

- \* The barrister quoted above elaborated on the nature of this practice:

"the police and park rangers are wearing civilian clothes, jeans and shorts - in one case a male dressed as a female ... it puts you off guard, you don't expect them to be police ... They hover around, which is accepted as cruising, and I guess the police must know what they're doing, because it happens in each case. The eye contact that's made. Hanging around with no words spoken. The combination of the casual clothes and the "hovering around" gave my client the impression that the "police" were interested in some kind of contact".

2. BOWs have themselves come across police conducting plain clothes surveillance in this way. The following is a report filed by a BOW to ACON management in January 1992:

"On the second of January 1992. At approximately 1.20 p.m. ... (*BOW's name*) ... entered Auburn library toilet block after observing a man enter. As I walked in I made immediate eye contact with the man who was standing at the urinal. He had his penis out and was not urinating. Although it was not erect he was playing with it. I then proceeded to enter the disabled cubicle directly opposite him, and closed the door. I waited for about three minutes and then opened the door to observe the man still standing at the urinal. As he was playing with himself I proceeded to the wash basin to wash my hands. I looked around to notice him looking at me and his actions led me to assume he was interested in some action. I proceeded over to the urinal wall and asked him to come outside for a chat. I then left the toilet block and went outside. He followed me. I then said, "It's a bit quiet and not much is happening" We then shook hands and I said, "Hi, I'm ... from the AIDS Council". Before I could say anything else he produced a badge and said "YOU'RE WASTING YOUR TIME WITH ME I'M A PLAIN CLOTHES COP" (*BOW's capitals*) and left straight away. I then walked back to the car to discuss the incident with ... the other beats worker. We spent more time at both toilets and noticed that he had left".

**DRAFT**

3. Arresting officers in beats related offensive behaviour are invariably in plain clothes. However, this is not necessarily the case - one man interviewed for the project, who was charged and prosecuted for beats related offensive behaviour, reported that his arresting officer, a park ranger (special constable), was in uniform at the time of the arrest.

*Inside Police Plain Clothes Surveillance:*

1. The data from both managerial police and men who do beats does not shed much light on the mechanics and experience of doing 'beats surveillance'. The project obtained one report from a former ACON employee who encountered an off duty police officer who was doing a beat in Sydney's Inner West. The two men had a long conversation about beats and police responses. The report of this exchange provides some insights into how the police may conduct beats surveillance.

2. The story concerns an operation conducted at a beat in Sydney's inner city - apparently in 1991. It lasted for three days and procured 16 arrests. The officer who spoke to the ACON worker makes many interesting general comments about how negativity towards 'homosexuals' and 'beats' varies among officer. He participated in this operation (and apparently one other) and, as the text of this interview demonstrates, was a reluctant actor in the process. The officer reports during the operation that he tried effectively to minimise the impact of surveillance upon the beat and the men present there.

3. The depiction of beats surveillance also confirms suggestions made by police officers encountered by BOWs during outreach, and reported in the media, who speak of their difficulty in participating in such operations when they are men who have sex with men, especially if they are gay identified.

4. If accurate, the description of the plain clothes operation raises or confirms many doubts about the ethics of police detection in beats. Further, it affirms hunches that these operations have a 'positive' subjective function as a heterosexual socialisation ritual among male police officers. Interestingly, the report also suggests that female officers are not necessarily any less intolerant than males because of the threat to assumptions of monogamy and exclusive heterosexuality which are represented by beats.

\* Report Transcript. The interviewee, G, summarised the conversation he had with the police officer in this way:

"He said he'd been lucky with the police who he'd worked with and the officers with him were often junior so he could pull them up if they misbehaved. He'd say that they can't have a negative attitude. He said women were just as bad as the men".

"I told him I'm not afraid of the police and how I talk to them when I run into them and try to work out what they're on about. He said ok and told me about this operation he had been involved in about 18 months ago in Moore Park (Nb - he also talked about Centennial Park)".

"It was a three week operation. They arrested 16 people. He said "when I acted as a decoy it was really hard, I didn't like it".

"He said the officers would go into the bushes and pull their cocks out like they were having a piss and just stand there, maybe holding their cocks and pulling it a bit - nothing really 'sexual'. And the moment that someone approached them, touched the cop, or just put their hand on them, no matter where, they were arrested".



**DRAFT**

"It's ridiculous - they're the one's with their cocks hanging out - they're the one's being offensive and the guy's probably fully clothed and done nothing".

"He said they used trainee police constables and, yes, they deliberately chose the best looking ones. I always thought it was a fallacy - pardon the pun. (Laughter) He said that made it harder for him - cos they were there and really yummy and wouldn't have minded getting off with them himself!"

"He said they did it on Thursday, Friday and Saturday nights. Thursday he said it was 'full on' - didn't really say what that meant. Friday it was more 'easy going' and by Saturday 'no one gave a fuck'".

"He said that he'd park over near where the guys park and go and warn them - he'd say there was an operation on, warn them".

"I asked him about the cops attitude to doing all this, what they're thinking when they go into beats and he said "It was like they've got to prove it to themselves and each other, that they're poofster haters", like who can arrest more than the others, it's like a game, like a notch system.

"He said they'd do this because they'd get a call from the council saying "we've got a real problem" and then "we'd have to go and clean it out" - they were the words he used. And then he said, "As far as I'm concerned, we go down and we just wanna show them we're there and if we flush em out, our job is done".

"We stopped then and he told me that his PC knows he has sex with guys but didn't make it clear if he identifies as gay or bi or what - he had a baby seat in the back of the car. He said that the females were just as bad as the men. Some had a bad attitude, they'd call em 'fuckin poofsters' in the car. He'd tell em "forget about that while you're working with me". He said he always defends the men when he's working at beats".

"I asked him what it was like when they were organising one of these operations. Like what did the PC say? He said it depends on the PC - that's like with everyone else. To some it's just a job, he said, you can't tell yeh or ney. Some hate them. PCs are the same but they can't be as open as they'd like to be. But you know from certain things they say, from how they say it. It comes across. He said "It's not like we wanna do it on purpose, we have to do because it's our job".

"He said when he "was acting as a decoy" as he put it, "I stand there and if somebody comes along and touches me, I just push em away - I don't even arrest them if they approach me. I try to look like I'm going after them if the others are looking but I don't arrest them".

"I said it's not like these men are criminals and prostitutes and drug users - he said 'I know, I know' - for christ's sake, we'd just had sex!"

"I thought this is amazing, you here stories from beat users all the time and you think ok, how much is perception and what really happened. You know, about using the pretty young cops and all that. But hearing it from the horse's mouth it was like 'fuck it really does happen like that'".

**DRAFT***Circumstances of Surveillance: Absence of the Public and Sex*

1. Interviews with police, lawyers and beat users affirmed that police were the witnesses used in each case of arrest or prosecution discussed in this report. Although police action was motivated by public complaint, civilians were not used in any prosecutions relating to offensive behaviour. This trend was reflected in reports on operations provided by police respondents and noted by a barrister interviewed for the project:

"In these three cases, there were no members of public who observed the behaviour, there were no members of the public called to give evidence and we only get the public mentioned re complaints about offensive behaviour, but not gay behaviour and none of these people were called to give evidence about that. It's doubtful that that would be admissible. But there was nothing other than the police's word, justifying their being there".

2. Arrests also rarely involved the actual participation in sexual activity. Defendants were invariably acting alone. The overwhelming majority of men arrested and prosecuted have not been engaged in sex at the time of arrest. Again, this barrister observed:

"none of the ones I've heard of anecdotally have involved any sexual act, in fact, they rarely do. It's very rarely behaviour between two gay men. It's the police whose behaviour has got one person to do something and then the police arrest him. Very rarely do they come across two gay men doing anything. It doesn't happen in my experience. Except for one down south and it really was a matter of debate as to what was happening down there".

3. Many men were and are arrested and prosecuted simply for masturbating within a cubicle which is not visible to anyone unless an attempt is made to witness the behaviour. Some cases of this nature have resulted in acquittals <sup>(16)</sup>.

4. These cases reflect that sex at beats is hard to detect and 'prove' for the purpose of prosecution.

5. These cases also reflect the broader reality that men are most commonly arrested, questioned or otherwise dealt with by police (and that suspicion about them is largely formed) because of their simple presence in an area. The encounters reported by interviewees in the following discussion were invariably ones in which the men were not engaged in any activity of a sexual nature.

\* One man interviewed said that he was approached by police in Parramatta when effectively 'doing nothing'. He said:

"I didn't approach anyone - no one else there. They drove past me, backed up. I went and approached them. As soon as they pulled up, I said "I'm out for a walk"".

*The Informality of Police Surveillance:*

1. The interviews confirm that police covert surveillance or use of inducements and other strategies designed to 'deter' men from beats do not necessarily lead to arrests. Police respondents indicated that

---

<sup>16)</sup> Eg DPP v Hannah (unreported); DPP v Waddington (unreported)

**DRAFT**

only a minority of men 'spoken to' or questioned by police during the conduct of deliberate campaigns were arrested or charged (or other).

\* In one operation in Sydney's West in early 1992, police reported that participating officers:

- "spoke to 40 people"; and yielded
- 6 "breaches": 5 for offensive conduct; 1 for sexual assault (upon a minor); and
- 70 CIU forms - ie police 'intelligence' reports

\* For another operation in Sydney's North, police reported that officers:

- yielded 8 arrests for offensive behaviour; and 40 CIUs

In these instances, the proportion of formal interventions (arrests etc) to intelligence reports or contact with men at beats is roughly: 1:11 and 1:5 respectively.

2. This suggests that much policing which materially affects Beats Outreach would never emerge in official statistics. Such an impression is reinforced by the bulk of the data provided by men who experience surveillance. It suggests that the subjective and collective experience of beat surveillance (and the impact on Beats Outreach), predominantly concerns informal practices. Only a minority of interviewees were arrested, and few actual arrests of others were reported in interviews with men who do beats.

*Specific Measures of Beats Surveillance:*

1. Men interviewed confirmed a variety of consistent police practices used in the surveillance of beats. Some of these practices are not exclusive to beats but rather are part of the *techniques* of general public order maintenance.

2. Many reported being questioned and having their names and/or car registration taken down. Some interviewee's remarks:

\* "Yes: they took our names, birthdate and car rego".

\* "Very probably: they must have made some record to be aware of my car".

\* "I gave them name and address - nothing else. I'm innocent until proven guilty".

3. In other instances, interviewees reported that they were subjected to warrant checks. J said that this had occurred in the two direct encounters he had with police in Sydney's West in 1992:

"... they checked my name, date of birth, drivers licence. Did check of outstanding fines, warrants for arrests".

In none of these cases were the men charged or witnessed engaging in any offensive behaviour.

*The Subjective Impacts of Police Surveillance:*

**DRAFT**

1. Interviewees invariably reported being asked or told to move on and/or instructed not to return to the beat. In response to the question, "*Were you cautioned/moved on?*", typical responses included these:

- \* "Yes". They said, "we know you're here - go away".
- \* "They tried to move me on".
- \* "Yes. They said "We'll charge you".

2. One man reported two such experiences in the course of one night spent doing the beats in an area of Northern Sydney. The first case, as communicated to the project by a BOW, involved this:

"It was late, 11 or 12 pm. R met a guy at the Forestville shops and the guy suggested they go to the Forsestville RSL cos he knew of toilets near there. They walked there. They started having it off in the bushes. The other guy didn't feel comfortable and wanted to go into the toilet. When inside, R heard a car pull up. The lights flashed inside the toilet. R got his act together and went outside and saw it was a cop car. 2 cops got out. R said "They implied they knew what was going on but never said anything about sexual activity he might have been engaged in." But they knew he was inside the toilet with someone else. He wondered how they knew that and that perhaps they had followed him. They asked him immediately for his phone number and address and then, in his words, "they went into the toilet to flush out the other guy". When they brought out the other guy, he pretended to be drunk - Ross thought this may have been because he was not gay identified. They took down his details too.

- \* The BOW related that R then gave an account of another encounter with police later that same night:

"On the way home that night R stopped off at Forest Way toilets - at about 1 am simply to use the toilet. He was there for a few minutes. Alone. He heard a car pull up right outside the toilet. 2 cops walked in - in uniform - and asked him what he was doing? "What does it look like?" was R's response. He got his act together and walked out. They proceeded to take his address and phone number".

- \* The BOW further reported that R said:

"I was asked to move on because of homosexual activity. R is convinced that at this particular beat, the police car was lying in wait, parked behind some trees around the corner. He thought this because he could tell that the car had not come from very far away; it also seemed to happen too quickly".

3. In another encounter at Christmas 1992 in Sydney's Inner West, one man - a former ACON BOW - reported a similar experience with the local beat police when doing a beat in his own time:

"I was sitting under my favourite tree. A cop wagon arrived with three uniformed cops. This was around the time of the Rydalmere abduction. They walked past me and went over to the Bowling Green. On the way back they flashed their flashlight in my face. I said: "Please you don't have to shine that light in my face!" They said: "We have to see who we're talking to". I said: "You could do that without shining a light in my face".

He continued:

**DRAFT**

"I asked them to come over - they did. I asked them if I could ask some questions - they said fine. They were very obedient! (Laughter) I asked them which division they came from - they said "Ashfield". I said can I ask you your patrol commander's name, they said, "Lemmon". I thought it was strange they were being so co-operative. The moment I mentioned I was from the AIDS Council, they just left and said, "no worries".

4. Another example which involved informal policing and no arrest was offered by a man interviewed at a beat in Blacktown in mid-1992:

T had been in a car park, just "jerking off with a guy" in the other man's car, "not really doing anything". Trevor said "the cops screamed into the car park, headlights blazin and shined torches in the window". He said one officer was "hostile" and the other "friendly". Trevor said the hostile had said to him and his acquaintance them that they were "fuckin poofers". T replied, "yeh, I am a fuckin pooffer, what's it to you? We weren't doin' fuckin' nothing". T said it was "funny" that the hostile cop "wanted to know why we weren't using the 'shit house' like we usually did".

*Police Surveillance: Language and Threats*

1. Men interviewed consistently reported that *implicit threats and harassment* were often conveyed through police directions in encounters as beats. These were epitomised in statements which indicated that the men were unwelcome and "disapproved of". They also involved veiled statements in which the police merely pointed to the use of the area by "homosexuals" or outright vilification. Examples include these alleged statements by police:

\* "No, just said, "we know your types hang around here"".

\* "Yes. They said, "Don't you know what this place is?"".

\* One gay identified man and regular beat user said he had encountered police several times over recent years at one Inner West park. G reported that in June 1992:

"I was walking up a footpath ... It was the Five Dock Police. And was stopped by some plain clothes detectives. In a white commodore. A plain clothes car! (Laughter). One of them was quite intelligent, the other was a 'derr'. They were tense and defensive to start off. I had a friend standing there. They had no idea of beats, why men went there that sort of thing. They said "there's been reports of homosexual activity, crimes gone up. One woman's definitely seen money being exchanged". I said: "How could she see from over there?"

- G said to the police:

"I know the men who come here, been coming here for 8 years - I've never seen drugs, soliciting. I went through the whole gamut of who and why men did beats" He said "they were quite receptive".

- In another encounter, in 1992, this man reported that :  
while alone in his car, having a cigarette:

**DRAFT**

"The police turned off Parramatta road into the street beside the park and flashed their hi-beam on. I thought 'Not again!' It gets tedious. They pull up alongside the car. They said: "Can we ask you what you're doing here?" I said: "Til you came along I was here minding my own business smoking a cigarette" ... I wonder if there's not an official policy about the words to use, cos then they said: "We've had problems with homosexuals in the park". The cops have said "We've had complaints about homosexual activity" and I said "You come from Ashfield don't you and your patrol commander is Lemmon". They seemed surprised that I knew this. I said "I work for the AIDS Council, I'm off duty and you'd be wasting your breath".

- When asked why he thought there was a 'policy', he said:

"Because other beat users, in completely different areas, have said police have used the same words and because they've used the same words with me."

\* A BOW also recounted this report from a 55yo man at a beat in Sydney's North:

"he said he was at a beat minding his own business - doing the beat but by himself, when the cops said to him 'we've had problems with homosexuals in the area' - the usual line. He said: "Well, what am I supposed to do about it? I don't mind - they're not just in parks, they're everywhere. Look at me - I'm one of them".

\* Similarly, in Sydney's north west in late 1992, one man reported after responding to the SSO advertisement that the police officer he encountered said:

"there's been a lot of unsavoury activity here". I said "I haven't been having any trouble". They said "Oh." And off they went.

\* In another example, a BOW reported that one man:

"quite active in the beats on the Northside. Identifies as gay. He spoke to a friend who a few days ago at Deep Creek (Narrabeen Lakes) was over near the Waterfall alone. A straight couple walked past walking their dog. Two cops approached him one younger, one older. In uniform. They walked straight up to this guy and said "what do you know about homosexuals? ... this is a family park and we don't like having homosexuals around here. Why don't you go somewhere else?". He was told not to go back there again and the officer said "why don't you leave with us now".

3. The language used by police sometimes can be more overtly antagonistic. As another man reported, when alone and approached by two officers at a beat in Sydney's West:

"They called me a poofter, asked me "how much". But I just think you small minded pathetic creature - this is the real world, you can't get around it - could be a car park, shopping centre - it's often not planned".

4. The similarity in language used is significant and suggests a pattern of practice. In a range of areas and in response to different beats and complaints, police employ the same words with the same intention. Of course, this language usage does not reflect a formal policy of the NSWPS. Rather, it indicates the strength and consistency of social ideas about sexuality and the conditions of tolerance.

**DRAFT***Police Presence, Protection and Intimidation:*

1. Mere police presence can still have a dispersive effect upon beats. Interviewees and police responses indicated how men would often 'disappear' when police arrived at a beat.
2. Men interviewed also indicated that even policing which purports to "protect" men who do beats from violence can be potentially dispersive. Ostensibly, this form of dispersion would appear desirable in order to prevent opportunities for the subjection of men to violence.
3. More problematically, there is an apparently common practice of police warning men of threat of violence for purposes other than mere "protection". One man reported an encounter with police where one officer said indicated the threat of violence but he did not believe him:

"I said "Look, I've been coming here very often in the last 6 months and off and on for 8 years and there hasn't been any bashings or violence. If you think you can intimidate us, you're wrong. If you're trying to use scare tactics, it's not going to work! ... I speak all the time to the regulars - if there was anything going on, I'd know about it. It's like my lounge room".

4. In some cases this creates both unnecessary fear and resentment of police. As the above quote suggests, it seems that men who do beats can sometimes see through the police strategy. Men have an intimate knowledge of the beat, believe that there is no such supposed threat and perceive the apparent police "protection" as a pretext for dispersion. As another man put it:

"I've read about cops who are worried about bashers - it's bullshit. I've done beats at 2am. Maybe I've got lady luck on my side. Not even my mates have been bashed - except one. You might get young drunks saying "ya fuckin faggot"."

5. This type of surveillance has the potential to damage any trust which may be developed between men at beats and the police. It is also ethically dubious in those circumstance where police are misrepresenting threats of violence and the incidence of crime in order to obtain dispersion.

*Police Surveillance: Personalisation and Punishment*

1. Some interviewees reports indicated how police practice or statements could be personalised.

The police encountered sometimes informed men that they had personally been the subject of a complaint.

\* In an incident at one Sydney CBD railway station in 1992, one man reported:

"They said, "there's been a complaint about you", I said, "not me mate". They said, "you'd better go". I said, "I'm going"."

\* Other men indicated that they had been subject to intense surveillance over a specific period. In one case:

"The police officer said 'good afternoon'. Introduced himself and said 'we've been carrying out covert operations at this facility. We've noticed you here at this place a number of times'. I said

**DRAFT**

"I'm a travelling salesman, I stop here for lunch and do my paper work." I showed them my diary which showed I'd been to Lane Cove and Chatswood that day".

In this case, the man concerned had not been seen to do anything other than be present at an area which was known to be a beat. Although he 'did' that beat and others in the area, the police did not witness him engage in any sexual activity. Further, they did not charge him or suggest that this could occur.

3. These practices maximise the dispersive potential of surveillance. Rather than veiling the threat by reference to the area or the "group", "homosexuals", police define the person they encounter as the problem itself.

4. This practice is also presumptive in its nature and identifications can be potentially incorrect which can make the "warning" or intimidation unwarranted.

*Police Surveillance: Punishment and Moralism*

1. Research indicates that men are subjected to other practices and experiences which were not immediately necessary to the policing of offensive behaviour and often reflected an explicit moralism.

2. Some police practices involved "punishment by spectacle". Men were not only arrested but made an example of in front of "members of the public". One BOW reported of a case in 1991 in Sydney's north where a number of men were "paraded" in a shopping plaza near a beat after apprehension in full view of citizens including other men doing the beat. This type of surveillance is echoed in a case reported by a lawyer in which he claimed the arresting officer after apprehending a man:

"went out onto his two way and said 'I've got another one'".

\* In Albury, one young man experienced a similar process. He was 'apprehended' by shopping centre security 'after being seen going into the beat three times'. He was then questioned by police but not charged. Nonetheless, the man was:

i) "barred" from a shopping centre by centre management and threatened with an action of trespass should he return to the centre and told by local police that 'they will have no choice but to arrest him' should he return to the centre

ii) he has paid an outstanding fine for a speeding offence which although a debt was only paid in these circumstances because the attending police conducted a 'warrant check' after his "apprehension" by centre security.

3. Men reported other practices which were "unnecessary". In instances in Albury, Penrith and St Marys, police allegedly informed "suspects" families or employers that they had been apprehended at a beat - or that 'they were gay'. These actions did not necessarily involve arrests. Another man reported a case in which:

"At N they closed the beat there. There's a sign up saying the nearest toilet is at the Caltex station. It's dead now. A Protestant minister kept an eye on it and called the cops. The police found a young bloke there and told his family and warned him off. The police got stuck into him at his home. They threatened him at home!"



**DRAFT**

4. These practices reflect a perception among police in these instances that the alleged problem represented by beats is moral rather than criminal. The responses employ a form of shaming either by exposure to 'the community' or 'the family'. It is possible to see this as a form of community policing. Yet whether the resultant humiliation is within the ambit of community policing principles is dubious (<sup>17</sup>).

*Police Impropriety: Violence and Exploitation*

1. Interviewees also reported more serious instances of police impropriety which involved the use of violence and arbitrary detention.

\* One man was allegedly assaulted by a police officer at a beat in Penrith in the presence of witnesses, then taken back to the local police station and detained in a cell without a formal charge being laid.

\* Another example of this unethical and violent use of police power allegedly occurred at a beat in the inner city recently. A Community Legal Centre reported that a man was questioned by police and then assaulted, although he was alone and had not engaged in any unlawful activity. The man was subsequently taken to a police station in Sydney's south east approximately 10 kilometres from the site of the initial questioning and detained. This matter is believed to be the subject of an Ombudsman's inquiry.

2. The range of exploitation offences which men are occasionally subjected to: eg extortion, bribery etc can also be perpetrated by police officers.

\* One case presently before the courts concerns the alleged bribery of a man at a beat in Inner Sydney (<sup>18</sup>).

*Positive Experiences with Police:*

1. Some men reported "positive" experiences with police. They said that officers were either polite, or they understood the police "point of view". For example:

\* One man who was questioned by police in his car when with a man he had met at a beat thought that police had a right to be where they were:

"We could have been druggies or car thieves, whatever". He said he thought that "most cops were Ok. It was only the arseholes who behaved this way and you get them anywhere".

\* Similarly, J said that:

"Sometimes they're good, they said 'we know what's going on, we're protecting you'. I hate coppers but there has to be one or two that's genuine. Can't be all fucked in the head".

\* Another man from Sydney's lower north shore said that:

---

<sup>17</sup>) See Desroches (1991) for a discussion of the effects of humiliation resulting from arrest and prosecution.

<sup>18</sup>) See SMH 27/3/93

**DRAFT**

"police come through here when complaints are made. They have to act when that happens".

- He added that, in one case police visited the beat on a day early in the week when there were very few men on the beach and commented that:

"it was almost like they chose a day when no-one was there ... they've been reasonable. They just walk through. They've also come down in uniform before, which I think is the right thing to do. On the grapevine, I've heard of blokes doing things they shouldn't be doing ... like masturbating, having a fiddle. And the police pulled em up and just said 'you should go home', gave them a caution and said 'you shouldn't be doing this here'".

\* After arriving in one Northern NSW town, one ACON employee, encountered police officers when simply going to the toilet. The project officer said that there were men obviously there doing the beat but that police reacted sensitively to the situation. He recounted this story:

"The police said "What are you blokes doing here?" ... At least they didn't shine the torch in your face like they do in Queensland". I said I was going to the toilet. The others just stayed put. They asked for driver's ID. They didn't bother with the other guy or the guy in the cubicle. I opened doors of the car and gave them my license - from Qld - but the car was NSW registered and I explained that it was a work vehicle and handed them an ACON card. As soon as I said I worked for ACON - their attitude didn't change; they were quite good - but they said "You're probably aware that it's ok for guys to meet in places like this but it's not all right to have sex here. You've got to go home". I said "Oh, right".

\* A former ACON BOW also reported that in 1991 he had a long conversation with police officers at a beat and, despite his subsequent reservations, offered to speak to the staff at the local patrol:

"In the end I gave them my phone number and name. They asked me to come to the station to talk to the other officers - about beats. Which I agreed to. I think they were legitimate. Even so in retrospect, I'm not sure about what I should've done. They never contacted me".

*Negotiating Police Surveillance:*

1. Men who do beats are not necessarily powerless in dealing with surveillance. It would appear that police can, in some instances, be deterred from further action by displays of confidence, humour or other strategies. Some men are proud of the way they can deal with police at beats.

2. In other instances, police have been deterred by men's announcement of their HIV positive status.

\* One man interviewed, J, reported that:

"At Horwood Place 2 months ago I came across some cops - a male and female officer - they had badges, no guns. They looked like a couple. They asked what I was doing there. Did warrant check, also checked my arms. I told them I was HIV positive, that deters them. They let me go".

\* The same man reported a similar (but non-beats related) encounter in which he said:

**DRAFT**

"I was doing a dope deal. The cops stopped me as I was coming out of this house - checked my ID and stuff. As soon as I said I was HIV positive their attitude changed. I had fines but he let me go".

3. However, "coming out" to police about HIV status can also be inflammatory.

\* One Community Legal Centre reported a case to ACON in which a man was questioned by police at a beat in the inner city and then assaulted by police. This announcement of his status, which was apparently calculated to diffuse the attack, did not deter the violence he was subjected to but increased its intensity. The man was subsequently taken to a police station in Sydney's south east approximately 10 kilometres from the site of the initial questioning.

## **IMPACTS ON BEATS AND THE MEN WHO DO THEM**

### **Effects of Surveillance:**

1. Surveillance affects Beats and the men who do them, individually and collectively, by causing:

- \* 'circumspection' among men at beats
- \* 'dispersion' of men from beats
- \* 'deterrence' of men from doing beats
- \* 'disempowerment' of men through stigmatisation, humiliation, and reinforcement of powerlessness (which encourages reluctance to report complaints and seek redress for experience of violence or exploitation)

2. The consequences of direct or actual surveillance are enhanced by promoting the widespread perception of the antagonism of police and other authorities. Consequently, even if police or councils, eg. are not practicing surveillance, the history of their response to beats nonetheless influences the culture and dynamics of the beat scene. The constant threat of 'detection' hangs over all beats and the men who use them.

3. The impacts of surveillance also spread throughout beat networks beyond the immediate context of interventions. For example, the police operations at Erby Place, Parramatta in 1992 were conducted over only a few days and yielded less than 10 summonses (and 'only' 40 people were spoken to) but its effects on the beats in the area were sustained for months afterwards as word got around the scene that police were 'cracking down' on beats in Parramatta. This affected the patterns of beat use throughout Western Sydney and the social/sexual practice of probably hundreds of men.

### *Circumspection: Self-Surveillance*

1. Surveillance etches itself in the lives and experiences of men who do beats. Policing has an effect upon beats, even in the absence of actual police patrols or interventions, by encouraging self-surveillance. Koller (1990) describes the process like this:

"because criminals (sic) do not know the exact whereabouts of the foot patrol officers ... there is a sense of an invisible police presence".

**DRAFT**

2. 'Watching out for police' is part of the technique of cruising. Men negotiate police surveillance through the modification of their behaviour while doing the beat to 'anticipate' trouble. Many interviewees indicated the quality of this self-surveillance:

- \* "(it's) hard to watch out but it's in the back of your mind".
- \* "You're pretty discreet".
- \* "Not really you've just gotta be alert".
- \* "You can never be too sure people aren't decoy police".
- \* You'd see them shine on the ceiling as they came in".

This impression is supported by Humphreys and others who noted the elaborate systems of self-surveillance involving the use of 'cockatoos' which operated in some beats (see Humphreys 1970).

2. Other men reported that surveillance can be negotiated by having sex away from the beat.

\* For example, A said he usually "picks up at the beat and goes elsewhere". He said others go to other parts of the shopping centre to get off - which he thought was dangerous.

\* Another man, K, said that the beat where he went was relatively safe from detection because it was secluded and surrounded by bushland which allowed men to avoid attracting attention.

3. Surveillance also influences where sex happens in beats and the type of sex which occurs. Both are regulated by the fear of detection (<sup>19</sup>).

*Self-Surveillance and the Grapevine:*

1. These effects of surveillance are multiplied by men's use of the beats grapevine or 'bush telegraph' which is employed to negotiate detection. The grapevine is used to tip people off about suspected surveillance and reinforces perceptions of police antagonism to beats.

2. All of the men interviewed, in addition to their personal encounters, had heard of other surveillance which other men had alleged. This not only indicates the prevalence of policing but how perceptions within the beat scene perpetuate self-surveillance and the "feeling of being watched". Examples include:

\* D interviewed at a beat in Parramatta said that he had heard "there was going to be a crackdown at George's Hall" and was telling his friends not to go there.

\* K interviewed at ACON said: "It's only second hand but I have heard of police acting as 'agent provocateurs' ... y'know, they show their dicks and then whip out the badge. I've never known anyone who this has happened to, I can't identify a time and a place but ...".

\* Ian who responded to the SSO ad reported a number of recent incidents:

---

<sup>19</sup>) See Beats Section 7

**DRAFT**

- "At C. Rd: I heard of one bloke who was there at lunchtime. 2 officers raced into the bog and approached him. They demanded information, license details. They got stuck into him with questions".

- "At (WP) Hills, I heard of two undercover cops at the beat keeping in touch with walkie talkies. They'd entice you into the bushes and then call the other on the walkie talkie and come and arrest you. They were in a white cab top truck with Qld rego. The two guys are quite attractive".

- "At E: I saw them corner 3 or 4 guys there. They disappeared into the bushes to round 'em up. That was last winter. I saw the ACON guys there about 3 months after that".

\* In another typical response, one man noted:

"I believe they use plain clothes police at Wynyard. I know there's one (ie a police officer) at Lang Park. They lock that up at 4pm, much to the disgust of the men who go there. Police have been very active at Wynyard, particularly at weekends. They (ie beat users) get taken from Wynyard to the police station".

\* G similarly said:

"I've heard Wynyard's really hot at the moment ... Over the years, I've never had a real problem. You learn the skills. They give themselves away (ie the police). If they redesigned toilets without doors - double doors - they might get rid of it (ie beats) ... I always found that you find more police in the school holidays ... There was a camera at Town Hall station toilet in the early 1980's in a locked cubicle - someone ripped it out and security came - but 'she' walked out with it in her pocket".

*Surveillance and Dispersion:*

1. Police respondents indicated that surveillance had resulted in the qualified suppression of beats. This was demonstrated by the reduction in complaints received after the conduct of operations in a variety of locations. One PC also alluded to the reduction of cars present at one beat as an indicator of the success of dispersion and displacement.

2. The analysis of the subjective experience of surveillance above also affirms that dispersion results from police surveillance: it explains how men are moved on or forced to go to other beats or other venues by sustained surveillance. More specific examples of dispersion reported by interviewees include:

\* A man from the Penrith - St Mary's area said local men were moving away from the usual beats in the area because of perceived police intentions to suppress them. He said that police had told a friend of his that "We're gonna clear all you faggots out of St Mary's and Penrith". He added that his friend had been parked at the beat and two men (ie *not police*) were cruising him. The police didn't arrest him, just said that. He told the interviewee he thought that "cops are picking out the regular cars and clearing them out".

\* One man, S said that while he had not encountered police at the beat he regularly went to, "police activity" was "common, up the road (at Georges Hall)". He said that even though he lived very close to that beat he never went there because of this and the danger of bashers.

**DRAFT**

\* Another man said that police had effectively reduced beat activity in his local area. He told a BOW that it had affected him personally, "fucked things up for him". J said that he found there "weren't as many guys, found it hard to pick up, guys more timid, not as willing to participate". J is a regular user of the beats in the Parramatta area. Although he does go to some of "the venues" as well, beats are an important way for J to contact sexual partners. The BOW said the "social dimension" was also definitely important for J:

"he just used to go down there on Sundays and talk to the guys - doesn't seem to do that as much anymore. Police action had definitely reduced, if not eliminated beats in the area".

\* Another man, G, said that he now did beats far less frequently than in the past because of sustained police operations within his area. These occurred two years ago and effectively killed off a beats which was an important social focal point for him and other gay men in the area.

"Yes. I can't emphasise enough that it was like club. We had this meeting place in Fairfield. We'd meet, we'd go for a coffee, go for a beer. Go shopping on Saturdays. Now we go into town. It's cold - you don't know them. When they find out where you come from, they don't wanna know. They say it's all in the Eastern Suburbs - it's all out here - they're here in droves. Mostly bisexual and ethnic. But now we have nothing".

*Surveillance and Deterrence:*

1. Some men interviewed reported that they and other men had been deterred from doing beats, because of police surveillance, or the threat or experience of violence. Men either stopped doing beats altogether or moved to other venues, such as sex-on premises venues in Sydney's inner city. Examples include:

\* G, who now goes to gay venues in the inner city after the suppression of the Fairfield beats

\* M: "I couldn't be bothered with beats anymore. I got fed up. I couldn't handle the shit from the coppers. Now we go into town. Sleaze parties. Ken's. The Factory (ie Midnight Factory). The Albury".

\* Another man told of his arrest in a Sydney park and said that he was charged with "attempting to accost a ranger in uniform". The matter went to court and this experience had clearly deterred the man from doing beats. Unprompted, the man reported: "I don't do to beats at all, now".

2. However, the deterrence effect of police and other surveillance should not be overstated: its impact is uneven distributed among men who do beats. When asked if police surveillance deter them from doing beats, most men interviewed said that it did not. Response included:

\* "No, it just means you're more careful".

\* "No, coppers don't worry me. You need a bit of tact".

\* "No, beats are a big part of your life, it's like deterring you from sex. It'd only deter you if they were actually present. Sydney has the worst cop record in the world for decoys".

## **DRAFT**

This affirms the significance of doing beats for many men. Beats are not "zones of deviance" but parts of their lives. Consequently, even when men have been arrested or encountered police over a number of years, they remain interested in doing beats.

### *Disempowerment:*

Surveillance also impacts on the beat scene by encouraging the social stigmatisation and the powerlessness which results from that: both the reality and perception of marginalisation is reinforced.

The experience and knowledge of police surveillance:

- \* diminishes probability of reporting of beats related crimes or police impropriety among men who do beats;
- \* reinforces the perception of under-policing of and lack of co-operation in relation to violence;
- \* enhances general scepticism and fear of police.

As one BOW described it:

"Beat users do feel they can't trust the police. If they really do need to, if they're bashed, they don't want to go to the police and say I was at a beat".

\* Another BOW reported that a man he interacted with claimed there was an officer who had engaged in "reciprocal sex" (oral sex) with him during the conduct of a plain clothes operation in 1992. However, he did not report to the police - even though the BOW encouraged him to do so.

\* Men who do beats are often not even prepared to report their own victimisation eg the survivors of sexual assaults committed at Sydney University in 1992: four men presented to ACON for counselling, but they would not make "official complaints" to the police or the University security service because they wanted to minimise the trauma associated with their experience.

### **Beats Surveillance in Gay Community Areas**

#### *What are Gay Community Areas?*

So-called *Gay Community Areas* are difficult to precisely define. The 'community' is diverse and spread across wide area and although concentrated in certain areas, gay and lesbian communities do not dominate or monopolise those areas. Gay men and lesbians may refer in their own language to these areas as "ghettos" but these are merely areas with higher "visibility" of gay men and lesbians. Gay community areas tend to emerge within environments characterised by complex or cosmopolitan and urban social-geography. Arguably, these areas become the focus for 'gay and lesbian community' because the social visibility is tolerable within the complexity or anonymity of these inner urban areas.

#### *Beats in Gay Community Areas:*

Despite the availability of other 'public sex' venues ie saunas etc, beats nonetheless remain prevalent in gay community areas, especially around shopping centres, parks and beaches. Yet, the evidence suggests that there is little difference in the policing of beats these environments.

**DRAFT***Surveillance in Gay Community areas:*

Despite apparently greater sensitivity to gay issues and interests within these areas, they are not immune to the surveillance of beats by police, councils and others. It would appear that the discourse of conformist sexuality will only tolerate open homosexuality so far <sup>(20)</sup>. In fact in some circumstances - it may be the case that the "openness" of gay expression in these areas encourages/ provokes anti-gay reactions. Policing of beats in one large inner urban park on the edge of the inner city 'gay ghetto' is notorious for its historical intensity.

Generally, for public policy purposes, it would therefore be unwise for police, councils and others to assume that surveillance is less prevalent and tolerance of beats any greater in gay community areas.

*Anecdotal evidence:*

\* Centennial Park/Paddington: still has a popular beat network and has seen many arrests and undercover operations over the years. On March 22, 1993, a man visiting Sydney for Mardi Gras was allegedly bribed by a police officer. The matter is still before the courts.

\* Museum Station: once a very busy beat had *all* of its cubicles locked up in late 1992 in a dramatic reaction to the problem as perceived by the station; and has been subject to police patrolling designed to suppress the beat. All other inner city railway stations have been subject to intensive response from station authorities.

\* Mid City Centre: the present Manager maintains a desire to deter the historically popular beat (used by many gay men from the inner city community). Despite there being no police involvement and a degree of sensitivity to the interests of gay men, management continues constant surveillance by the use of private security officers.

\* Grace Bros City of Sydney Department Store: historically one of the busiest beats in Sydney (if not the world) has been subject to consistent responses from the store management to deter the beat. This has involved substantial alteration to the design of the mens' toilets within the store which have been closed (at the time of writing) for many weeks.

\* Koala Inn, Oxford Street: there is a popular beat in and around the toilets in this complex in the heart of the 'gay mile'. This building contains the ACON annex where the project researcher was based and it was observed over the course of the project that the toilet was subject to alterations including the removal of one cubicle door and the insertion of holes in cubicle doors to reduce 'privacy' within them (by maximising detectability). ACON workers also reported that the building janitor was extremely antagonistic towards the use of the area as a beat.

**Factors Amplifying Surveillance Impacts:***Surveillance and Impostors:*


---

<sup>20)</sup> See Section 6 for detailed analysis of the 'Conditions of Tolerance'.



**DRAFT**

1. The relatively common presence of men at beats who impersonate police officers reinforce problems of surveillance. This has its own dispersive effect and creates other problems for Beats Outreach because it means workers can potentially be confused with these impostors in certain areas.
2. Added to the problem of dispersion is the exploitation of men's powerlessness in cases where money is extorted from them which enhances the disempowering effect of the violation.
3. During the life of the project, BOW provided several reports from men encountered at beats who had come across impostors (**see Section 5**). These were invariably reported to police and subsequently investigated. Men interviewed for the project also provided a number of direct accounts.

*Case Studies:*

1) *Parramatta:*

In the first case it remains uncertain as to whether the man concerned was actually an impostor, the interviewee, D. described the experience like this:

"I don't know for sure it was a copper. He's not the one doing the north shore - that's a real neanderthal. I was cruised. To me it was entrapment. It was at Erby Place. I was in the car. I heard the door to the toilet shut. I didn't see who went in. I went in. He was in the cubicle, fondling, not wanking. He could see me, through the glory hole. I was standing at the trough. He could see I was watching. I had a boner ... He washed his hands and stood back and watched. He went back into the cubicle. Another old queen came in - not another old queen (laughter) - an old queen came in. The one in the cubicle walked out and I followed. I waited in the middle stairwell. As I was walking out, he came in. I let the door shut and moved back in. He's on the stairwell. I made a move. Put my hand on his crotch. Then he pulled a badge. He asked my name and license number as we walked out. He asked how many time I'd lost it. The language and questions were copper oriented. Thing is I've got a black license. I was barefoot and he asked me if I had any shoes with me. I said no and asked why. He said 'It'll be cold in there'. He then asked "Do you do this often?" I said why? He said "You dress like a pro". (D laughed) I had black shorts on and a black body stocking. I was on my way to Obelisk you see.

He asked if I was married. I said yes (*D was and is not married*). He asked if she knew. I said no. He asked 'How many times have you done this', I said "First time". He said can your wife bring bail down?" I said she doesn't drive ... he said 'we'll have to ring her'. I asked how much bail was. He said \$500. Then we had a talk. He said "You make me so mad". Again he asked if my wife knew - the second time. We went to an ATM for the bail. I punched in an incorrect number 5 times. I know that's weird. Then it took it. I had \$420 and gave it to him. I don't usually carry that sort of money.

2) *Mosman:*

K., reported this experience at a Sydney beach beat:

"I went and did an identification on the guy at Surry Hills police station. I came across him in the bushes. A guy went by - I thought 'not bad'. He was quite solid. It was a very cruisy spot. I just sat on a rock - didn't do anything. He stood there. He was fiddling or something. As I went past I brushed his chest. Then he flashed his 'badge' and said, 'we know about you'. I was suspicious because he hadn't asked me for my name etc. When I asked to see his badge he said 'smartarse'. He was by himself. When I asked to see his badge, his attitude changed. After a couple of minutes, he said 'I don't wanna see you again - now piss off'. I did and had a swim. Then I thought, I'm not gonna let this lie. I spoke to

**DRAFT**

a mate who said I should contact the gay liaison police officers (sic). So I did and I went and had a look through the books - mug shots. This was at Surry Hills. One guy there - I'm pretty sure it was him. I said to them I'm not sure".

K added "It's the one thing they dislike most, I suppose. They said that if it happened again, to contact Mosman and to take his car number if it was safe to do that".

I asked if the man had been seen at Obelisk lately. Ken replied, "No recent reports. They (ie the GLLOs at Surry Hills) said they had a poster up at Mosman and that this was the guy. The police said that it was unusual that they didn't ask me for money. I said to them that it was probably because I'm aware of the game".

**Violence and Exploitation Offences:**

1. Although not a primary concern of this project, interviews and research illustrated that violence and exploitation offences can reinforce the impacts of surveillance. The issues include:

- \* perpetration of violence by police upon men at beats: the Lesbian and Gay Rights Lobby's Anti-Violence Project reports that approximately 10 per cent of all recorded incidents of violence and vilification are beats-related; a number of murders and serious assaults at beats have also been reported.

- \* violence among men at beats or within the beat scene

- \* the prevalence of police impostors and incidence of police impropriety eg bribes

2. These offences or behaviours affect the dominion or empowerment of men at beats which is crucial for the operation of Beats Outreach because:

- \* they are a form of antagonistic surveillance which results in injury and the creation of fear

- \* police responses to violence and exploitation can also affect dominion and empowerment among men at beats

- Examples of positive police responses which enhance dominion include: Lakemba: the Elias case; Wollongong: the Scary cases; Narrabeen: positive response to history of bashings; Bondi Pavilion: response to recent sexual assault

- However, as suggested in the analysis above, the issue of violence can be 'manipulated' for the purpose of dispersion

- There are some examples of police response which reflect a lack of sympathy with the concerns of men at beats: see case study below.

- \* they can mobilise networks among men at beats and enhance solidarity and self-surveillance. Messages warning of the threat of violence or exploitation are communicated either by word of mouth and graffiti throughout the local beat scene.

*Case Study: Experience of Violence:*

**DRAFT**

D's report of an experience at a beat in Penrith, late 1992:

"3 weeks ago I was doing a delivery at Prospect. I did the Hebersham beat. There's a red hot Celica parked there. I looked at the guy in the car I had a piss. Came out. He asked for a jump start, which I gave him. He was half pissed. We got to talking. I got to cruising. I asked if he'd ever gotten off with a guy. No. I said 'You don't know what you're missing'. I said to him 'Follow me'. I walked back inside. He followed me. I gave him a head job. He was Turkish. It blew his mind. He freaked out after he blew. He got into his car. I said, 'That wasn't half bad, was it?'"

The following Thurs 3.30pm, he and a mate came into the shop. He left a knife behind. Rambo eat your heart out. They stole the mobile which I disconnected immediately. The coppers don't know the full story - it's just a hold up to them. We got phone calls after, saying "that was just a taste".

*Case Study: Police Response to Violence:*

M reported an experience with a 'basher' in Penrith in 1992. He said he had picked up a man at a beat and was assaulted in his home, after taking him back there. Several other men were assaulted by apparently the same man and a group of local gay men sought police assistance:

M: "We had to catch him. Police didn't catch him. When we did get him (ie apprehended him at a beat) - it took us an hour to persuade them to come down. Then it took half an hour to persuade them that this was the guy!"

"The cops didn't wanna do anything - it keeps their workload down. It was 7 months before they did anything".

M said other gay men in the area who did the beats had slashed the tyres of the man's bike and one had planned to but did not throw acid at him. Recounting the story of the catching the man, he said:

"D. said come to the beat. We blocked him in with our cars. Had him covered. They (ie the police) knew the basher was doing Victoria Park. They said you had to come in and make a formal complaint. So I went in and said there was a poofter bashing in Victoria Park. She said we can't do anything about it. We're changing shifts. But I jumped up and down. There were 6 cars circling the beat. All queens. This guy's on foot. Heading for the railway. Most of the time he was in the cubicle.

The cops got there. I told them to look out for a Green Holden HQ - and said that's where I'll be, that's where he'll be. They jumped out and grabbed him. They stopped me getting close. Then they said you can't make accusations.

M was able to positively identify the man by informing the police that the man had a particular type of tattoo which said "Carol" or "Cheryl". M said the tattoo was home made.

"After I identified him, they put him in the wagon. They wanted me to go to the station. But they wanted David to fuck off. They didn't want any attention".

**DRAFT**

"The cops wanted me to see the guy. I said no. They said he wants to know who you are! They wanted me to line up other statements - 7 or 8 ... I think it was Sgt Anderson - they wouldn't tell me his name - they wouldn't give us progress reports. I had to ring them".

M said the police did not give him or any of the other local gay men in the case, the name of the man and added:

"He got bail. Then he didn't front in court. Then he cuts up a 60 year old. He met him at Penrith Beat in the morning. 9 am. He took him home to his place - the 60 year old's. The dog went off it's head - so he knew what was up. Anyway, this guy gets hit with a lump of wood. There's blood everywhere. Look's like someone's been killed. He had a blood disorder that made him bleed a lot more than usual. He survived, though. The man eventually ran away".

"No one knows his name. He's still at large, still doing the beats. There's a warrant out for him from Queensland. He probably lives in St Marys.

*Surveillance: The Courts - Punitive Dimensions:*

A significant amplifier of the suffering of men who are arrested at beats is the process of prosecution which follows arrest. The disempowerment and "humiliation" of being arrested is enhanced by a protracted experience of stigmatisation, legal categorisation and the difficulty of obtaining a fair hearing.

*Punitive Effect of Charging:*

The simple act of charging a person for offensive behaviour is a form of labelling or stigmatisation. Legislation is invoked and applied to defines a person's social / sexual practice as immoral and socially unacceptable. The law's formal or official description of a person self as 'criminal' or 'perverted' can encourage the defendant to think of themselves in a negative way and to be ashamed of their sexuality.

*Guilty Pleas:*

The desire to avoid further suffering or humiliation often leads many men to plead guilty in offensive behaviour cases. As one barrister said:

"A lot of people, especially married men, plead guilty and accept the fine so its not brought out in the open".

The perception that contesting charges will enhance loss or suffering as a result of arrest, charge and prosecution subverts the presumption of innocence and means that men who do beats do not always get the justice they deserve.

*Incidence of Acquittal / Dispensation:*

Nonetheless, it is possible for charges to be contested and in many instances, prosecution results not in penalty - by fine or imprisonment - but in the 'equivocal' outcome of a Section 556 A (Crimes Act) order.

The prevalence of this outcome, along with acquittals, casts serious doubt upon:

\* the practice of prosecution per se

**DRAFT**

\* the reluctance of police to exercise powers of discretion in prosecution

*Punitive Effect or Implication of Contesting Charges:*

The length of time that can be required to contest these matters is a form of punishment in itself. Acquittals in two cases took roughly 12 months after the original arrest to be obtained. This further enhances the unnecessary suffering caused by surveillance: justice delayed is justice denied.

Further the uncertainty created in a person's life while a matter remains undetermined may affect work and relationships, and self esteem.

This extended punishment which results from the attempt to obtain justice - or assert legal rights - is seriously disproportionate to the triviality of the 'offences' concerned.

*Charges: Punitive Effect*

Some instances have suggested that the choice of charge can be punitive in that more serious charges are applied when less serious ones are available. One lawyer reported that:

"The client was taken there to the police station and kept there for quite a while (Paddington) to work out what to charge him with. Could've been charged under park regulations, but was charged under Summary Offences Act: with \$600 fine. You have to wonder why they do that? Why apply something far more serious".

*Beats In Court:*

The odds are usually stacked against a person who does contest offensive behaviour charges because of the expediency of Local Court case processing, the conservatism of magistrates and the privileging of police testimony.

*Police Evidence:*

Police evidence is often assumed by magistrates to be accurate and is preferred to that of defendants in beats related matters. As one lawyer interviewed reported:

"Generally, the police case will convict your client before you go into the witness box. If your client doesn't go into the box, you won't win. Client might give the most credible story and invariably will get convicted. It's not a case of preferring one version over another: it's a matter of proving your case beyond reasonable doubt. It doesn't seem to me that that's being satisfied".

"Unfortunately there's a lot of magistrates who accept that if the police say it, it's true. That's a view held by lots of solicitors and people. But it's a very difficult thing to prove. Makes it very difficult to win case. If you can't show that the police have any reason to lie. You don't have the resources to prove they're homophobic".

This appears to remain significant in spite of acquittals and s. 556A orders and the recent warnings offered by the High Court of Australia in relation to the reliability of uncorroborated police testimony in R v Mc Kinney and R v Judge (1991) which suggest caution in accepting 'the word' of police.

**DRAFT***Magistrates:*

The conservatism and expedient practice of magistrates and their courts can also operate to mitigate the presumption of innocence and the possibility of a "fair hearing". One interviewee reported:

- "Magistrates courts are courts of expediency. Too many matters and they hear stories and excuses all day long. Get very sceptical. If you add to that a magistrate who is inherently conservative. Or holds strong views about sexual behaviour you've got a real problem for your client. Because under the Summary Offences Act, you've got to look at all the circumstances. You can't be convicted of masturbation. You've got to look at where you do it; who could have seen you, who was there etc. Masturbation in a park behind a tree 50 years ago might've been thought by lots of people to be deviant behaviour but now we're much more liberal. God knows how many people might do that. But if its a gay man caught doing it. He's in trouble".

"If you strike a conservative magistrate, especially with an Offensive Behaviour matter, it's a forgone conclusion you'll be convicted. They will accept evidence of the police. A liberal magistrate will accept it as 'behaviour', a conservative magistrate will accept it as being very wrong behaviour, devious, something very different. Important to get the right magistrate. Can't prove it. It's a gut feeling. But it's prob the most important thing".

*Case Study of Local Court Processing:*

"(The defendant) was arrested and charged under the Summary Offences Act section 4(1). Came to a hearing. Police read their statements, the prosecutor asked a few questions. Accused is entitled to particulars as what police are actually charging, what actual behaviour it was. Police gave evidence of extra people being present: families picnicking and children on bicycles. Which was so obviously not true and I believe the magistrate recognised this. It was added to shore up their case. They didn't need to do that. Magistrate gave a "556A" - which means no conviction recorded but offence proven. A type of criminal record. If you ever appear in court again, it will be there on your record, when record is tended for sentencing.

The interviewee was asked if the magistrate gave reasons for not convicting:

"Didn't give any. At the end of the hearing on the plea, I led evidence about his background (as above). In those circumstances, sufficient for decent magistrate to apply 556A".

*Disempowerment effect of Arrest and Prosecution:*

1. The evidence presents a complex picture but actual arrests tend to impact heavily on individuals by diminishing their sense of well being, self esteem and sociability. The effect is basically the same as that produced by 'outing' of closeted homosexual men in other contexts. For some closeted and married men this can be devastating. Fear of social humiliation and prosecution have led to suicide in some instances (see Desroches 1991).

2. The project research data:

\* One man arrested at a beat in Centennial Park was deterred from doing beats ever again and said he was "traumatised" by the experience.

**DRAFT**

\* Another, W, expressed that he had strong feelings of worthlessness and self doubt as a result of the trial - he said he came to regard himself as a "bad person".

*Judicial Reinforcement of Antagonistic Surveillance:*

The practice of magistrates illustrates how the effect of surveillance resonates beyond its immediate context. That is, police acts of law enforcement or public order maintenance have broader social or cultural implications. Gay men continue to be encountered by the police and courts system in connection with beats and this reinforces fundamental stigmatised images of gay men and homosexuals. As noted in the US:

"Judges and prosecutors form attitudes and shape their behaviour towards gay men and lesbians through this most-frequent judicial interaction" (Wolfson and Sears 1992).

The courts also affect beats by endorsing the stigmatised images of beats and the men who use them which inform further surveillance. Successful prosecution of beat users effectively vindicates police action. It reaffirms the 'acceptability' of such policing and the definition of beats by the police as illegitimate social presences. Further it contributes to creating a social atmosphere in which others to free to vilify beat users and gay men in the media because of their association with criminality through this process of legal categorisation and sanctioning.

**IMPACT OF SURVEILLANCE ON BEATS OUTREACH***Overview:*

Surveillance is a fact of life for Beats Outreach: it frames the conduct of planning and Outreach practice, surveillance in all its forms has been taken into account in every aspect of the work.

The potential impediment of police presence had to be incorporated in the original development of the pilot project, despite police co-operation in the identification of beats which the Project might target. Discussions of policing in particular continue to feature in the Project's evaluation and planning meetings. You can hardly find an agenda for these meetings over the last four years which does not include the item: 'Police'. Policing (and the problem of violence) is very frequently raised in interactions with men at beats.

Specifically, the operations of Beats Outreach are directly affected by surveillance on two levels:

- \* primary impacts: on process - ie the conduct of outreach operations in beats
- \* secondary impacts: on "peer education" and "community development" - ie the encouragement of a safe sex culture among men who use beats

**The Process of Beats Outreach:**

To understand the impacts of surveillance, the nature of interactions between men who do beats and BOWs needs to be clarified.

"Verbal Interactions":

**DRAFT**

Face-to-face interaction with men at beats is the primary method of education employed by workers in the project. The first objective of BOWs when doing Outreach is to enter into these interactions. These may involve (van Reyk 1990:4)

- \* discussion of HIV transmission
- \* discussion of individual's perception of their own risk
- \* clarification of safe sex practices
- \* giving out condoms and lubricant
- \* discussion of safe needle use
- \* provision of safe sex information pamphlets
- \* provision of referral to testing and treatment services where appropriate.

"Non-Verbal Interactions":

Beat Workers also engage in non-verbal interactions with men at beats. In these situations, BOWs will give men project pamphlets and safe sex.

Information Distribution:

Beats Outreach also recognises the usefulness of providing information in the form of pamphlets and stickers. BOWs will invariably place stickers in beats and leave safe sex information pamphlets in and around beats - especially if there are no men present at the beat when they are working.

*Peer Education and Community Attachment:*

Beats Outreach tries to develop and utilise the social networks which operate in beats. This is shaped by the HIV prevention principles developed by the National HIV Social Research Unit.

\* "Informed Social Support"

Beats Outreach operates on the principle that "the locus of successful behaviour change is to be found not in individual characteristics but in social relationships" (Dowsett 1992). Put simply: learning and reinforcement occur in a social, collective context. In a way, learning and the behaviour change which follows is due to a type of "peer group pressure". Gay men in Australia learnt to change their sexual practice in a group context: its venues, conversation and culture were flooded with information and debate about HIV and safe sex.

\* Sustainability:

One of the fundamental tenets of HIV/AIDS education is "sustainability" (Dowsett 1992b). Information dissemination is important but genuine and informed behaviour change requires continued social support, or teamwork. People need to continue to talk about safe sex and inquire about developments in knowledge about sexual practice etc etc.

\* Peer Education:

Macquarie University research based on "Community Attachment Indicators" suggested that MSMs lacked the community attachment which had historically supported and reinforced behaviour change among gay men. The nature of this "distance" was perceived to be geographic and social.



## **DRAFT**

The insights of SAPA have been largely affirmed by the practice of Beats Outreach. Many men encountered by BOWs over the course of the project have directly denied the relevance of HIV/AIDS to their sexual practice - because they do not identify as gay. Men who are clearly doing the beat when approached by BOWs have withdrawn from conversation saying, for example, "only gay men get AIDS".

Beats Outreach attempts to overcome this "distance" from socially informed support through creating the environment and avenues for stronger links:

- \* *among* beat users at beats; and
- \* *between* beat users and the gay community

BOWs interactions seek to develop a culture of safe sex and this requires long term and deep interactions with BUs. Over the course of the project ACON workers have formed constructive informal "working relationships" with 'peer leaders' within the beats scene.

Beats Outreach workers also emphasise and encourage the development of beats "barefoot educators" (Dowsett 1992c) - where men who do beats adopt informal 'safe sex' education as part of their lifestyle. In the experience of BOWs, the majority of Peer or Barefoot Educators are gay men and it is these men who 'educate' the less community attached - especially ostensibly heterosexual men. This dimension of outreach is very important to ACON's Rural Project has conducted several Peer Education Training workshops for rural men who then practice volunteer outreach in their own communities - where many beat users are ostensibly 'straight'.

The process of empowerment involved in community development and peer education also helps outreach as it can reduce vulnerability of users by:

- \* reinforcing/creating solidarity within group;
- \* raising esteem of individuals;
- \* encouraging beats self protection mechanisms
- \* potentially raises awareness of legal rights and capacity to demand equal treatment from police;

This community oriented approach, informed by the Macquarie research, also helps:

- \* evaluate and improve the "relative accuracy of knowledge" of the men they interact with
- \* recognise the need to provide material to account for variations in education, literacy and ethnic background.
- \* assist in referral to counselling and support groups for males who are developing or experiencing difficulties with their sexuality

### **Primary Impacts: Beats Outreach Operations**

#### *Planning and Efficiency:*

BOWs report that surveillance has often seriously impeded their planning. "Known beats" in certain areas which are targeted by the project may have been suppressed in certain areas but this cannot be discovered until they go to the affected area and try to work there. Consequently, Beats Outreach cannot rely on some beats to 'be there' to guarantee that they can work them. Obviously, this results in the wastage of valuable time in the field.

**DRAFT**

As one BOW said:

"You never know if a beat's going to be busy - cos we don't know if the police have been there ... eg Warringah Mall - although this was probably more to do with private security, they used to have four beats, three which worked really well - we got there and found they had been killed off".

The same BOW had encountered similar difficulties in Southern Sydney:

"About May 1992 we decided to target southern Sydney - only a few beats were very active. Most of these were now dead ... it took two months to work out where to find people ... it was only then that we discovered that Loftus had been demolished after a sustained police campaign".

Beats Outreach focuses on particular areas in Sydney - especially Western and South Western Sydney. The BOW said that the problems associated with planning were greater in those areas where they did not work so frequently:

"I feel confident in saying that this is a problem generally in the North and the South - it leaves us in a quandary each time we get in the car ... up North beat users are so dispersed it's hard to find anyone to talk to - though North Sydney is still busy".

The difficulty of planning were especially evident in the conduct of the Community Attachment Project in Parramatta in 1992 which was rendered unviable by intensive surveillance in that area over the course of the project. Lack of liaison with local police meant that ACON was unaware of police objectives and practice, and unable to address the problems this caused for the HIV prevention work.

As one BOW, noted:

"... police action contributed to its failure. They noticed beats were dead, discovered from beat users that there had been an operation. They had a meeting to discuss whether it was worthwhile persevering and they decided to continue - which was unfortunate in the end - the beat stayed dead - they should've moved on".

The BOW further noted that "Windang and Corrimal were fucked up after operations". He added, "it happens so regularly you don't remember a lot. It becomes part of the work ie coping with some which are 'down' because of the police - all of which ends up being a substantial part of the work rather than talking to people".

The BOW said similar problems had been encountered in Emu Plains:

"The River Rd beat - it used to be very easy to talk to people there, especially compared with other beats in the area, like the ones in the Penrith CBD ... after police operation it became quite quiet ... we used to talk to people there we had seen but couldn't speak to because of the nature of the beat in the middle of Penrith shopping centre ..."

BOWs also indicated that planning had been frustrated by police and council action at various times at other beats including: Manly, Rose Bay and Bondi Pavilion.

**DRAFT***Diversity:*

BOWs also report that suppression affects the choice of beats which can be targeted. Beats workers need to be very sensitive to the dynamics of a beat and therefore cannot 'overwork' them. If BOWs presence is too 'high profile' this may jeopardise the trust and goodwill of the men at the particular beat. Surveillance can inadvertently limits the number of beats in an area and reduce the options Beats Outreach needs to minimise its impact on beat networks.

"Although there's always a couple where you'll find people, but that's not always good. It's overkill in relation to that beat - we might suppress it ourselves cos people start to resent our presence - we need a range of beats".

*Impacts on Outreach Interactions:*

The whole process of conducting outreach and interactions is influenced by surveillance in practical ways. Someone who does not know beats needs to be aware that Beats Outreach requires a unique type of intimacy with and sensitivity to men at beats to succeed. It is the fragility and vulnerability of these contacts that makes the impact of surveillance such a serious issue for Beats Outreach.

In practice, surveillance requires that

- \* BOWs work in pairs for security reasons, so that BOWs have support in the event of confrontations
- \* BOWs first check to see if there are bashers or any other hostile presences at the beat before commencing work
- \* BOWs exercise discretion: the arrival of BOWs together in a car can suggest to men at the beat that the workers may be police
- \* BOWs show respect for the other men doing the beat. They do not want to attract too much attention - the future of work at the beat depends upon their not intruding too far upon its dynamic, otherwise beat users may become alienated, or the beat 'exposed'
- \* "Most interactions are short. Beats are not generally areas set up for long chats - they are public places whose primary function is not conversation. Often men have some initial reluctance, feel confronted. They are eager to get knowledge but not to hang around." (van Reyk 1990:9)

*Surveillance and Access to Beats:*

Surveillance reduces the possibility and quantity of interactions. Beats Outreach suffers most from the dispersion of beat users which follows an operation or a media report about police activity: because men are simply not there to interact with (1).

The expectation of 'detection' among men at beats creates a level of tension and circumspection within beats which reduces the likelihood of making contact within men at beats. The actual incidence of policing reinforces this tendency. As one BOW put it:

---

1) See eg *Eastern Herald*, "Gay Beats: Our Most Shameful Sexual Secret", *SMH*, 18/6/92

**DRAFT**

"They make beat users feel guilty about doing the beat - cos they have entrapment - cos there's a grapevine, regardless of whether they've been personally involved, they hear about what cops are doing. Depends a lot on where the guys come from - makes a lot of guys feel like their doing something wrong. When guys at beats are there and they're having sex - it's not necessarily Ma and Pa Jones they're thinking well see them, it's the cops ... "

*Quality of Interactions:*

1. Surveillance harms the quality of interaction through intensification of the climate of fear, circumspection, discretion, mistrust. BOWs report this in various contexts:

\* "Policing affects my job ... by intimidating beat users, making them timid and scared".

\* "makes it very difficult to get to talk to people - people zap in and out - there's an atmosphere of suspicion. But they still do the beat cos there's nothing else there - no venues, all that stuff"

2. Surveillance can also shift the agenda of interactions from safe sex to surveillance, which occupies valuable time for workers who should be prioritising HIV issues.

\* "Quite often they'll talk about other issues - like police and bashers, instead of HIV".

\* One worker reported that 34% of his contacts from Feb-Oct 1992 mentioned the police in the interactions, and for the majority, this was the main discussion point.

3. BOWs also ironically indicate that discussion of police activity in the interaction can enhance outreach work. Two examples:

"talk about police can be positive ... they realise we're interested ... we try to know about the current situation with the police activity and tell them what's going on. This leads to a better quality interaction because of the trust that's built".

"some guys have felt that if we're present, it deters the police ... some have said 'nice to know you're around' - they say they feel safer.

*Types of Interaction: Quality of Outreach*

\* Surveillance has relative impacts on Beats outreach functions and may increase the proportion of non-verbal interactions. Though valuable, these are an inferior form of interaction compared with verbal interactions. An increase of their incidence can reduce the quality of the Outreach work.

- it may disperse men, making verbal interaction impossible
- it may increase the rate of non-verbal interactions at beats relative to verbal interactions due to the increased level of fear or circumspection among Beat Users

As one BOW said in relation to Warringah Mall, after discovering that the beat had died down:

"... I only did one person, non verbal in 3 hours. Usual strike rate, based on past experience, would have been 8 or 10 non-verbals and maybe 2 or 3 verbal interactions".

**DRAFT****Secondary Impacts: "community development"; Peer Education.**

The development of a safe sex culture around beats is extremely difficult to measure. Yet the dispersion of men from beats clearly hampers the development of peer education. Attachment to the beat scene and potential attachment to the gay community is interrupted by the denial or reduction of the use of specific sites as beats.

This is the most significant dimension of the impact of surveillance on beats because it is through this process that safe sex is maintained. The success of beats outreach does not rely on shaming, coercion or reward for good behaviour but through the empowerment of individuals in a collective framework which promotes the incorporation of safe sex within lifestyle - sexual practice.

Dispersion inhibits the BOW's role in the evolution of this process. BOWs build up contacts which are very important in terms of understanding the beat, monitoring practice, getting to know the other beat users. Dispersion means that these contacts are jeopardised or destroyed.

Surveillance would appear to operate differently upon men who use beats depending on a range of factors:

- \* sexual identity
- \* significance of beat use in their life
- \* personal experience with police
- \* levels of empowerment / confidence
- \* whether police or other directly encountered
- \* seriousness of encounters with police

The research would suggest that many men who do beats successfully negotiate the suppression of beats. Men may simply move to other beats. In outer suburban areas complex beat networks exist which allow men to shift from one beat to another. In some cases decide not to use beats any more and opt for commercial venues and social networks beyond the beat scene for their sex and company.

The men who reported these responses to surveillance were all gay identified. This may reflect that for men to whom beat use is "part of their life" and not threatened by reservations or confusion about sexuality. For these men the fear of detection is unlikely to stop them using beats or be deterred from using beats in themselves. Similarly, such men - because of their level of community attachment have other options - ie sex on premises venues and other social networks.

The impact of surveillance would appear to fall more heavily on non-gay identified men who go to beats. These men are far more likely to be intimidated by police action. BOWs report that the ostensibly bisexual or married men they encounter at beats are frequently anxious to obtain information about the patterns of surveillance. This crucially important because it is these men which Beats Outreach requires access to in order to fulfil the potential of the project.

The movement of men away from beats, where a safe sex culture is being established, due to surveillance, (ie forcing underground) pushes them into places where they may be less influenced by that culture; less likely to be reached by education and the operation of peer norms of sex practice are less influential.

*Mistaken Identity/Impact of Impostors:*

**DRAFT**

Police use of plain clothes and the incidence of impostors (which is encouraged by this police practice) can mean that ACON workers get confused with police and workers have been interrupted by police who were unaware of their work. This further jeopardises the trust necessary for ACON workers to be effective in these environments. As one BOW said: 2/3/93:

"it makes it harder to approach a beat working in pairs - they think we're cops. We have to be able to get over that hurdle of gaining their trust".

This reinforces problems of police impacts generally, mistaken identity and means that the project's time is often consumed by liaison with police to resolve these 'problems' (eg Obelisk).

*Direct Police Contact: Morale, Stress, and Distraction*

Since the inception of Beats Outreach and during the life of this project, BOWs reported a number of direct encounters with police officers at beats. In such encounters, Police are usually unaware of their presence and the purpose of the project. The BOWs experience consequently experience unnecessary interruption to their work (**See also Section 8: ACON Police Liaison**).

BOWs report that witnessing police activity or encountering police can affect their ability to perform their work. The result is a disempowerment which may reduce their potential to interact with men who do beats. For example, one BOW reported the following experience at a Blacktown Beat:

"I was talking to 2 Beat Users - bullshit talk - before an interaction - I introduced myself as an ACON worker - we moved outside. The cops went inside - they hit the doors with their batons and kicked them in ... I thought 'it wasn't much good and I'm gonna be a lot more careful at that beat from now on ... it affects your effectiveness, you start moving back, you're more cautious. It means you spend more time making sure, sussing out, getting ready".

BOWs reported other instances of police aggression which adversely affects the confidence of the workers in conducting outreach. In one case in early 1993, two BOWs were doing outreach at Westfield's Parramatta, the workers described the following experience of police aggression:

The beat was "happening". GR went in to the beat and sat in a cubicle opposite this man and looked under the door to see if there were any signs that he was doing the beat. GR moved into a cubicle next to the man and went to look through a glory hole. Immediately as GR put his face near the hole, the man pushed his hand extremely forcefully against the hole. As he did this, the man said "bad luck, buddy".

GR was extremely shaken by the man's aggression. GR went out of the beat to look for his partner. He found RH and he then went in the beat to investigate while GR talked to some beat users in the plaza.

RH, sitting in the opposite cubicle, saw the man look very briefly twice underneath the door of the cubicle - but gave no indication that he was doing the beat. RH did not make contact with the man and left. RH then spoke to men at beats in the plaza - he and GR warned them of the presence of this man, including a regular, Patrick.

Five days later, Patrick confirmed that the man was a police officer who had told men to leave the area and threatened them with arrest if they did not follow his instructions.

**DRAFT**

Police use of plain clothes and the incidence of impostors (which is encouraged by this police practice) can mean that ACON workers get confused with police and workers have been interrupted by police who were unaware of their work. This further jeopardises the trust necessary for ACON workers to be effective in these environments. As one BOW said: 2/3/93:

"it makes it harder to approach a beat working in pairs - they think we're cops. We have to be able to get over that hurdle of gaining their trust".

This reinforces problems of police impacts generally, mistaken identity and means that the project's time is often consumed by liaison with police to resolve these 'problems' (eg Obelisk).

*Direct Police Contact: Morale, Stress, and Distraction*

Since the inception of Beats Outreach and during the life of this project, BOWs reported a number of direct encounters with police officers at beats. In such encounters, Police are usually unaware of their presence and the purpose of the project. The BOWs experience consequently experience unnecessary interruption to their work (**See also Section 8: ACON Police Liaison**).

BOWs report that witnessing police activity or encountering police can affect their ability to perform their work. The result is a disempowerment which may reduce their potential to interact with men who do beats. For example, one BOW reported the following experience at a Blacktown Beat:

"I was talking to 2 Beat Users - bullshit talk - before an interaction - I introduced myself as an ACON worker - we moved outside. The cops went inside - they hit the doors with their batons and kicked them in ... I thought 'it wasn't much good and I'm gonna be a lot more careful at that beat from now on ... it affects your effectiveness, you start moving back, you're more cautious. It means you spend more time making sure, sussing out, getting ready".

BOWs reported other instances of police aggression which adversely affects the confidence of the workers in conducting outreach. In one case in early 1993, two BOWs were doing outreach at Westfield's Parramatta, the workers described the following experience of police aggression:

The beat was "happening". GR went in to the beat and sat in a cubicle opposite this man and looked under the door to see if there were any signs that he was doing the beat. GR moved into a cubicle next to the man and went to look through a glory hole. Immediately as GR put his face near the hole, the man pushed his hand extremely forcefully against the hole. As he did this, the man said "bad luck, buddy".

GR was extremely shaken by the man's aggression. GR went out of the beat to look for his partner. He found RH and he then went in the beat to investigate while GR talked to some beat users in the plaza.

RH, sitting in the opposite cubicle, saw the man look very briefly twice underneath the door of the cubicle - but gave no indication that he was doing the beat. RH did not make contact with the man and left. RH then spoke to men at beats in the plaza - he and GR warned them of the presence of this man, including a regular, Patrick.

Five days later, Patrick confirmed that the man was a police officer who had told men to leave the area and threatened them with arrest if they did not follow his instructions.

**DRAFT**

Another BOW said (2/2/93 and 12/1/93) that he was "now nervous around the police" after encounters with police while working in beats. When confronted by 5 police officers outside a beat at Liverpool, he said:

"it was a bit scary - after having been told we'd liaised with them, that they were supportive and would back us up if we go into trouble ... that they knew who we were ... in other cases they've not known of our existence. If there's a basher you might spend five minutes proving who you were before they sent anyone, if they sent anyone at all. Before Liverpool I thought that my role at the beat was above suspicion - although we didn't get into trouble - the way they approached us made me feel like that they thought I was some offender. So my "swaggering, cavalier" attitude changed".

*Other Surveillance Impacts:**Council Surveillance:*

Council surveillance is also often significant in areas covered by Beats Outreach. The closure or manipulation of areas used as beats - mainly toilets, but also bushland can limit or prevent the usage of those areas as a meeting place or site for sex. This results in similar impacts to the primary and secondary objectives of the project as outlined above. It has materially affected outreach work across a broad range of areas including Bass Hill, Sutherland and Parramatta.

*Shopping Centre Surveillance:*

Shopping Centre Surveillance has similar impacts to Council surveillance and is often significant in areas covered by Beats Outreach. The closure or manipulation of areas used as beats - mainly toilets can limit or prevent the usage of those areas as a meeting place or site for sex. This results in similar impacts to the primary and secondary objectives of the project as outlined above. It has materially affected outreach work across a broad range of areas including North Sydney, Castle Hill and Blacktown.

*Media Surveillance:*

BOWs reported that media surveillance could also contribute to this process of dispersion or partial deterrence. In one instance the publication of an article in a Sunday Sydney newspaper about one beat in Milperra affected Beats Outreach by deterring men from the beat for the following weeks. BOWs arrived at the usually popular beat to discover almost no-one there and could not conduct the constructive work that usually possible at that site <sup>(2)</sup>.

---

<sup>2)</sup> *Sun Herald* 17/5/93



**DRAFT****PART TWO****DISCURSIVE SURVEILLANCE OF BEATS**

- \* discourses of sexuality:
- the conditions of tolerance and desire
- \* impacts on Beats Outreach

**Explanations of Surveillance:**

1. This report argues that beats 'surveillance' is not adequately explained by the discourse of 'homophobia', but is best understood within the discourse (and social realities) of conformist sexuality. In simple terms, beats are subject to policing and other surveillance because they do not represent what 'society' considers to be 'normal' or 'acceptable' sexuality. This section examines this discourse and how it creates "conditions of the tolerance" of homosexuality.

2. These conditions are variable in how they work in practice but retain the constant potential for mobilisation against beats. Because overt opposition to beats is a periodic occurrence, it is tempting to characterise surveillance as a moral panic. However, as the English AIDS commentator Simon Watney argues "homosexuality as a permanent scandal": ie capable of producing outbreaks of negativity, aggression and outrage at any time. Generally, homosexuality is only not scandalous if it is hidden or quarantined: public silence about homosexuality depends upon its social invisibility.

3. This section sets out some ideas which try to explain:

- \* why beats in particular are a 'permanent scandal'
- \* the forces operating surveillance
- \* how these social patterns influence and hamper the work of Beats Outreach in debate and liaison around beats and HIV prevention.

*What is a Discourse?:*

1. Discourse can be defined as "a patterned system of texts, messages, talk, dialogue or conversations which can both be identified in ... communications and social structures" (Lupton 1992). The term is used here because it is practically useful in characterising the complexity and diversity of the thoughts, writing, visual images and actions which are generated by 'beats'.

2. Beats cannot be simply defined as if they possess some innate truth. Language is a source of power and its control reflects different agendas or interests. This power is reflected in 'discourse' rather a definition which offers a couple of simple limiting sentences. The historical definition of "homosexuality" itself, for example, demonstrates the political and variable nature of definitions and associations which relate to controversial subjects such as sexuality. The creation of terminology reflects a social function to control the meaning of particular behaviours and identity.

3. Beats are "contested terrain" and the sense of perspective is crucial in establishing the terms of debate in public policy.

**Discourse of Sexuality: 'Homophobia' and Intolerance**

**DRAFT**

1. Surveillance - both physical and discursive - is influenced by ideas about sexuality which define homosexuality in a very particular way - a discourse of sexuality. 'Homophobia' is regularly used in public health to explain the oppression of gay men and homosexuality. It is similarly used within criminal justice to explain violence directed at lesbians and gay men. Police, politicians, councillors and others are often called "homophobic" in their responses to and stigmatising descriptions of beats and the men who use them. In articles and common conversation it is clear that "homophobia" is widely regarded within the gay community and by other commentators to be the *motivating force* of the surveillance of beats.

2. However, 'homophobia' cannot adequately explain the surveillance of beats because this social practice involves more than a simple fear or hatred of homosexuality. The catch-cry of homophobia needs to be problematised; that is, its limits as an explanation of social action need to be identified.

*Why is homophobia inadequate?*

1. 'Homophobia' describes a psychological "condition" which involves fear of homosexuality - just as 'claustrophobia' or 'arachnophobia' describe fears of closed spaces or spiders. A diverse body of psychological research explores the foundations and nature of this supposed "psychological condition" (Herek 1984) but it has not produced a definitive definition of the condition or identified its causes with any certainty. The most superficial reading of the literature reveals that behaviour and statements commonly characterised as 'homophobic' are less a function of psychology than a myriad of other forces including ignorance of and social distance from homosexuals and gay community (Herek 1984: 6-7).

2. Moreover, homophobia cannot account for the diversity of reactions and forces stimulated by beats. The relationship between supposed homophobia and other socio-psychic codes and drives prevents it from being clearly separated out as a self-determining category. This is particularly true of supposedly 'homophobic' reactions to beats because of the range of taboos involved. Beats embody, signify and provoke myths not merely about homosexuality but

- \* public displays of sexuality
- \* bisexuality
- \* paedophilia
- \* AIDS

3. Watney (1989:49) also cautions against using the term because:

"to describe such attitudes as 'phobic' is, in a sense, to lend them a spurious psychological dignity which they do not deserve".

In any case, within psychological discourse, many apparent outbursts of 'homophobia' could be seen as "hysteria" rather than "phobia". As Watney argues such actions and statements are probably more properly described as "mere bigotry".

4. The point is that, in the context of beats, the oppression of gay men and homosexuality is not reducible to a psychological condition. The motivation of surveillance is more properly characterised as intolerance. The nature and level of intolerance is connected to a complex matrix of ideas about and

## **DRAFT**

social regulation of sexuality. Crucially, beats surveillance occurs not in the 'mind' but within physical social spaces. Homophobia cannot help us understand these dimensions of the surveillance of beats <sup>(3)</sup>.

### *Why is 'Heterosexism' Equally Inadequate?*

1. Herek distinguishes *heterosexism* from homophobia, arguing that "while homophobia involves active fear and loathing of homosexuality, heterosexism wishes away lesbian and gay people or assumes that they never really existed". Heterosexism refers to a world view in which non-heterosexual people, their history and culture, are ignored and omitted. Many of the statements and actions revealed by this project could be said to be based on heterosexism - that is on omissions, functions of blindspots and "denial" rather than positive acts based on hatred or fear.

2. 'Heterosexism' offers a limited view because it is really only the flipside of homophobia. It emphasises positive discrimination in favour of heterosexuality rather than the negative discrimination against homosexuality. Similarly it cannot accommodate the complexities and specific problems associated with beats and their surveillance. Again, especially those associated with the dimension that beats poses specific dilemmas because they exist in social space.

### **The Elements of the Conformist Discourse of Sexuality: the Social-Sexual Contract**

1. The discourse of conformist sexuality within which surveillance occurs is nebulous and diverse. The following attempts to articulate several general principles or tendencies in social thought, policy and practice:

- \* the promotion of a 'normal' mode of sexual practice and prohibition of sexual difference: ie the active discouragement of express lesbian and gay 'socio-sexual identities'
- \* the imperative of singular sexual identification: ie the social expectation that a person should identify as either 'lesbian', 'gay' or 'straight'.
- \* the promotion of sexual restraint and discretion: ie that sexuality should be expressed through 'monogamous' relationships'; that people should be 'faithful' to their partners; and that sex should occur in private space and remain invisible to 'others'.
- \* the requirement of consensuality: ie that sex should be negotiated and agreed to rather than a result of coercion
- \* that men and women have different 'sex roles': ie men are assumed to be 'active' in sex and women as 'passive'; while men are 'virile' or 'men' if 'promiscuous'; women 'immoral' or 'sluts' if they are promiscuous.
- \* that (within heterosexuality) deviance from 'normality' is tolerable if its social visibility is restricted to commercial or private sex venues: ie strip joints, brothels, and private sex clubs

---

<sup>3)</sup> Homophobia perhaps be more accurately described as "homonegativism" (Hudson and Ricketts 1980). This escapes the problem of "psychological" emphasis - or "pathology" but retains the limited focus of negativity motivated by "homosexuality".

**DRAFT**

\* that 'homosexuality' is tolerable if it: adheres to these dominant social norms; is limited to particular areas within cities which 'control' the influence of gay or lesbian culture on the broader community; confines its expression to bars, saunas, parties, brothels and sex clubs.

2. These imperatives are clearly reinforced by social sexual conditioning which is a historical practice and continuing reality:

\* People still have great difficulty 'coming out' and continue to be rejected by family, friends, colleagues and employers - HIV/AIDS has reinforced the difficulty by adding the potential for presumptive discrimination and stigmatisation based on HIV status

\* Bisexual and transgender identities and practice undermine the dominant assumptions of both the gay/lesbian and straight communities - media articles on beats indicate the anxieties which the 'bisexuality' of married men continues to cause, while the current debates around 'queer' identity and culture internationally among 'lesbian and gay communities' which challenge cherished historical patterns of identity, expression and sub-cultural organisation

\* People still expect discretion in sexual behaviour: ie monogamy, fidelity and privacy - HIV/AIDS and more general awareness of STDs now complements the operation of these traditional cultural norms

\* Consensuality in sex remains the discourse used to explain the terms of socially and legally permissible sex. Consent is now promoted by society and in law more than ever as widespread recent attention to sexual assault upon women indicates.

\* The commercial regulation of deviance remains socially stable affirming that difference must conform to socially acceptable patterns. This is indicated by the continued regulation (and over-policing) of street sex workers; and the social sanctioning of private commercial gay sex clubs.

*What is the Function of a Discourse?:*

1. 'Nothing is either good or bad but thinking makes it so'. This quote from Hamlet sums up the function of discourse: to express the 'thinking' designed to establish and promote what society considered to be 'normal' or 'acceptable'. As Michel Foucault it:

"[i]n every society, the production of discourse is at once, controlled, selected, organised and redistributed by a certain number of procedures whose role it is to ward off its powers and dangers, to gain mastery over its chance events, to evade its awesome, ponderous materiality" .

2. Beats are 'chance events' which contradict cherished beliefs held by many people about 'normal' heterosexual society. The surveillance of beats is designed to reinforce this 'normal' social order. The complex and controversial realities of beats are 'defined' in ways which protect dominant myths about our culture. It is the desire to reassert 'normality' which motivates surveillance and the stigmatising stereotypes of men who do beats as 'pedophiles', 'deviants' and 'perverts'.

3. Foucault's work on discourses of sexuality emphasises that the function of these ideas is not so much repressive as "promotional": ie a Public Relations exercise for "the world 'we' would like to live". This is epitomised in the fear expressed by public authorities about official acts which may be seen to 'promote' or 'encourage' homosexuality. The placement of condom machines in schools or prisons, for

**DRAFT**

example, is problematic largely because it is bad 'PR' - society's leadership does not want to be seen promoting the competing product in the sexual marketplace - ie 'homosexuality' or 'gayness'.

4. The ideas or discourse do not determine action but establish the broad framework for action within society. The social commitment to repression does not guarantee that police and other authorities will act oppressively in relation to beats or other expressions of sexual difference. Some individual officers may be tolerant for a variety of reasons and be opposed to the form of policing committed to dispersion and suppression. The police bureaucracy's efforts to improve beats policing also show how 'professional responsibility' can mitigate the social ideas about the undesirability and immorality of beats.

5. More obviously, the promotional campaign has always been and remains radically contradicted by the empirical sensual reality in which we live. The discourse of conformist sexuality teaches us not to be homosexual and specifically boys have all been taught not to play with their's or other boys' penises: yet many of us obviously do. Men are encouraged to think of beats and public sex as 'wrong' or 'dirty', yet many still do it, and enjoy it.

6. Sex, relationships, social networks, and cultural practice among people of the same sex/gender proliferate, despite the fact that whether visible or otherwise they break the code advocated by the PR machine of heterosexuality.

**Clarifying Beats within the Discourse of Sexuality:**

1. Homosexuality is socially tolerated only to the extent that it satisfies the conditions which apply to sexuality "authorised" under the terms of the Social-Sexual Contract set out above - ie the supposedly normal heterosexual variety promoted by the dominant culture.

2. To use a contractual metaphor, dominant discourse dictates that the terms of sex should follow the provision set out in the discourse - the standard contract. Arrangements which do not adhere to this convention are subject to regulation, ie surveillance.

Beats are clearly in breach of this contract. Their social presence and the sexuality and sex acts of men who do beats contradict assumptions of sexual normality, singular identification, discretion, monogamy, privacy etc.

3. Beats are particularly problematic for dominant discourse because they undermine the sexual freedom (or hegemony) of men within social space. The complaints of men who have been 'propositioned' at beats reflects a resentment of the 'violation' of their 'space'. The suggestion that another male would like to have sex with them is enough for many men to respond negatively and often aggressively. The response is perhaps particularly ironic given the traditional socially practiced male violation of womens' space. On one level, the resentment can be characterised as men disliking the taste of their own medicine.

4. The potential intensity of social opposition, resentment etc cannot be underestimated. The breach of some elements of the discourse can lead to the assumption that beats breach *all* the conditions of the 'normal' sexual contract. This partially explains the conflation of beats social sexuality with paedophilia and prostitution. Such characterisations are profoundly and offensively misrepresentative and unfair. They reflect the desire to eradicate 'different' social practice rather than the reality of beats.

5. One senior police interviewee exemplified the general moralism of surveillance when discussing the distinction between gay men and 'beat users':

**DRAFT**

"A practising gay man has sex in private. So; 'beat dwellers' are mainly married men, with a want, with a family. I know one. I've seen his car there. He's not there to go to the toilet ... What they're doing (*ie Men who do beats*) is morally wrong, not so much to himself, but morally wrong to his family ... these men are looking for sleazy sex. I wouldn't go looking for sex in a public toilet. There's no worse place in the world".

Another interviewee volunteered:

"I've had dealings in that area (*ie with gay men*) for years". He referred to his experience working in the Kings Cross area and said "in those days, men were more closeted" but there were "never any problems at all". He thought that beats only became "problems" because of complaints. Since gay men had "come out", he said some couples were like husbands and wives - he had encountered couples, "living in magnificent houses", when working in Potts Point and Darlinghurst.

***Beats in Social Space:***

1. This analysis also emphasises that beats surveillance occurs within the social context of ostensibly public environments. As White notes, "constructions of space have a strong impact on how offensive behaviour is defined" (1992). Consequently, homosexuality is tolerated under certain conditions - *ie* geographic quarantining and refraining from sex in 'public' spaces. It is when these conditions are violated that the tenuous tolerance of the 'broader community' gives way and dormant prejudices are activated. As one police respondent observed of the problems accused by one beat in Northern Sydney:

"Collaroy Plateau community are elderly people, seventy plus, and their perceptions are more old fashioned, conservative than most of society ... if theoretically, the Gay Mardi Gras was planned for Ramsgate, it would get extreme opposition" (District Commander, 1992)

**Strains of Conformist Discourse:**

1. The discourse of sexuality which generates the 'reality' of beats is not monolithic and is mediated by other social, moral, philosophical discourses. To explain, the general attitudes towards beats can be grouped in three broad categories, which reflect different levels of tolerance and understandings of beats: antagonistic; liberal; and empathic. The variations between these ideas about beats result in different types of practical action, *ie* whether organisations act to suppress or to accept and work with them.

***Antagonistic Discourse:***

1. Antagonistic discourse is generated by those people who see "beats" not as beats but as "parks", "toilet blocks" etc which are public areas with authorised uses and exclude or disapprove of their usage for sex, and even meeting places for men. The central issue is the legitimate use of public space; the regulation of homosexuality within that space and the protection of the public from alleged offence and danger. It is this discourse which produces negative representations of men who do beats as "undesirables", "perverted" or "the sufferers of a disease" in the media, the minds of sections of the public and within the police and other surveillance agencies.

2. The function of these images is to affirm deeply entrenched myths about the nature and social position of homosexuals. Above all, the representations promote the propositions that "homosexuals"

**DRAFT**

are not "normal" and are not part of "society". These ideas provide the basis for traditional repressive policing which seeks to suppress beats because of their 'offensiveness' and the supposed threat they represent.

*Examples: Newspaper reports:*

1) Illawarra Mercury 1993: 'Blitzkrieg on Nudists'. The paper's police roundsman viewed the beat at Windang Beach - one long used by nudists - in these terms:

'This is not a healthy display of nudity I am talking about here. This is sordid and sick behaviour that, if it must be done, belongs in the privacy of a hotel room or bedroom, or the back of a panelvan at the very least. (The) Warilla beats commander (...) has warned police blitzes in plain clothes will continue at Windang Beach until the problem is eradicated. Power to the police, I say'.

2) Western Suburbs Courier 1991: 'Residents Rally to Rid Park of Undesirables'. A local resident claimed that a local park was 'no longer safe for our children' because of the beat which had long operated in the park.

3) Gold Coast Community Newspapers 1991: Alderman Kerry Smith appeared in a series of articles publicising her campaign against local beats, entitled: 'Smith plans to plug out undesirables from toilets'; 'Gay men are warned'; 'Disgusted Kerry Out to Stop Lewd Loo Liaisons'. Alderman Smith variously referred to "immoral goings-on" and "undesirable practices" in toilet blocks in her ward, was quoted as saying "I think they're sick" and was photographed in one article fixing a steel plate into a toilet cubicle door in an effort to deter the beat.

4) Penrith Press 1990-1: 'Concern at park. Gay meeting place?' and 'Business Outrage Over Gay Haunts' in which beats were considered to have a potentially damaging affect on local business; and local police were quoted as referring to men who do beats as "funny folk" (4).

*Liberal Discourse:*

1. The "liberal" approach towards beats is driven by a relatively more progressive understanding of the role of the state. Essentially, it argues that the police and others have no business exercising coercive power over beats to the extent that they involve people pursuing personal pleasure or leisure. Intervention is opposed within liberal discourse because men at beats are "doing no harm" to the public.

2. In the abstract, this discourse extends the scope of the private realm to include places such as beats and follows the libertarian policy that the state should only penalise acts which harm others. (Of course, the essence of antagonistic discourse counters this with is the claim that beats and the men who use them threaten or do *actual harm* to others!)

3. Liberal discourse is invoked in police attempts to encourage ethical and sensitive policing in beats. It also informs the relatively tolerant response of more enlightened media commentators, and some councils, park authorities and shopping centre managers.

---

4) *Penrith Press* 20/11/90

**DRAFT***Examples: the Owen Dowling Case*

1. This discourse was typified by the significant media commentary surrounding the charges of 'soliciting' which were brought against Bishop Owen Dowling. According to Mr Bernard Bongiorno QC, the charges were "trivial and involved no victim in any accepted sense" <sup>(5)</sup>. Similarly, the Chairman of the Victorian Law Reform Commission David Kelly commented:

"The sort of thing alleged against Bishop Dowling doesn't seem the thing that criminal law should be concerned with. There are many more serious crimes. It's most unfortunate that we should bother with that" (Federation of Victorian Community Legal Centres 1992)

2. The Victorian Federation of Community Legal Centres also argued that:

"Examples such as these indicate the need to issue police with stricter guidelines and remove the discretion police use to presume a role of 'moral policing'. Police training should clearly indicate that homosexual sex taking place in public, though out of sight, is not considered offensive behaviour at law. Police guidelines need to be issued which discourages this type of moral policing. The government should indicate to the police in the clearest possible terms that police budget allocations depend on their efficacy in dealing with matters of serious concern to the community such as violence and that scarce resources will not directed towards the persecution and prosecution of vulnerable groups." (1992)

3. On the same case, the Age columnist, Claude Forell <sup>(6)</sup> questioned whether the summary offence legislation was being "sensibly deployed or indeed really necessary". He challenged the wisdom of surveillance of beats, saying:

"An unexpected approach involving a sexual proposition may be unwelcome and offensive, but is it necessarily criminal? Life is full of unwelcome importuning, whether it be religious canvassers who ring your doorbell on Sunday morning, or someone trying to sell you something by telephone, or the commercials that interrupt a gripping television movie, or people who want to cadge something from you in the street".

Forell further argues for tolerance of beats:

"Most of us can cope with that by firmly saying no, switching off, or moving on, without calling for police intervention. Threatening behaviour, sexual assault and child enticement are something else again, and there are proper laws and remedies to deal with them".

*Empathic Discourse:*

1. Empathic ideas about beats derive from the 'gay community', men who do beats, and HIV motivated research: they express the sub-cultural reality which lies underneath social stigmatisation. This type of discourse challenges the assumptions which underlie antagonistic ideas. Empathy differs from liberalism because it does not merely tolerate but either accepts the existence of beats within our society or

---

<sup>5)</sup> *Sunday Age* 30/8/92

<sup>6)</sup> *The Age* 15/4/92, p.13



**DRAFT**

positively claims rights to their existence. Beats are also often seen as an important part of gay cultural expression.

2. Empathic discourse particularly emphasises the futility of and the damage caused by surveillance. It 'knows from experience' that surveillance is only ever a qualified success and can have harmful consequences for men who are humiliated, harassed, arrested or prosecuted because of their involvement in beats.

3. These ideas about beats rarely influence official surveillance because they require direct knowledge of the beat scene. However, some individual police, for example, may reflect the ideas of empathic discourse if they are gay, have been personally involved in the beat scene, or have been intimate with a person (ie a friend, lover or spouse) who has shared with them their experience of being gay or going to beats. More generally, tolerance may be encouraged through contact with the HIV/AIDS epidemic, whether through gay men or otherwise.

*Examples: Gay Culture and Pride*

1. Beats were once subjected to a degree of stigmatisation within the gay community. At the advent of gay liberation some gay men saw them as representative of the repression and closetedness of the sexuality they were fighting for the right to express. Beats now occupy a very different, much more positive position within 'gay culture'.

\* Beats are seen by many gay men as a part of their lifestyle, a source of pleasure and expression; and discussion of beats is now far more widely accepted than before - contemporary articles on beats in the gay press invariably characterise beats surveillance as an attack of 'gay community' or gay social presence.

\* Beats also feature prominently in gay literature and other cultural imagery: eg Mischima, Kushner, Orton, Payne; Cartoons: eg Living with Adam; History: French and Wotherspoon.

*HIV prevention and Discursive Conflict:*

1. For ACON and Beats Outreach, beats are recognised as a valid social presence and a site for HIV prevention. Their public health imperative defines the 'problem' of beats as the encouragement of 'safe sex' within beats networks. For ACON beats are explicitly not a law enforcement issue, as its Beats Policy states:

"beats provide a unique venue opportunity for providing education about HIV transmission and testing as well as support to a range of men who have sex with men, many of whom are not accessible by any other direct means"

2. Further, HIV prevention recognises that men who do beats are 'vulnerable' and have rights to privacy, and is therefore sensitive to the impact of its interventions within these environments for the men connected to them.

3. This approach implies certain policy commitments for ACON on *positive* interactions with other organisations. These are set out in ACON's Beats Policy's broad parameters which establish that ACON will:

**DRAFT**

- a) continue to negotiate with local councils and shopping centre management to leave toilets open, end surveillance and provide safe sex/safe injecting messages;
- b) continue to assist the NSW Police Service to design education programs which develop positive, non-judgemental attitudes towards gays, male-to-male sex, HIV positive persons and beats;
- c) continue to assist the NSW Police Service in developing anti-violence education.

4. As a corollary of these positive commitments, ACON is also committed to *negative* policies to:

- d) refuse to co-operate with police, local councils, media or private companies in exposing, repressing, or relocating beats;
- e) work with gay/lesbian rights organisations and other relevant authorities to campaign to end entrapment by non-uniformed police on beats and revise relevant legislation, such as the NSW Summary Offences Act.

**Practical Significance:**

1. ACON's public health policy commitments place Beats Outreach in potential conflict with organisations whose objectives regarding beats are informed by other discourses. This potential conflict becomes real and has adverse impacts on Beats Outreach work in the conduct of liaison initiatives with police, councils and others.

2. The practical reality of discursive surveillance was epitomised by the experience of the project researcher and a Beats Outreach Worker at a Patrol Training Workshop <sup>(7)</sup>:

\* The project officer and a BOW attended a Campbelltown patrol police training day after an invitation to discuss the BO project. This was a positive step as the local police were clearly interested in obtaining knowledge about HIV and AIDS and BO. When it came our turn to speak the BOW was no more than a few sentences into explaining the difficulties posed by police, when the beats officers proceeded to tell us about the "problems" they had had with the local beat. We were told that:

- "no one could go in there"
- "it's no safe for kids to go in there"
- "we've had several complaints ... mainly from people from Bargo down the road"
- "there's people in there fucking"
- "we've had people come to us and say they've been propositioned - they won't have it"
- "there's condoms and cum all over the place"
- "I don't mind if they've got to do it, they can go and have a poke somewhere else"
- "they're only attracting attention to themselves, someone's gonna get belted"
- "we don't just respond to complaints, we go in and check it out"
- "they've all gone down to Glenfield, now, everyone knows not to go there"

\* The BOW and the project officer found it very difficult to deal with this situation. The police officers could not accept that "this sort of thing" could be tolerated on any level - in fact it would not be going too far to say that they were astonished that anyone could think otherwise.

---

<sup>7)</sup> Campbelltown Patrol March 2, 1992

## **DRAFT**

\* The BOW was forced into making concessions which compromised his advocacy of the public health objectives of Beats Outreach. He said such things as: "well, we weren't there, so how can we tell?"; "some Beat Users do go over the top"; "yes, beat users need to be careful".

\* Yet, the police were not antagonistic to the project. One of the beats officers said at one point that "you're doing a great job, don't get me wrong, it's important". But the police position was unshakeable: the beat was not an acceptable thing for Campbelltown shopping centre.

\* The BOW and the project officer went to the beat afterwards to see how it was. There was no one there. Graffiti however was quite abundant and explicit. It indicated the existence of other beats in the area. We placed some stickers and left.

### **Implications for Beats Outreach:**

1. The importance of this story relates not to the beats and police in Campbelltown, but the terms of the debate around beats and where the Beats Outreach fits into it. Dowsett decries beats as "the stuff of the moralists worst nightmare" (Dowsett 1992c:5), and the police response above suggests that for many this nightmare recurs and operates to stifle debate in a flurry of indignance and moral outrage. In the example above, complaints were certainly received and people probably were having sex at the beat but this does not account for the sense of outrage and indignation expressed by the officers.

2. Beats Outreach confronts a disempowering edifice of rhetoric and stigma every time they liaise with police and others. These emotionally potent oversimplifications of complex realities are supported by patterns of antagonistic discourse around beats and seriously affect the ability of BO and ACON to liaise with the police and others.

### *Consequences of Discursive Surveillance and Conflict:*

1. The practical impacts on Beats Outreach include:

\* ACON and Beats Outreach are compromised within the agenda established by antagonistic discourse:

- this places limits and conditions on police liaison, where ACON is assumed to share socially popular antagonism to beats, and can result in the co-option of Beats workers when they are asked to inform on men who use beats suspected of 'criminal' acts

\* **The dynamics of liaison difficulties of ACON and Beats Outreach are considered in detail in Section 8.**

2. Discursive surveillance helps reinforce the social disempowerment of men who do beats. Within a social order of antagonism, men at beats are considered to have forfeited 'rights' (the social practice is not worthy of protection) by engaging in transgressive behaviour, and feel that they lack legitimate claims or hopes of redress. Specifically, surveillance:

- enhances reluctance to report violence and police impropriety at beats because

- can encourage under-policing which entrenches the vulnerability of Men who do beats and their reluctance to co-operate with the law, police and other authorities.

## **DRAFT**

- produces media coverage which presents beats out of the context of our social sexuality and fundamentally ignores their prevalence and diversity
- produces silences and denial within discourse which prevent open debate and discussion within bureaucracy and the broader community
- the obscurity of beats within the dominant stigmatic discourse means that public policy can be based on false assumptions or incomplete facts. This is also true for the legal system in which magistrates and the DPP exhibit the common tendency to see beats out of context, ie as outside society and something which can and ought to be suppressed and subject to legal sanction.

## **BEATS IN CONTEXT**

### *Overview:*

This section considers the characteristics and diversity of beats and the men who use them. The issues are dealt with in some detail particularly in order to help policy makers, educators and practitioners in the Police Service, Local Government and elsewhere gain a more sophisticated understanding of the subtleties of very complex social contexts and dynamics.

### **Beats: Term Usage, Significance, Etymology**

1. The term 'beat', though widely used by gay men and other beat users is not in common usage. It is what might be called a term of sub-cultural argot. "Beats" have different names overseas: in Britain they are known as "cottages"; in America as "tea-rooms" and South Africa as "boxes" (Dowsett 1992c).
2. Beats are referred to as such by men who go to beats largely out of convenience. The term "reifies" a diverse range of environments to stabilise meaning and provide the basis for communication around them. The term "beats" allows men to talk about beats ie 'where they are', 'what they are like' etc. For example, both Obelisk Beach and Town Hall railway station have beats which are utterly different in their physical characteristics and "patterns of usage" but are united by this term.
3. Its etymology, however, is obscure. It would appear that beats first developed in Australia outdoors and often shared areas which were used by female sex workers to obtain clients. Perhaps the term derives from the similar use of social space - ie the "poofs" did the beat cruising for "trade", while the "whores" did the beat for "tricks".
4. Police and others interviewed for this project were often unaware or unfamiliar with the term. This lack of awareness of the term is symptomatic of the general ignorance of the realities of beats. Most people do not know what you mean when you use the word. There is the obvious confusion among police because of their use of the same word to refer "patches" in their police patrols. But, more importantly, there is the casual, almost automatic, association of beats with deviance and undesirability.
5. Men who do beats associate them with pleasure and desire, where as those unfamiliar with beats usually associate them with "danger" and "perversion". Beats have no legitimate or stable meaning within the dominant culture and are therefore ripe for the misrepresentations and imposed meanings generated by the discourse of sexual conformity. The associations made by interviewees expressly and implicitly included:

**DRAFT**

'drug use', 'prostitution', 'property damage', 'car theft', 'sex toys' and 'bondage equipment', and 'non-consensual sex', including sex between adults and 'minors'.

6. This absence of "legitimacy" and the assumptions which flow from it encourage police and others to act on complaints. Police or councils have no concepts or information with which to counter the assertions of complainants, often expressed in terms of moral anxiety, who furiously demand that a beat is a threat. The beat which cannot speak for itself because of the social silence which surrounds beats and the practical inability of men who do beats to meaningfully contest the characterisation.

*Essential Characteristics:*

Characteristics essential to a satisfactory definition of beats include the following:

- \* Beats are a traditional if unconventional use of Public Space
- \* Beats belong to a network and are diverse environments
- \* Beats are diverse physical environments and their characters vary with surveillance impacts, geographic and socio-economic context

**Beats are produced by social relations of sexuality and have both social and sexual dimensions**

- \* Men who go to beats have a diverse range of social backgrounds, sexual interests, sexual identities, and personal and socially determined 'reasons' for doing beats
- \* Beats have a "social element" - which is largely ignored. This involves both socialising at and beyond the beat

**Beats are a traditional if unconventional use of Public Space: ...**

\*

*Beats are "public sites" with alternative usages* where men can meet other men for the purpose of sex - either at the beat or at another site.

- \* Beats are merely one avenue or environment through which men meet other men who have sex with men for the purposes of sex and/or company.
- \* Beats frequently belong to a network or circuit of interconnected beats.
- \* Beats have historically been part of our social sexual landscape.

## Identifying Beats:

1. None of the environments which can be a beat has to be one. For example, not all men's toilets are beats. Generally, an area can only be confidently said to be a beat when it is being used by men as such. In the absence of men actually cruising and doing the beat, there are typical indications of whether certain areas are used as beats. These would include:

- \* graffiti which men on the beat use to communicate with each other, and graffiti which contains threats from "bashers" and moral crusaders;

**DRAFT**

- \* the presence of peep holes and glory holes in toilet cubicle walls;
- \* "physical interventions" such as the painting over of graffiti, the re-designing of toilet blocks, shortening of toilet doors, blocking of glory holes or peep-holes;
- \* more encouragingly in terms of safe sex and disturbingly for sexual conformists, the presence of used condoms and lube packets or bottles of oil etc.

*Physical Locations:*

1. Conditional tolerance of homosexuality and sex in public dictates that beats emerge in relatively marginal environments: ie toilets, the edges of parks and areas behind beaches. These public spaces all supply an 'alibi' - or alternative reason - for being in the area. If beats emerge in apparently 'high visibility' public areas - eg 'CBD department stores' this occurs because of the (ironic) relative anonymity afforded by the sheer numbers of people present and the 'amount' of sexual desire such areas possess.

*Surveillance and Sites of Sex:*

1. Where sex happens within beats is also influenced by the conditional tolerance of homosexuality and surveillance. The 'logic' of this is supported by the empirical research conducted for this project. The majority of complaints received by all organisations for this project appear to relate to sex which occurred behind cubicles doors, and that the clear majority of complaints related to alleged sex acts which were not directly witnessed by the complainants. Similarly, police report that plain clothes are employed in operations to suppress beats because the behaviour is otherwise undetectable .

*Alternative Usages:*

1. All beats have alternative public uses. But it should be emphasised that the use of the area as a beat does not inherently preclude the use of the area for alternative public uses. Although some beats and men who do beats "get out of control", this is not typical of the practice of doing beats. Indeed, much "beat activity" - either cruising or actual sex - generally stops when men not doing the beat enter the area. As one man interviewee reported:

"People stop immediately, if they hear footsteps. The slightest hint that someone's coming and bang that's the end of it".

Police interviewees reported similarly that:

"On seeing Police these people run off into the bushland".

These perspective tend to contradict popular assumptions that beats "dominate" public spaces.

*Covert Communications:**Cruising:*

1. The conditions of tolerance and the subjectively experienced fear of detection by citizens and police dictate that initial contact between men is made through a covert, unwritten and largely non-verbal code. Although beat etiquette or "cruising" varies among people and places, the common guiding principle is

**DRAFT**

discretion and caution. Experienced Men who do beats can generally tell who is "on" and who is not from their familiarity with this process. In fact the patterns are so 'entrenched' that cruising can now be seen as part of the 'erotics' of the beat.

2. Beats are invariably very quiet places, especially in contrast to other environments used for sexual contact and socialising eg gay bars, strip joints and singles bars.

*Graffiti:*

1. Graffiti plays a very important "communicative function" among sub-cultural beats networks: (Davis 1991:21). It is used to establish contact, advise about good venues and times to be at the beat; and communicate rights and interests: warn of the activity of police bashers or unwelcome or aggressive men who do beats.

2. More recently graffiti has been used to communicate safe sex messages. Graffiti found in beats can include strong advice about HIV/AIDS.

*Beats as Alternative Venues for Sex and Socialising*

1. Beats are merely one avenue or environment through which men meet other men who have sex with men for the purposes of sex and/or company. Beats do not constitute special environments where men engage in deviant behaviour - they are merely one manifestation of sexual and social desire and together beats form a kind of sub-cultural network.

2. Beats frequently belong to a network or circuit of beats. In the Sydney or Suburban Centre CBDs there are a number of beats which are interconnected. Men who go to beats will regularly cruise around the circuit to "see who's around". Men who do beats usually have an extensive knowledge of beat scenes and circuits and typically cruise a number of beats. Men, including gay men, will go out of their way to visit good beats. Not simply because they are out of the area but because those beats have a 'good reputation'.

*Sex in Toilets?!*

1. Popular antagonism and some academic accounts express blatant disapproval of sex in toilets (Paglia 1991, Altman 1970), based on conditioning to believe that toilets are 'dirty', 'disgusting' and 'unerotic' etc.

2. Yet this ignores the fact that, the atmosphere within a toilet can be charged with sexual desire and possibility. As John Lee notes, public toilets were:

"designed in the nineteenth century as an innovative solution to what had hitherto been a (largely) private matter. The introduction of rows of urinals was an imaginative solution to the problem of mass male urination - but they also happened to be very conducive to the casual glance, the discreet eye contact, the wordless, covert pick-up operation" <sup>(8)</sup>.

3. The claims of the anonymity and impersonality of beat sex are also intimately connected to this association with toilets. Yet toilet beats, for men who go to beats, have different meanings. They are

---

<sup>8)</sup> Quoted in Kerans (1993).

**DRAFT**

sites of desire, pleasure and company and have personal or private meanings. The graffiti on the walls itself literally illustrates this 'transformation' of beats. Beats are full of stories of encounters, and in the mind of men, full of memories of pleasure and desire. Particularly for gay men, the experience of beats is influenced by images, attitudes and experience of sex within other contexts.

*History:*

1. Beats are as old as the hills and unlikely to disappear. Wotherspoon (1992) documents that as early as the 1920's places such as the Liverpool Street Turkish Baths, Giles' Hot-Sea Baths at Coogee, the Bondi Beach Bathing Pavilion were known beats. From the same period, the Domain, the Archibald Fountain and Boomerang Street near St Mary's Cathedral were similar less 'defined', open-air beats. Later Fitzroy Gardens at Kings Cross and Green Park became part of the "beat scene". Wotherspoon, also refers to many "famous" beats such as those in Petersham Park and Hyde Park, and many railway stations, beaches and swimming pools historically used as beats.

*Resilience:*

1. Beats are remarkably resilient. This is true even of beats in Sydney's CBD and suburban centres which have been subjected to intense surveillance. Some beats overseas like those in Hampstead Heath in London and Red Square have apparently been there for centuries. When police try to close them down, beats might stop for a while but most will soon start up again either on the same site or somewhere else. This is universally recognised by the police and other organisations for whom beats are an issue, whose surveillance never results in complete suppression. As one interviewee wryly said:

"If they wanna stop beats they need to talk to some queer who knows how they work to help them".

**2) Beats belong to a network and are diverse environments***Diversity: Patterns of Beat Use*

1. It is extremely difficult and unwise to generalise about the nature of beats because of their diversity. For example, some beats are very active on a daily basis, while others are more sporadic (Dowsett 1992c:1). Beats vary enormously in the levels and type of activity; the numbers and types of men who go to them; the level of "publicness" - consequently some beats are subjected to frequent surveillance while others attract little attention. Determining variables include:

- \* the location's accessibility, visibility
- \* the physical characteristics of the beat (toilet, beach)
- \* risk of bashers, history of violence
- \* the history of police and council surveillance
- \* the existence of a legitimate excuse to present

2. There is also certain tendency to imagine that beats operate most at nights. Although many beats do work and flourish at night, many operate during the day - especially those in shopping centres and at beaches - it very much depends on the beat. BOWs have found that beats were generally frequented more during the day than in the evening or night and their working hours which are predominantly during daylight hours reflect this.



**DRAFT**

3. The following section compares characteristics of the beats at Obelisk Beach and Town Hall railway station:

*Town Hall Station* toilet is one of the busiest places in the Sydney CBD. Its characteristics include:

- \* a high turnover of men who are not doing the beat: ie a degree of potential confusion between those doing the beat and others
- \* the virtually perpetual presence of a cleaner within or outside the doors of the toilet
- \* regular police and railway security patrols as part of their routine general surveillance of railway property
- \* a lack of immediately obvious places to chat with men you might pick up
- \* a lack of places immediately within the beat to have sex
- \* its 'connection' to a circuit of beats in the CBD
- \* a paradoxical atmosphere of relative anonymity and "publicness" because of the concentration of people
- \* despite the presence of the cleaner, it is also one of Sydney's more dilapidated and unhygienic "facilities"

*Obelisk Beach*, on Sydney's Harbour, could fairly be described as one of the more beautiful places on earth. Its characteristics include:

- \* relative seclusion: the beat is situated behind the beach away from the areas of high public usage for swimming and sunbaking etc
- \* despite the incidence of complaints to both Police and the National Parks and Wild Life Service, residents, swimmers and sunbakers generally know about and 'tolerate' the beat because of its separation from areas of high public usage
- \* there is consequently a very low turnover of men who are not doing the beat: at Obelisk if you are in the 'beat area' you are far more likely to be assumed to be doing the beat than at Town Hall
- \* the absence of constant surveillance: there is no other common reason for patrolling the area containing the beat and policing is relatively sensitive as reported by men who do beats interviewed for this project and the submission from the local police patrol which stated "It is common knowledge to the Homosexual community (sic) that they can go there and not be harassed by Police"
- \* an abundance of immediately obvious places to chat with men you might pick up and places to have sex with relative freedom from detection
- \* an atmosphere of relative intimacy and warmth afforded by the beauty of the environment, the good reputation of the beat and the fact that the beat area is almost exclusively used for cruising and sex
- \* its disconnection from a circuit of beats, unlike Town Hall, there are no immediately accessible alternative beats nearby.

4. The impression of diversity is reinforced by research on the circuit of beats in Blacktown (Davis 1991):

"Blacktown consists of a network of two closely related and two or three nearby beats forming a beat circuit ... (One shopping centre) beat is situated in the undercover car park of an older shopping complex ... The beat is therefore protected from the weather, relatively private and easy to get to regardless of mode of transport. The entrance is through two squeaky door which act as early warning devices for the men who do beats. The first door has a large sign which states that the toilet is under surveillance by camera. There is however no camera and security patrols are minimal ... Contact is made by looking under or over (cubicle) walls. Further contact

**DRAFT**

can be made by waiting in the washroom, washing hands and establishing eye contact. This beat is distinctive because of its relative privacy owing to the double doors and the easily established legitimacy of being there since it is so close to the supermarket, offices and other shops. (The secondary beat in the area) is reached by walking a short distance across a road. It is a men's toilet adjacent to another shopping-complex car park and is not covered ... The toilet is poorly lit, often smelly and messy. There is some male oriented graffiti and the cubicle furthest from the urinal has a glory hole in the door. Other ways of seeing are through the gaps in the doors".

### **3) Beats are produced by social relations of sexuality and have both social and sexual dimensions**

#### *The Diversity of the Men Who Do Beats:*

1. A cross-section of the male population is reflected in the men who go to beats. In fact it would appear that the single common demographic denominator among them is homosexual desire. Men who do beats are remarkable for their heterogeneity; they differ in terms of age, marital status, ethnic origin, occupation, literacy, sexual identity, occupation, literacy, sexual practice and knowledge about HIV/AIDS and safe sex.
2. As Goodburn noted in a recent study of MSMs in Brisbane: "Men who have sex with men belong to church groups, P&C groups, sporting clubs, hobby clubs, are employed in all areas of the workforce, are parents, are in casual, defacto and marital relationships with women, are in casual, defacto and marital relationships with men" (1993:33) .
3. BOWs also report that they encounter men from a variety of backgrounds at beats. This diversity is also evident in the research (Davis 1991, Connell 1991 etc). Both men who do beats, police and other interviewees for this project confirmed these impressions.
4. Men who do beats have a variety of occupations. Records of convicted persons include such "respectable" members of the community as teachers, academics. A recent and well publicised case involved the alleged bribery of a man at a beat in Sydney who was a travel agent.
5. Men who do beats also ironically include police officers. BOWs have on occasion encountered police doing beats for their own pleasure both during work and when doing beats themselves. This is also evidenced in research overseas (Desroches 1991).
6. Men interviewed similarly claimed to occasionally meet men at beats who said they were police officers and park rangers. One man interviewed for the project reported that he had encountered both park rangers and on-duty cleaners:
 

"One guy at Central railway - the attendant - used to do the beat himself - he got caught in the end and was transferred ... Another cleaner at central asked a guy to go outside and called the boys in blue. And park rangers yes".
7. Police and lawyers interviewed indicated that the majority of men convicted of offences related to beats do not have a prior criminal record. Further, a number of the men who are prosecuted for beats related offensive behaviour obtain s.556A orders which means that although the offence is technically proven, the person charged does not acquire a 'criminal record'.

#### *Identity and Practice: Are Men who do Beats Gay or Bi or What?*

**DRAFT**

1. It is important to recognise that not only gay men use beats. Both qualitative and quantitative research demonstrates that sexual identity and sexual practice are not the same <sup>(9)</sup>. As one BOW put it:

"To have sex with other men you don't have to think of yourself as gay. Beats workers talk to many men who see themselves as heterosexual or straight. For these men, the occasional "wank" or "head-job" with another man is "just playing around" - they don't think of it as "real sex".

2. Goodbun (1993) also revealed the complexity and discontinuity of identity and practice among MSMs. Other research such as Project Male Call (Kippax 1992) and O'Reilly (1992) reinforces this picture of "contradiction". Goodbun's interviewees made such comments as:

"I'm on the het side of bisexual, I'm more attracted to women but I enjoy sex, once I come with a man that's it"

"I like having sex with men and women, they are the same for me. I wouldn't live with a man but I would live with a woman"

"I'm just sexual. I'm not gay, occasionally i encounter someone at a beach. I'm more turned on to sex. I don't think about what I do with men as sex"

3. Further, sexual identity is not set in concrete - it can change with time, place and company. The Bisexually Active Men's Outreach Project report found that sexual identity is fluid and apparently varies with social contexts, especially for men who have sex with both men and women (Davis 1991). Because of the imperatives of singular sexual identification - ie that people either declare themselves as gay or straight - within both the general community and the gay community, some men seem to swap identities depending on the expectations of their company. Further, BOWs report that it in practice can be extremely difficult to anticipate who identifies as gay and who does not.

4. Quantitative evidence reinforces impressions of the fluidity and complexity of identity. Bennett's 1988 Western Sydney Beats Study of 114 men who do beats found that:

- \* 52% were homosexual;
- \* 39% were bisexual;
- \* 9% were heterosexual (Bennett 1989)

*Gay Men and Beats:*

1. Not all gay men use beats. In fact, beats have been regarded with some disdain or distaste by some gay men (Altman, 1970). However, this seems to have changed markedly over the years - these days beats are a 'gay community issue and this is reflected in many articles on the subject in the gay press.

2. The first Social Aspects of the Prevention of AIDS survey (Kippax 1988) with a sample of some 535 gay and bisexual men indicated a high incidence of beat use among the respondents and found that:

- \* 70 % of respondents had engaged in male to male sex at beats at some stage in their lives

---

<sup>9)</sup> See eg Simon Watney 'Homosexual, Gay or Queer', *Outrage*, April 1992.

**DRAFT**

- \* 46% of those rated such experiences as "very or quite enjoyable"
- \* 37% reported beats as a currently used site for seeking male sex partners
- \* 46% of the men in the study who had had casual partners had used beats for sex in the previous six months.

**Why do men go to beats?***The Subjective and Social Relations of Beats:*

"If you didn't have gay oppression, then beats wouldn't exist. Some of the 'gay community' and gay venues wouldn't exist. If the lifestyle and sexuality were sanctioned as part of the diversity of life then there wouldn't be the need to have them. There's the perception that gay men sit down and devise these places - ie gay men or men who have sex with men - to be 'subversive' or 'perverse' or 'radical'. And they essentially derive from trying to contradict the massive isolation and invalidation they've lived under because of the oppression".

*ACON Rural Project Officer 22/3/93*

1. These remarks remind us how popular attitudes to men who do beats emphasise personal sexual desire, deviance and 'choice' in their efforts to cast people as 'outside society'. Such views radically oversimplify the subjective and social forces which are responsible for beats and their prevalence. These 'personalised' explanations for beat use employ an individualistic theory of human behaviour. Examples of this would include, that men use beats:

- \* *because* they are sexual deviants.
- \* *because* of their inability to form (lasting) relationships with others.
- \* *because* they desire anonymous sex.

2. These explanations tend to derive from moral philosophies, which, as Anleu notes, isolate characteristics to separate the deviant from the non-deviant (1991). In this spirit, much of the literature (eg Humphreys 1970; Desroches 1991) and most newspaper reports on beats emphasises the anonymity and transience of the encounters between men at beats. This establishes distinguishing (stigmatic) characteristics of beats sexuality. That is beats sex lacks the wholesomeness expected of 'normal' sex. Men who do beats are depicted as disconnected strangers joined only by seemingly chance encounters with apparently no significance beyond the interaction at the beat.

2. Personalisation is crucial to stigmatisation. Its function is to promote the dominant belief that the practice limited to a small minority which expresses 'unusual desire': ie that homosexuality is "outside society".

3. These explanations project the prejudices of the observer or commentator onto to the 'obscurity' of beats in order to control the production of its meanings. Consequently, they contain qualities which ignore both the subjective and 'objective' realities of beats. Further, they tend to deny the possibility of any positive motivation for or quality of doing beats.

*Social Relations of Sexuality:*

1. More adequate explanations for the existence of beats and the motivation of men who do beats engage the social relations of sexuality. Beats and motivations for doing them (as an alternative or exclusive source of sexual/social contact) do not 'come out of thin air'. To a large extent, they are

**DRAFT**

produced by what the interviewee above described as 'gay oppression': the prohibition on homosexuality, both per se and for married men and ostensibly 'straight' men, within conformist sexual discourse.

2. Beats emerge in different ways depending on their "socio-sexual" location. In the suburbs and rural beats can be used by local gay men as a meeting place. For some men in these areas they are the only public places they meet other men interested in sex with men. In some suburban areas, beats can play a significant role in the local gay scene and provide gay men in the area with a preferable alternative to the inner-city scene with which they may not culturally identify.

*Subjective Forces and Doing Beats:*

1. Probably the only undeniable statement which can be made about the 'motivation' for doing beats is the common desire to have sex with men.

2. It is important to realise that doing beats cannot be separated from the other activities and motives of people. Beat use, in terms of its subjectivity, largely depends on the convenience of the location of beats for the man who does beats. That is, if a beat is near their home, place of work or near where they conduct other activities eg shopping or drinking. The proximity of beats to other activities which complement picking someone up at a beat, eg cinemas, hotels.

3. Reading some articles and newspaper reports you could be forgiven for thinking that men who go to beats also go to the movies, the pub and the football. Also, they sometimes do these things with other men who do the beats! Beats are typically not associated with these 'normal' activities because they operate in parks and toilets which are physically and symbolically separated from the 'rest of society'.

*Subjective Negative Motivations:*

1. Nonetheless, there are certain negative "subjective" motivations which can be identified. For example, particularly closeted men will 'choose' to do beats in other areas because this minimises the possibility of detection by people they may know from the local area, or because they wish to separate their homosexual practice from the region of their 'family life' in order to preserve their identity within that space. They also choose beats over other avenues of sex because of their *relative* anonymity when compared with gay venues.

2. Ethnicity, another social force, may also play a role. Certain cultures have intense prohibitions on same sex relations and they hamper exploration of these relations within these groups and make it very difficult for some men to 'come out'. Further, the gay community has its own racism - being dominated by 'white' males - whose level of tolerance does not necessarily extend to other marginalised groups. Assumptions about the closeted-ness of men who do beats often reflects a level of racism in that they misunderstand the sociology of homosexuality for different ethnic groups and the problems of contact with gay community that 'minorities' can face.

*Positive Subjective Reasons:*

1. Many men choose to go to particular beats for 'positive' reasons. Beats can acquire a reputation and gay men will, for example, travel miles, to 'happening' beats in other areas, including outer urban or even country areas.

**DRAFT**

2. Some openly gay men 'prefer' beats to other venues which accommodate gay sexuality and sociality for other subjective reasons. One man interviewed recalled how he and other men who knew each other from a beat in Sydney's Inner West preferred the beat to commercial gay venues:

"It was understood, never said, that we preferred the park as a social environment and venue, if you like as opposed to the scene - we were just reinforcing the feeling of how good it was to be there. Saying and joking that this is a great place - no smoke and the drinks are cheap, you don't have to listen to music you don't want to listen to. And being in the park you can still meet so many different people - better options - in a bar if you're chatting up or being chatted up, it's not so easy to get away from them. There are more socially established ways of behaving, often controlled, often more contrived in a bar because of the environment - and you don't have that in the park. People in the park haven't got facades - there's nothing to show off about or be pretentious about - people you meet are basically themselves".

*Social Networks:*

1. The stigmatisation of beats identifies beats as areas of 'dangerous' sexual desire. These images over-emphasise the sexual dimension of beats and fail to recognise the social links among men who go to beats. This dimension of beat culture is crucial to the success of Beats Outreach's peer education strategy: without these networks, the project would not be viable. This aspect of beats is not immediately obvious to the non-beat users because surveillance renders them largely invisible and the outsiders are not part of the culture and do not know what to look for.

2. However, empathic, intimate studies of beats - eg the Macquarie University 'CHAP' studies and the Bisexually Active Men's Outreach Project - affirm the existence of these networks:

"Observation of the beat networks over a protracted period indicated that a definable social life exists in and around the beats setting" (Davis 1991:21)

In one area, the Bisexually Active Men's Outreach Project worker observed:

"that a core of regulars use the Blacktown beat and have come to recognise each other and they interact in that context. Sometimes the interactions are directly sexual. For example, gay couples use the area looking for third sexual partners, hanging around the beat together".

3. BOWs also regularly encounter the same men at the same or a variety of beats on the scene. Van Reyk (1990) estimated that "the number of repeat users hovers around ten per cent in each month". BOWs experience further indicates that, for many men, beats are a place where they feel the fact they have sex with other men can be accepted by others. This is very common at beats in the suburbs or in rural areas where there are no gay venues where men can meet socially.

4. Again, the popular stigma attached to public toilets by conformist discourse is not embodied in the attitudes of men who do beats. Many men treat their local beat as someone might treat their local pub - as a source of pleasure and company. Some interviewees spoke fondly of their local beats. They have a clear personal attachment to them and use familiar, 'domestic' language to refer to the beats or particular parts of them.

5. Beats are a contact point for socialising at and beyond the beat. Friends met at the beat can become part of men's lives. The Bisexually Active Men's Outreach Project Report found that:

**DRAFT**

"the Blacktown area seems particularly important for younger gay men in distinctly social terms. A kind of loose club exists in Blacktown of men aged between 16-25 who meet at the beat of the local shopping centre, to chat and socialise. They watch the beat, report to each other on who is using it and come and go as they please. It seems that the opportunity for socialising overrides the potential for sex and the response indicates a need among these men for social interaction" (Davis 1991:21).

6. This was affirmed by most men interviewed for the project. As one said:

"You have chit chats and nod in the street if you see someone you know from the scene".

And more elaborately as one man from Sydney's West said:

"Yes. I can't emphasise enough that it was like club. We had this meeting place in Fairfield. We'd meet, we'd go for a coffee, go for a beer. Go shopping on Saturdays. Now we go into town. It's cold - you don't know them. When they find out where you come from, they don't wanna know. They say it's all in the Eastern Suburbs - it's all out here - they're here in droves. Mostly bisexual and ethnic. But now we have nothing.

**Beats Social "Organisation":**

1. Even in suburban Sydney, beats can be very social and develop a self-perception as a group which can create a sense of solidarity among the men who go there. In one special case at an Inner West beat, a representative body has been established by regular long term beat users largely in response to issues which are of mutual concern eg violence, aggressive 'beat users', safe sex promotion and encounters with police. The Association has set up an organising committee with several offices including a President; Counsellor; Police Liaison Officer, and an Activities Officer.

**Conclusion:**

This section has explored

- 1) why beats are not necessarily "dangerous" "lonely", "anonymous", "impersonal places".
- 2) how beats networks and sociality contradicts images of over-sexualisation and social disconnection.
- 3) issues relevant to community based policing which demonstrates that there is an identifiable, if unconventional and disparate, social group with whom liaison can be attempted.

**ACON - POLICE LIAISON****Method:**

1. This section is based on interviews conducted with Police and Beats Outreach Workers, participant observation within the Beats Outreach project, ACON and NSWPS documents, media coverage, reports on police liaison and HIV prevention (Brain 1992), and the meetings of the ACON Police Liaison Working Group (PLWG).

**Overview:**

**DRAFT**

1. The relationship between the AIDS Council of NSW and the NSWPS, in connection with the Beats Outreach project, has been characterised by sporadic attempts at various forms of liaison designed to overcome the practical problems surveillance potentially and materially pose for the project.

2. Since the advent of the project in November 1988, the liaison has gone through three phases.

\* ACON first attempted direct and formal liaison with operational Police in the areas where Beats Outreach was operating. ACON's primary purpose was to obtain the co-operation of local police in areas where Beats Outreach operated to facilitate satisfactory work conditions for BOWs - ie to improve access to Men who do beats, guarantee the security of BOWs and obtain information about the existence of beats in particular areas. This practice was not very effective, did not last long and has been discontinued.

\* ACON later attempted high-level liaison with the representatives of the Police bureaucracy, including the Commissioner, State Command and the Gay and Lesbian Client Group Consultant. In this instance, ACON's goal was to ascertain Police policy and practice in beats in an attempt to obtain the co-operation of senior police in helping improve the policing of beats throughout the NSWPS. This was a different approach to improving access to the target group.

\* More recently, formal liaison between the organisations has been cemented through ACON's involvement in an internal NSWPS working party (partly established as a result of ACON and GLRL's agitation around beats) and in the conduct of this CARG project. Since July 1992, ACON have liaised with the Police through the Steering Committee overseeing this research. One of its major themes has been the consideration of formalising liaison between ACON and NSWPS.

\* In addition, to these "formal" liaison initiatives, BOWs and the project's manager have had, and continue to have, periodic "incidental" liaison with the police. It is prompted by reports from Men who do beats about police activity in beats, police impersonators, violence and occasionally through direct encounters with police officers at beats. This primarily involves the Gay and Lesbian Client Group Consultant or individual Gay and Lesbian Liaison Officers, but may also include operational police - eg detectives investigating beats related offences, especially 'police impostors'.

3. At times the organisations have liaised effectively, most notably in the high-level negotiations between ACON management and NSWPS bureaucracy and in direct liaison in regional areas, eg: between ACON's Newcastle and Wollongong branches and local police. However, even these successes have been problematic to an extent. The terms of the relationship have never been properly examined or elaborated. On the whole, the liaison's informality has left the relationship unclear and unreliable.

4. ACON has also liaised with police in relation to Mardi Gras and Sleaze parties. Negotiations concerning Needle Exchange services have sometimes created tension which has fed into the spirit of liaison between the organisations. Conversely, the NSWPS Commissioner's sensitive opposition to "outing" within the Police service was in tune with gay community sentiment and welcomed by ACON, as were other police initiatives within the gay community, most particularly its involvement in the GLRL Anti-Violence project. These external factors have a significant role in shaping ACON-Police liaison around Beats Outreach.

5. The apparent incompatibility of the organisation's differing objectives with respect to beats has created tensions which have also hampered liaison initiatives.



**DRAFT**

6. On balance, the value of liaison attempts to ACON BO has been questionable. However, a more formal and clearly defined relationship may improve the quality of liaison between the NSWPS and ACON. Practically, a more streamlined operation would reduce time wasted by ACON in their concern for and dealings with police.

7. Many issues need to be elucidated before more concrete liaison is established and this can be done by highlighting particular features of the history of liaison between ACON and the NSWPS.

8. Please note, this potted "history" of the liaison does not claim to be comprehensive, but is designed to highlight issues of importance which may inform the future relationship between the organisations.

**Sydney Office Operational Liaison:**

1. The Beats Outreach project established its initial liaison with the NSWPS, shortly after its inception, in early 1989 through the then Gay and Lesbian Client Group Consultant Fred Miller. Miller, on behalf of ACON, "approached the relevant district superintendents indicating the department's support for the program, and so on down the line to the local police station" (van Reyk 1990) - ie in areas where BO was operating.

2. ACON perceived the liaison as having various functions:

1) police co-operation would allow *improve access to the target group (MSMs) and work conditions* for Beats Outreach workers. That is, if police agreed not to patrol particular beats while BOWs were there, this would:

i) remove the threat of BOWs being arrested or otherwise distracted from their work by the police intervention

ii) improve access to men who do beats, the project's target group because the men who do beats would not be deterred from remaining in the area or arrested or moved-on during the time spent doing outreach

2) police co-operation would *guarantee protection* for ACON workers in the event of emergencies:

i) police officers would be briefed to respond to "distress calls", and

ii) police officers knowledge of the objectives of the project, would remove "misunderstandings" about the presence of BOWs in what police may perceive as "controversial" environments or 'suspicious circumstances'

3) more generally, liaison was perceived to have a potentially *educative function* for police:

"not only about the use of beats as an AIDS prevention strategy but also about the men who use beats, ... the sexual identity of these men, ... their wider family and social lives, (and) of the effect of police harassment" (van Reyk 1990:21)

4) police were also used as a *source of information* to identify "which venues act at beats" (van Reyk 1990:21). It is ironic given the tensions in relations between the organisations that the project was assisted in its infancy in this way

**DRAFT****Outcomes of Initial Liaison:**

1. Discussions between the organisations were informal, and agreements were not recorded in written form. Generally, the liaison initiatives established that:

- \* the police agreed to not patrol areas where BO wanted to go;
- \* the police would respond to any emergency calls;
- \* provided that BOWs notified in advance the relevant local stations when they were coming into the area: the notice given was usually "two or three days".

2. Areas where this initial form of liaison was conducted included Parramatta and Sutherland, and later involved Liverpool and Revesby.

*BOWs Experience of Liaison:*

1. At the first PLWG meeting, BOWs present reported that these arrangements "worked well for 12 months" with ACON workers neither encountering police while doing outreach or needing police assistance. However, workers then encountered police on a number of occasions in the course of their work who were unaware of ACON's presence in the patrol, the agreements made with local police and the purpose of the BO project. It seems that information may not have always been communicated to "general duties" or 'beats officers' police who were always the most likely to encounter BOWs. Example of these experience include the following.

*2. Sutherland:*

After reaching an informal liaison agreement with ACON in July 1989, local police had indicated their willingness to co-operate in relation to BO. BOWs were told there was no need for them to contact police before working in the patrol, and that operational personnel would be informed of their presence in the area and the nature of their work.

Yet, BOWs discovered there were no standing instructions from the patrol command to officers "on the beat" about the BO project. An internal ACON report documents that in September 1989 a BOW "was at Loftus Park and was confronted by two plain clothes officers. A discussion ensued with (the BOW) identifying himself as an ACON Beats worker and everybody agreeing to meet at the Sutherland Police Station to discuss the matter with (the local PC). (The BOW) did not attend that meeting, preferring to take this matter up at a higher level, as the plain clothes police had been aggressive".

The local police were understandably annoyed by the BOWs failure to attend the meeting at the station. The BOW, however, felt that the police had broken their word on the liaison - ie he had not expected to encounter police at the beat considering the arrangements made with the patrol command.

Through the Acting Gay and Lesbian Client Group Consultant, Sgt Brian Gately, a further meeting between BOWs and local police to discuss the BO project and Police liaison took place on 26/10/89. Representatives from ACON, the Sydney West Area Health Service, a reporter from a local newspaper and "the entire Sutherland Police Force" were present. The work of ACON in the area had stimulated the interest of the local press in which the validity of the BO project was debated.

**DRAFT**

With the intervention of the ACON Education Manager, the officer then responsible for the BO project, an undertaking was obtained from the Sutherland Patrol Commander.

"that when Beats work would be done in Sutherland we would first inform him so that he would not roster patrols for that day".

According to ACON, BOW workers "complied with this arrangement and it worked well on two occasions". However, contact eventually broke down:

"third time that we wanted to work in Sutherland we attempted to contact (the PC) over three or four days. He did not return our messages so on around the fifth day we left a message saying that we would work at Loftus the following day and that if he had any objection to please contact us. He did not contact us so we went ahead and worked. While we were at Loftus a Police Patrol came to the beat but did not attempt to speak to us. We left soon after and have had no contact with Sutherland Police since".

BOWs did not impute any malice to police presence in this instance but the breakdown in communication, suggested a lack of rapport and goodwill which adversely affected ACON's attitude to and confidence in police liaison.

### 3. *Liverpool:*

Problems with a lack of communication between the organisations were also evident in an encounter BOWs had with police in the Liverpool area in 1989. This instance involved police arriving at a beat after a complaint had been received about two men who were 'loitering' around the nearby child care centre. As one of the BOW involved put it:

"We were sitting on a bench near the beat, near the station which was opposite this Baby Health Centre. We saw 5 police officers coming towards us, they were drawing their sticks. Which was a bit over the top for two guys sitting on a bench. As soon as we showed our ID they were ok. But what if we were just doing the beat. They said they'd had a complaint from the Baby Health Centre".

Police concerns were allayed when the BOWs presented identification. Nonetheless, the undesirable confusion, creation of fear within the BOWs, and the waste of police time and resources could be overcome by better communication between the organisations.

### 4. *Milperra/Revesby:*

In this area liaison with Police developed somewhat unusually when BOWs encountered police officers while working at Deepwater beat, which is a regular focus for outreach work.

On this occasion, a female officer asked a BOW "what he was doing there". He asked the same question of the police officer in return. At this point the BOW said he thought the officer "became quite shirty". He felt the officer was trying to intimidate him but that "whether this was deliberate or a function of their normal style, I don't know".

According to the worker, a 'productive' meeting later took place 'back at the station' between BOWs and the local officers. The BOWs then agreed to phone this particular female officer when planning to work

**DRAFT**

in the area. BOWs did ring the officer the next few times they worked in the area and liaison was considered satisfactory.

However, when this officer was away for a period, BOWs were asked by the officer they then dealt with to contact another officer. After a few more contacts, when asked by a BOW if he thought the police wanted to continue this approach, this other officer said not to worry as the Deepwater beat was not being targeted by operational police.

Curiously, the local Patrol even rang the BOWs at one stage to warn them of snakes in the area over the summer months. Despite the metaphor, this was one health risk ACON BO had not been aware of at beats! In practice snakes have not caused BOWs any problems at Deepwater.

In the end liaison was not maintained, yet BOWs frequently work this area without direct liaison with local police and have not since required their assistance.

*Reasons for Discontinuation:*

BO no longer routinely engages in this form of operational liaison. The reasons for this are several.

1. *ACON Policy:*

To an extent, ACON did not pursue liaison as a result of a management's pragmatic redirection of limited resources. In 1990 the project was extended to cover many different areas and the new Education Manager made the judgment that liaison with police was going to prove too time consuming; and was a relatively less useful expenditure of time and resources for the purpose of HIV prevention. Resources were instead directed to extending providing Outreach services.

In Sutherland, for example, liaison was discontinued because the BO team decided "the project's attention (outside Western Sydney) should be shifted to the Illawarra". An ACON internal memo on relations with Sutherland Police notes that this "however, was unrelated to our dealings with Southern Sydney Police".

2. *ACON Workers Wariness of Police:*

Neither party was solely "responsible" for the discontinuation of these liaison practices: BOWs reported that "it was not just the cops, it was a two way problem". This reflects that liaison was not pursued partly because of a certain reluctance to deal with police on the part of BOWs.

After all, ACON is a gay community based organisation, BOWs are invariably gay men and the gay community men's historical antagonism with police should not be forgotten or underestimated. Despite the advances of Police - gay liaison (and other improvements in relations between the State and the gay community), gay men remain suspicious of the Police. BOWs remain 'nervous' about dealing with police and retain a general scepticism about police intentions and the strength of commitment to liaison. These underlying negative perceptions have been reinforced by personal experiences of BOWs both while working for ACON, and otherwise as gay identifying gay men.

The experiences with Police at beats in Liverpool, Sutherland and Revesby have not improved ACON BOWs confidence in the NSWPS sincerity about liaison or co-operation in relation to beats outreach. This wariness is reinforced by the attitudes of operational police encountered in liaison meetings. One

**DRAFT**

BOW reported that in one instance, the officers attending were less interested in BO than about how "AIDS" might affect them in terms of Occupational Health and Safety. The meeting was marred by officers' questions which related to HIV/AIDS in general, rather than the specific concerns of Beats Outreach.

**3. Liaison's Impact on Beats:**

More serious reservations about police liaison express the concern that liaison had materially damaged Beats Outreach by drawing attention to beats. As one BOW noted in a report to management in October 1991:

'I can't see any benefit in co-operating with the force. In fact, the opposite is the case - we are only reinforcing to them that there is a PROBLEM (*his capitals*) at the beats, and alerting them to the fact that something should be done!!'

The BOW perceived that the project was at fault in attracting the attention of Police, Councils and SCMs by attempting liaison with these groups. He also believed media coverage about the project had contributed to the "outing" of beats and that this provoked 'community intolerance' and intensified surveillance. For this BOW, the unintended consequence of Police and Council liaison, which was meant to enhance the efficacy of Beats Outreach, was that beats had in fact been subjected to increased antagonistic surveillance. This had adversely affected BO by dispersing men who do beats and exposing them to 'detection'. The BOW was particularly concerned that ACON had breached its duty of care towards men who did beats as a result of these developments and the harm that may have been caused to them.

**Regional Experience:****1. Hunter Office:**

In the Hunter (Newcastle) Region, there has been extensive liaison between ACON and NSWPS. The arrangements made there represent the most formal (and perhaps reliable) liaison established between the organisations.

ACON BOWs in this region have had particularly close relations with the local police because of investigation into serious violence and suspected "sex with minors" at beats. The quality of liaison is also evident from the experience of gay men in the area who have been assaulted - including one ACON worker - and report receiving "good treatment" from the Newcastle police, particularly with the involvement of local GLLOs. Yet, as in Sydney, BOWs have on occasion found "foot patrol officers" were not aware of presence in the beats.

Police representatives, especially the Regional Commander and the GLCGC, are quick to emphasise the quality of the liaison in the Hunter area a model for how beats should be managed; and evidence of the success of gay community liaison.

Yet, there are problematic dimensions of the liaison between this branch and the local police. The police have expressed (and apparently maintain) an expectation that ACON workers should report men at beats suspected of engaging in sex acts with persons BOWs believed to be under 18 years of age. As the Branch Co-ordinator wrote to ACON Management Committee:

**DRAFT**

"The Police also felt that if we saw an older man having sex with a boy under 18 that we had a legal and moral obligation to tell them who the adult was so he could be arrested ... The Police basically thought that part of (the BOW's) job was involved policing beats as some illegal and immoral behaviour goes on in those places."

The same document also states that the Branch's BOWs, without consulting ACON Sydney, agreed as a condition of the liaison that "if they see children having sex with adults at Beats they will inform the appropriate authorities".

The propriety of this demand is dubious and raises serious ethical questions. For example:

- i) should police co-operation with ACON be conditional upon this agreement to "inform" on men who are part of the outreach target group?
- ii) should BOWs have their work compromised by this conflicting obligation?

Trust built up with these men is crucial to the success of ACON and knowledge within the local beat scene that BOWs were 'co-operating' in police surveillance could be disastrous for the project.

Conversely, police officers are not asked by ACON to give out condoms, lubricant and information.

- iii) Given these ethical questions and the isolated operation of the liaison, does emphasis on this case misrepresent the complexities and variable problems for liaison generally?

Further, reports on the meetings between ACON representatives and local police to ACON management committee cast further doubt on the positive representations of liaison in the area. While it can be practically useful to BO, as recognised by ACON, the case should not be overstated. The local ACON branch is very supportive (and appreciative) of this liaison with police, yet Branch minutes and reports on liaison meetings feature common references to the "homophobia" of the police encountered.

Such problems continue. In October 1992, a Hunter Region BOW reported that Wyong had recently become a 'problem area'. He discerned a "homophobic atmosphere" at that station/patrol, which he contrasted with Gosford patrol which he had always found 'co-operative'. The problems with Wyong were resolved by having Wyong Patrol send around a police newsletter informing police of ACON presence in the area.

## *2. Illawarra Office:*

ACON Illawarra has had similar experience to the Hunter Branch in their dealings with police. BOWs reported that "police action was seasonal" in their area and that they had enjoyed mixed experiences.

For example, BOWs have traditionally avoided liaison with Warilla patrol because they perceive the 'level of homophobia' among the staff there as too strong to warrant liaison attempts. This perception of unapproachability appears to come from the local police's traditional and continuing practice of suppressing the beat at Windang Beach.

BO has therefore focussed on Corimal and Wollongong Patrols where "good liaison" with the local GLLOs has facilitated a productive relationship in which the patrol personnel have gained useful practical knowledge about BO, and are sensitive to its purpose.

**DRAFT**

This spirit of co-operation led the ACON Branch workers to agree to work with police at Corimal after the beat at Fairymeadow has provoked a series of public complaints. The BOWs were prepared to "warn" men at the beat of planned police operations during the conduct of their outreach work, and suggested that men might "tone down" their behaviour to reduce complaints and the likelihood of police intervention. This response was pragmatically rationalised as potentially useful in minimising the potential damage done to the beat and the individuals who go there. Further BOWs thought that providing warnings of police action may help foster trust with the men and thereby enhance their work.

However, the BOWs did not approve of co-operation in this surveillance for its own sake. One expressed resentment, despite the assessment that co-operation could help their work, when he said, 'the cops keeping looking to us to act as cops'.

This instance also has not changed the fact that Illawarra BOWs remained confused about their relationship with police. Despite the co-operation received from the GLLOs, and ACON's assistance in 'controlling' the Fairymeadow beat, BOW reported that local officers were still "moving into beats at same time". ACON workers believed that around the time of the agreement to co-operate, police were initially just "monitoring" Fairymeadow beat but then "2 weeks ago, 2 guys got arrested" (October 1992). BOWs also reported that police were stopping men at Fairymeadow and allegedly "harassing" men by taking license numbers, although not charging them.

The BOWs said that despite instances where men were having sex in the open which may have attracted attention, they failed to see the point of these arrests. Their view was that the police intervention did not provide a long term solution to the perceived problems caused by the beat. Nonetheless, the Illawarra ACON Branch remains committed to liaison.

### *3. Comments on Rural Police Relations:*

Within regional or rural communities the dynamics of community policing and HIV prevention are different from those in city areas. The relations between police and ACON - as with other community groups - tend to be less bureaucratic and more informal. There is a greater 'community' sense and relations between organisations are generally more personalised than in urban contexts where personnel may not live in the area where they work.

As one ACON Manager (MD) noted the "potential for good liaison is greater in smaller communities". The danger is however, as he warned, that the advantages can depend too heavily individual relationships established over time and therefore "may fall apart when staff change". It is relevant that staff turnover within all ACON branches tends to be quite high.

#### *Bureaucratic Liaison Initiatives:*

##### *1. Baxter Writes to Lauer:*

After the decision to cease "operational liaison" with the NSWPS, the next ACON liaison advance to the Police came when the Director of ACON, Mr Don Baxter, wrote letters to Commissioner Lauer following a series of reports from gay men and men encountered by the Beats Outreach project (Jan 30 1990).

Baxter's letter affirmed ACON's commitment to harm minimisation which opposes the suppression of beats, noting "measures to repress these sexual activities have always failed". The ACON Director

**DRAFT**

acknowledged police co-operation stating that "we are particularly thankful that in some regions our officers have been offered access to direct phone numbers to radio rooms".

However, he added "in a very large number of locations our officers are being told by their contacts of arrests and actions by police patrols". In explaining ACON's interest in police intervention in beats, Baxter said "If it is true that there is a new wave of police activity against beats, the AIDS Council would like to express to you our belief that (that) is counterproductive in public health terms ... Police can only create a climate of guilt, fear and suspicion, that makes it very hard for outreach officers to build rapport with these men in order to educate them about safe sex".

Baxter concluded by affirming the impact that policing had had on Beats Outreach: "even if your research reveals that there is little truth in this perception of increasing police harassment, the climate in which our education work must continue has deteriorated".

Baxter listed many of the reports ACON had received. Although not exhaustive, it referred to alleged police activity in 32 areas extending from Top Ryde to Mt Druitt from Central Station to Windang. Baxter stressed that the "geographical spread of these reports reflects more on the deployment of our education staff, rather than a city wide understanding of what may be happening". Alleged police activity reported included:

- \* arrests for offensive behaviour
- \* informal policing interventions
- \* vilification
- \* possible entrapment
- \* the helicopters and river launches in isolated instances

The ACON Director described these reports as "almost entirely anonymous, hearsay" and did not offer details on the time over which these reports had been received. He requested that the police commissioner "clarify whether this perception is true, and whether there has been any policy or central leadership decision to commit more resources to "cleaning up the beats".

## *2. Commissioner Lauer's Response 1991:*

The Commissioner's response emphasised that there was no police policy on beats. Lauer also drew attention to high level police initiatives on the issue of beats through the Gay and Lesbian Client Group Consultant and the State Commander's Action Team.

Commissioner Lauer's letter did not:

- \* deal with each complaint individually or in detail
- \* address the question of impact of policing on HIV and his perception of NSWPS "obligations" or relationship to ACON
- \* provide a justification for the use of plain clothes documented in several of the reports listed by Baxter
- \* indicate how policing may be practically regulated or changed

Yet, Lauer was not expressly asked to do any of this. Indeed, in couching the question in the terms: "whether there has been any policy or central leadership decision to commit more resources to 'cleaning up the beats'", Baxter arguably offered the Commissioner the means of diffusing the matter.



**DRAFT**

The Commissioner's "assurances" and indications of action were undoubtedly given in good faith, and have subsequently been partially acted on. Nonetheless, the lack of a detailed response, the considerable amount of time taken to reply, and the apparent absence of a thorough evaluation of policing of beats meant that ACON concern about NSWPS activity have persisted.

Furthermore, BOWs continued to encounter men at beats who reported experiences of police surveillance, some of whom alleged that police practices of entrapment or inducement were being employed to deter them from doing beats. Consequently, BOWs reservations about police liaison and their sincerity in improving beats surveillance were not displaced.

### 3. *NSWPS Beats Training Video, 1991:*

Tensions between ACON and the NSWPS escalated late in 1991 over the NSWPS proposal to produce a "10 min educational video" designed for use in training recruits at the Goulburn Police Academy.

The NSWPS actively sought ACON's input in an effort to ensure a balanced presentation of issues in the video's content. However, ACON's co-operation was equivocal. BOWs reported at PLWG meeting (12/92) that it reflected a simplistic approach to complex issues. The production of cultural images related to 'gayness', 'homosexuality' and beats are volatile questions within the gay community and ACON. When such production is proposed by a 'mainstream' and ostensibly 'straight' organisation like the NSWPS, the sensitivity to the implications for gay men and other men who have sex with men runs very deep.

The document, even though only in draft form and therefore not a definitive police statement on beats, was thought to promote images of beats and men who go to them which ACON found repugnant. Also, ten minutes were not considered long enough to canvas the dilemmas posed by beats.

More seriously, ACON workers believed the video had the potential to "worsen things" for Beats Outreach because of its stigmatic characterisation of the supposed 'reasons' why men do beats. In particular, the suggestion that men enjoyed the 'element of danger' in beat sex was judged to be the "wrong message to send to police". The implication of a 'voluntary assumption of risk' was considered to promote stereotypes about beats and hamper the development of empathy among operational police when ACON's objective was to discourage police intervention.

BOWs believed that the proposed video's lack of empathy with beats and the men who go them reflected a failure to understand the nature and objectives of the project.

Tensions were reinforced by arguments about the connection of beats to the gay community. These sidetracked the consultative process into debate about whether beats were a "gay issue".

Undoubtedly, NSWPS saw their inclusion of ACON in the development of the video as a positive example of community consultation. However, the fallout from the discussions - which subsequently created tensions on both sides of the relationship - alienated workers in ACON: ie the representative community organisation the NSWPS were trying to "include".

This experience further adversely affected liaison between ACON and the NSWPS, and affirmed BOWs perceptions that the police lacked sufficient sympathy their work to make liaison profitable.

### 4. *ACON Beats Policy 1991:*

**DRAFT**

Partly in response to these developments, ACON then set about articulating a policy on beats. The formal exercise had not been previously undertaken, and though its scope extended beyond police liaison, it was crystal clear on the terms of co-operation with police and its rejection of assisting police in their attempts at suppression. The Executive Director's Report of the ACON Annual Report (1992:13) summarises its context and implications:

"ACON's Beats Outreach program has been constantly hindered by obstructive attitudes and interventions by various police, local councils and shopping centre managements. The issue came to another crisis point early in 1992 in negotiation with senior NSW police.

To assist our negotiations, ACON decided to formally develop and adopt what had been a long-standing but uncodified policy on beats. The policy, a world first, outlines the long history of beats, their value in HIV/AIDS education and ACON's resolve to use them for outreach education and not to co-operate in futile attempts to close them".

**ACON liaison with State Command:**

After the formation and release of the policy and the continuation of reports of police surveillance, ACON engaged more sustained bureaucratic liaison with NSWPS. Contact now involved representatives of State Command. On Feb 5 1992, Michael Lockhart (then ACON, Education Team Leader, now Community Development Unit Manager) and Peter Grogan (then GLRL, GLLRS, now ACON President) had meetings with the then NSW State Command Staff Officer Ken Maroney. An ACON press release on the meeting said that:

"Lauer's Chief of Staff indicated that there is a commitment from the top level of the Police Service to put in place plans to reduce police intolerance of a range of minority groups through education and in-service training".

This press release and police statements received widespread coverage within the gay community and its press. The NSWPS were given substantial positive publicity for their policy commitments designed to improve the ethical standards and accountability of beats policing.

In subsequent months, ACON representatives contributed to an internal Police Working Party which, in part, focussed on issues surrounding:

- police response to public complaints;
- undercover operations and "entrapment"

The working party conducted several internal initiatives including a December 1992 workshop for a range of PCs and DCs which sought to clarify police objectives and develop more appropriate policing strategies. The Working Party also contributed to the development of the NSWPS On-The-Job Training package which has already been implemented in a number of patrols in the first half of 1993.

**Commonwealth AIDS Research Grant Project:**

The NSWPS's willingness to co-operate with ACON was reflected in its consent to participate in this Commonwealth AIDS Research Grant (CARG) project. In May/June 1992 final negotiations were conducted between ACON and the NSWPS, through Staff Officer Maroney and a special advisory committee. This project began in July 1992 and a steering

**DRAFT**

committee was established to look at proposals for policies and liaison arrangements in relation to beats surveillance.

The project has enjoyed high level access to and the co-operative involvement of many senior police, gay liaison representatives and operational police. Some police managers have been extremely conscientious and helpful in facilitating the research process. ACON's current President, at one PLWG meeting, expressed appreciation of NSWPS's commitment of time and resources.

Despite reservations about the 'objectivity' of the project expressed by one DC and communicated to the project researcher by Commissioner Lauer, the impact on ACON - Police liaison has been generally positive.

For police interviewees, the project has drawn attention to issues associated with Beats Outreach, beats and the men who use them of which they had been previously unaware.

The project has similarly improved the prospects for liaison on ACON's side. This is epitomised by the establishment of the ACON Police Liaison Working Group in November 1992. Although BOW retain a residual scepticism about the sincerity of the NSWPS and the feasibility of reforming surveillance practices, the co-operation involved in and the greater understanding of police practice generated by this project has opened possibilities for future co-operation.

The project has also contributed to the practical development of liaison:

- \* the ACON Rural Project has participated in the process which established Gay and Lesbian Client Group Consultants in areas such as Albury and Wagga, which potentially enhances ACON's work and the sensitivity of beats policing
- \* BOWs and project researcher have participated in NSWPS patrol training days in Campbelltown and Ryde (others have already been planned) which allows the detailed discussion of beats related policing and public health issues at a grass roots level

#### **Continuing Ad Hoc Liaison: Incidental Contacts**

1. The 'day-to-day' work of BOWs frequently involves matters both of concern to police and related to police practice. These include:

- \* the direct impact of police surveillance on outreach
- \* allegations of police impropriety
- \* reports of police impostors
- \* reports of violence, sexual assault and exploitation offences

2. BOWs also liaise with police from time to time in relation to:

- \* police requests for information on: beats, police impostors, beats related serious offences, evaluation of police training and trends in police practice
- \* participation in police workshops

**DRAFT**

3. The liaison is informally conducted. Reports usually go to (or come from) Sue Thompson at College Street and sometimes Brad Scanlan (Bondi, GLLO). In relation to impostors, BOWs also liaise with detectives in charge of investigation.

4. The nature of this relationship is problematic:

\* Considerable uncertainty exists as to how to deal with these reports.

\* ACON gets little feedback from liaison initiatives, reports of alleged police impropriety and their assistance with investigations. Obtaining a response usually depends on the energy, interest or time of the BOWs to pursue the matters.

5. The uncertainties and lack of guaranteed response can damage BOWs' already limited faith in police liaison and their confidence in police support for the project. Of course, the resources of NSWPS Gay Liaison are stretched and other issues often have priority for the relevant police personnel. However, these issues are significant for BO and gay liaison in general. A formal relationship and forum would allow greater co-operation and information sharing, as well as a more efficient use of time than has been the case in the past.

**Post-Script: ACON involvement in Gay-Police Liaison:**

ACON BOWs reservations about liaison and policing generally are partially driven by involvement in gay liaison initiatives in some areas, eg Penrith. At the same time as "high-level" ACON-NSPWS liaison was proceeding, grass roots liaison between local gay men (and lesbians) and Police in Penrith demonstrated the persistent problems in operational liaison - especially in contexts away from so-called "gay community" areas.

An ACON worker had input to this process as the primary issue for gay men in the area was the policing of beats, particularly the problem of violence and dissatisfaction about police response. The attempts at liaison were ultimately disappointing for local gay men.

The following is an account of the meeting based on an interview with the local gay man responsible for organising two liaison meetings in the Penrith / St Mary's area:

M emphasised the positive role of GLLOs in this liaison process: he had contacted Sue Thompson in the first instance after a bashing; Brad Scanlan, GLLO Bondi, had then facilitated local police involvement in the meeting.

At the first meeting, M reported:

- \* the establishment of a GLLO in the area was suggested by Brad Scanlan
- \* a "Sgt from Penrith" said that neither he nor anyone else in the patrol was prepared to establish a GLLO.
- \* M said the officer "reckoned police don't bash gays". M then said he was bashed. A "senior" police officer then said "we should let old dogs lie". M said "Penrith is a big station but they aren't interested".
- \* M added that an Officer had said at this meeting that "police don't discriminate" and "there's no gays in the police service".

**DRAFT**

M reported that the second planned meeting did not eventuate. M said he thought that officers only turned up because of personal involvement of Brad Scanlan: "they knew he wasn't coming to the next one so they didn't show".

M said, "I was really pissed off. At the first meeting they said we should trust them, should make reports, that there would be no discrimination against us. But if they don't show up, what does that say?" ... "the cops rang to say they were coming that day. They kept in contact. But they didn't come, they didn't call". M said that no reason was provided and there was no follow-up. M then rang Penrith police in search of an explanation and was told that the officer he was after was not in but would call back. No officer has since called back to discuss the matter.

Another man present at the interview said that:

"None of the queens turned up!" and said that the meeting would have failed anyway, and that "blame" fell on both parties. He added that the meeting "was not promoted so well". Posters were out too late, the meeting not promoted at the Factory - a local gay venue.

M replied:

"that's not the point, the police said they'd turn up and they didn't".

The experience demonstrated the limits of tolerance and the discrepancy between the top-level undertakings given by the Commissioner, the Chief of Staff, the GLCGC and other senior police and the realities of "service delivery" and "community consultation".

### **Liaison Perspective: Police Interviews**

#### *Summary of interview comments:*

##### 1. Awareness of ACON:

Police respondents were generally ignorant of ACON and the specific concerns of how and why Beats Outreach exists and works. Their interests in ACON centred on non-beats related HIV issues. Comments included:

\* PC (Wollongong) said that a local ACON worker (Vivien) had come to training days - twice in the last year. This was considered useful "from OH&S point of view". She added that the officers "want to know more about AIDS" in relation to self protection and to be able to give advice to victims.

\* PC (Warilla) said he had obtained some information on AIDS regarding local AIDS related deaths and prisons and on "needle exchange" from the Health Dept but nothing regarding beats.

However, some were more aware of the significance of Beats Outreach for HIV prevention. For example, one RC indicated that he was, "generally" aware of ACON's interest in reaching bisexual and married men.

##### 2. Liaison Experience

**DRAFT**

Police respondents also generally reported a low level of liaison with ACON. Some patrols reported contact with Beats Outreach within their areas ((eg Milperra, Sutherland)). Yet most reflected little practical contact with ACON and exhibited a low level of knowledge of their objectives.

In one area where BO's operation is concentrated, the PC had not heard of the project and had had no liaison with ACON. However, the DC and the PC in that area have subsequently liaised since the project interview with ACON Western Sydney Office. The DC has also attended the opening of that office in a clear and encouraging gesture of police support for ACON's work in Western Sydney.

\* Patrols reporting no liaison included (at time of interview):

- Castle Hill, Parramatta, Blacktown, Collaroy, & patrols from SW Region, Dee Why, Albury

\* The patrols with liaison experience reported contacts which ranged from intensive dealings associated with liaison with the local gay community to accidental encounters in the field.

- PC (Revesby) reported positive relations with ACON at Milperra but said that he only found out about their presence "after finding them at Deepwater".

- District Staff Officer (Parramatta) said he had been told 'second hand' that ACON had been at Thompson's Comer, this was perhaps "in response to complaints" he was not sure. He indicated that "they (*ie ACON*) came out and did education" and issued condoms; he believed it may have also involved "needle exchange".

- DC (Blacktown) reported when that he was "Community Relations Officer", he discussed Beats Outreach with ACON reps. He said that the "idea was to inform officers to not be there" (*ie when BO was operating*). The arrangement involved contact with PCs: letters were distributed (from District level) demanding patrol commanders' co-operation. PCL said there were "no complaints" from police about the liaison.

- PC (Sutherland) reported "quite good liaison" with ACON. He said Don Baxter (*the present ACON Executive Director*) had attended a meeting and indicated Beats Outreach's presence in the area when running the project a few years ago.

- RC (North) said had met ACON staff in Newcastle when DC there. He said "They were funny looking fellas. Interesting blokes, with the job they were doing. If people are gonna do it, have unsafe sex, if you can educate them then that's a good thing. It's a common sense approach". He stressed importance of informing officers about ACON work. "You've gotta tell your blokes at the station. They've got to get to know each other. We had them (*ie the ACON workers*) introduced at the stations".

- PC (Corrimal) reported good liaison with ACON especially with the involvement of local GLLOs. He thought that "in the past" there had been problems because police "were too attentive (*ie to beats*)". The PC said he was aware of ACON's safe sex education role and "had seen their literature". He added that "we have the ACON car rego and this is well advertised among the police. ACON have freedom to move around the beats". The PC said the local surfies had 'browneyed' them but he pointed out that "we took the Surf Life Saving Club (SLSC) into our confidence and said 'this vehicle is working for you'". He said "ACON's helping us deal with the problem" and the SLSC was now happy having ACON there.

### 3. Future ACON Liaison: Cooperation in HIV Prevention

**DRAFT**

Interviewees universally encouraged liaison with ACON and variously stressed the importance of the "fight against the spread of AIDS". As one DC (Bankstown) said, he saw

"great merit in ACON work. They have a right (*ie to work in beats and receive co-operation*) as a government agency".

Respondents often indicated their support for the objectives of BO and a willingness to help facilitate the project. In terms of future liaison, respondents commonly suggested direct approaches from BO through the patrols and PCs.

Yet, interviewees commonly expressed implied and overt expectations that ACON shared police concern to suppress beats and that liaison would proceed on this basis. These qualifications ACON allowed police who otherwise supported HIV prevention to make such typical remarks as:

\* "ACON should look at changing their (*ie Men who do beats*) behaviour".

\* "ACON should encourage people to take it into private. They (*ie Men who do beats*) are targets for people who want to assault them".

Police invariably indicated that they were not prepared to cease or even diminish their surveillance of beats (now or in the future) for the sake of Beats Outreach. They maintained that their actions were guided by public complaints and that their obligation to the community could not be displaced by other prerogatives which arose from their co-operation with ACON. Clearly, under-policing beats was seen as an "illegitimate" modification of police practice.

One interviewee explicitly claimed that ACON supported the police position on beats suppression, saying that ACON:

"don't associate with these people- the normal gay community don't associate with this group, they're a break-away group. It's more of the pervert type - for quick pick up ... more of the prostitute type."

Further, after the suggestion made during one interview that there was a potential conflict between ACON and the NSWPS, the PC replied "you can say there's conflict between police and people who commit break and enters" and added rhetorically, "do we wish to encourage this sort of behaviour?"

Clearly liaison is possible but at the moment this is conditional upon the terms of the police. The Police retain the authority to police beats and either assume or seek to impose a consensus of objective around the suppression of beats.

#### 4. *The Experience of Needle Exchange:*

Beats Outreach is not the first project for which the NSWPS has been asked to co-operate with another Government funded program which potentially involves tolerating ostensibly illegal behaviour. Police support the Needle Exchanges program's distribution of needles which technically may assist in the commission of offences through allowing the consumption of prohibited drugs. However, the contribution to the prevention of the transmission HIV and other conditions is considered more important than the suppression of the illegal activity which flows from the needle exchange program.

**DRAFT**

Interviews frequently engaged the question of Needle Exchange and the practical experience of operational police with this project. Discussion was designed to tease out possible parallels and examine the possibility of police tolerance of "levels of deviance" to service community interests other than the enforcement of trivial summary offences legislation.

Discussion suggested that there was general police acceptance of the program. However, some police mentioned local community reservations and opposition (Menai) to the project which had caused problems for them and required community consultation. They stressed the need to have the police "explain" the value of these initiatives to the community. It was said that this approach may be useful in any future liaison with ACON and BO.

Nonetheless, one PC indicated that he did not necessarily personally approve of Needle Exchange. Clearly, there was an element of coercion by superiors required to obtain the support of some operational police for this project.

However, the general tolerance of Needle Exchange indicates the possibility of the police supporting legally equivocal activity - there is a level of "tolerable deviance" within communities which is accepted by police.

**ACON Police Liaison Working Group:**

1. The ACON Police Liaison Working Group was established in late 1992 because of the concerns expressed by Beats Outreach workers about:

- \* the impact of police on their work;
- \* the avenues and merits of liaison;
- \* the character of police powers, functions and organisation; and
- \* the general relationship between ACON and the Police.

2. Its first meeting was held at ACON on 27/10/92. The agenda was:

- 1) Who has been talking to the police and in what capacity.
- 2) What has been said.
- 3) What on-going relationships are there between ACON and Police (ie Steering Committees)
- 4) Should our liaisons be streamlined?
- 5) Should ACON form a police liaison working group?
- 6) History of Police liaison.
- 7) "Beats are not a gay issue" - need to develop consensus response.

The meeting covered a range of issues and emphasised:

- \* ACON Liaison with NSWPS in Sydney, Hunter and Illawarra since the inception of Beats Outreach
- \* How Beats should be Policed
- \* Strategies to address Policing and Beats

Despite problems encountered by BOWs both directly and indirectly as a result of policing, some remained equivocal about liaison. Others, however, believed liaison could be constructive because it may help improve BO work conditions and clarify the relationship between ACON and NSWPS. Some acknowledged that a degree of communication was inevitable and formalised channels for this could save time and improve the quality of liaison.



**DRAFT**

The Working Group decided it needed to develop as starting points for future liaison:

- \* a profile of the project for the information of police at various levels
- \* a formal policy on ACON-police liaison
- \* guidelines on how liaison was to be conducted
- \* guidelines on how ACON thought beats should be policed in order to assist the conduct of Beats Outreach

Responsibility for these were ultimately taken up by a BOW and the CARG Project Researcher who liaised with other members of the PLWG, particularly BOWs, in the preparation of this material. The PLWG met again over December 1992 and January 1993 and developed its ideas about how to approach future liaison. The PLWG and the materials developed by the BOW and the project researcher have been highly significant to the completion of this report.

**ACON-Police Liaison: Pros and Cons****1. Why Liaise with the Police?**

- \* to facilitate Beats Outreach; establish work conditions, improve access otherwise enjoyed
  - a) help provide Outreach Workers better access to beats; ensure that police will not be present in the area at the time of outreach work; in turn BOWs and men who do beats may become less paranoid and more open over time
  - b) diffuse potential conflict if police encounter Outreach Workers; BOWs can refer to the agreement - show a card or quote the name of a police officer or representative (GLLO)
  - c) provide Outreach Workers protection in the event of emergencies / threat of violence through the creation of lines of communication; police understanding of project improving police response
- \* to establish liaison with men who do beats / gay community
- \* to encourage and provide input to internal police education and training to improve police practice
- \* to discuss issues around anti-gay violence; and encourage the police priority of violence over offensive behaviour

**2. Negatives of past liaison:**

Doubtful benefits has been derived from liaison with police under the past terms of the relationship. Problems and trends include:

- \* waste of time:
  - time spent discussing police issues at ACON
  - dealing with police in the field including time spent at stations
- \* unclear lines of communication and unreliable agreements
- \* marginal impact of liaison on conduct of Outreach

**DRAFT**

- BOWs have managed to deal with police without major incident on the occasions BOWs have directly encountered police at beats (Deepwater, Sutherland, Parramatta).
- BOWs have encountered problems with the police in spite of "arrangements" (Sutherland).
- no BOW has ever been arrested, or even threatened with arrest, or directly physically abused.

*Ethical and Practical Questions:*

- \* what are the mutual obligations between the NSWPS and ACON: ie to help the other state funded organisation?
- \* How does ACON negotiate the police's inevitable demand that ACON encourage discretion among men who do beats?  
ACON may come under pressure to compromise its commitment to harm minimisation which could threaten ACON's image among Men who do beats and and police co-operation.
- \* How does ACON guarantee police co-operation? How does ACON guarantee that police will not subject beats to antagonistic surveillance?
- \* Is ACON representative? That is, is it appropriate for a public health service provider to engage in liaison in relation to 'citizen's rights'? Are GLRL the more appropriate body? How does ACON displace concerns which men at beats may have about liaison between ACON and the NSWPS?
- \* Is liaison workable given beats workers and users mistrust of police? Is it worthwhile given liaison has not produced significant tangible benefits for the project? Is it a waste of ACON's scarce resources?
- \* Is informing police of BOWs movements desirable? Will liaison involve "outing" beats which inadvertently enhances surveillance?
- \* If liaison proceeds, who should do it? Do ACON workers want to "come out" to police? What are the pros and cons both personally and professionally?

**DISCUSSION OF POLICING: ATTITUDES AND REFORM***Introduction:*

1. This section considers options which could be explored to improve police service in relation to beats and minimise the impact of policing on Beats Outreach. Issues, themes and practices regarding surveillance are analysed to prevent and discourage over-policing by promoting professional responsibility and accountability.
2. Beats will continue to generate complaints, be subject to police surveillance, altered by councils, written about in the press, visited by 'bashers' and used for HIV prevention. This surveillance needs to be informed not by the traditional assumptions contained in hysterical media representations of beats but by a respect for the 'dominion' and 'empowerment' of men who use beats and a consciousness of how this will. Broadly, this responsibility demands that the police fulfil the requirements set out by Braithwaite for a good police service.

**How Beats Should Be Policed:**

**DRAFT***Perspective from the Beat Scene:*

This section considers the subjective views of the men who do beats. In the formal interviews, men were explicitly asked "how do you think beats should be policed?". Many of responses reflected an understanding of the ambiguities of beats policing and the pressures or obligations operating on police. However, they also indicated a strong level of sentiment that policing was oppressive and reflected misplaced priorities both in terms of the relative seriousness of the "offences" and the commitment of police resources. The result were as follows:

- 1) M: "They think because you're gay that you deserve it, that you don't have any rights. But we pay taxes like everybody else ... I can't understand their negative approach ... I had to have security put in (*my house*) because of the bashings".
- 2) K: "I think ... it depends. I think if police officers did go into a beat and find activity going on it'd be part of their job to identify who they were (*ie the police themselves*) and possibly just to caution - if it's really not the sort of thing that should be going on in a public place like a toilet. Based on how they reacted at Obelisk - they just cautioned and said that if they wanted to do this sort of thing, they should go home. So I'd say they should first identify themselves as police officers and then caution the person. If I'd been treated that way, I'd've been most relieved".
- 3) J: "I don't want to criticise them (*ie the police*) too much". He was "happy to meet with the police" to discuss the development of gay police liaison and thought that "beats could only be safer places because of police presence". J said that "I've been in Albury 20 years and I've never felt threatened by police".
- 4) M and G said: that outreach work done by "PET boys" <sup>(10)</sup> has had "problems" with police and needs their "co-operation" to work effectively. Asked what they would like to achieve through police liaison, they said: "not to be hassled at beats; not to be approached when talking to someone at a beat; to organise a way of identifying themselves as 'workers' with the police-gay liaison officer, and maybe have other officers informed of their work and their presence".
- 5) Anon: "That's a good question. Don't know that I've got an answer. If that's a problem which detracts attention from other problems ... I don't see it's a serious problem ... that they should use resources like this. Warning signs could be used like at Bondi (*ie Bondi Junction railway station*)".
- 6) G: "If nobody's hurt, they should get on with their work. Their real work. What are they doing?! They don't want us there. Where do they want us? I do understand the offensive bit but not the bit about the kids. But it's a meeting place!".
- 7) I: "It staggers me that people are being robbed and they're following people having a mutual wank. It does work, though. They're dead. They should just get off and look after other matters more important than what two guys get up to in a toilet. If a complaint is made, then ok, it's their duty to investigate and go down. But they are there at Cressey Rd every day for hours. It's pathetic, they're dangerous".

---

<sup>10)</sup> 'PET' refers to men who conduct beats outreach work in a 'volunteer' role after completing ACON's 'Peer Education Training' workshops.

**DRAFT**

8) G: "Take a blind eye. If someone rings and complains, fine - if they get too busy and police come down cos it's too obvious. But with Milperra and those beats - it's too far away from houses for anyone to complain. They should turn a blind eye, like with the straights and their cars and their love lanes (sic). If they wanna stop beats they need to talk to some queer who knows how they work to help them".

9) Anon: "If people weren't doing harm, being offensive, people just don't want them. They should hang off. Unless it gets out of control. If the public aren't aware and it's not offensive. Otherwise it drives it somewhere else".

10) J: "They're there to protect the public and we're part of it. But we're committing a misdemeanour. It's a catch 22".

11) Anon: "In Berlin, the police either participate or ignore it. It's demeaning for police. How useful is it? At the very worst it's a minor thing. Who are the complainants? I'd love to know who they are. I suppose police get involved incidentally, like with the Johnson murder. They must have something better to do with their time. Police are like other people, they're homophobic. You'd find some in the past who made a lot of money out of policing homosexual beats - they're ripe for corruption. Other beats are like pubs. Sydney's a very gay city. It's as gay as you'll ever get. It's a homosexually oriented country".

12) R thought that police were entitled to patrol beats and said: "Why should kids of 8 going to the toilet be confronted by two guys who are getting head-jobs?".

13) K, when asked if he thought 'entrapment' was a myth, said: "I don't think it's a myth at all. There are all sorts of police like in the general public. I'm sure there are guys out to be as brutal and macho as they can. I'm a teacher and you see the whole range of people in that profession - from 1 to 10 and some them should be 'moved sideways'".

14) T, recalling an encounter with police, said that he thought the police were entitled to approach him: "We could have been druggies or car thieves, whatever". He said he thought that "most cops were Ok. It was only the arseholes who behaved this way and you get them anywhere".

15) A: "police should ease off, what's wrong with it? It's not illegal".

**Public Comments on Beats related Public Policy:**

The following section canvasses a range of public opinion on the policing of beats:

*Mainstream Media:*

1. Philip Adams typifies the arguments against police surveillance of beats. He comments that <sup>(11)</sup>:

"for years, nocturnal encounters in this or that park, between cops and queers, have led to a sad succession of men appearing in court to face humiliation over something of monumental inconsequentiality. Sometimes a career is destroyed, or a marriage, because someone yields,

---

<sup>11)</sup> *Weekend Australian* 25-26/7/92

**DRAFT**

perhaps for the first time, to temptation. To an invitation kindly extended by a policeman. Or things get a little out of hand and someone is thrown into the River Torrens to end up on a coroner's slab".

"What business is it of the cops to arrest anyone of such sad, silly charges? ... There are certain sexual charges that should still be of legal concern. By all means arrest the rapist and the pederast. Let us protect the child from prostitution and from some forms of incest.

Adams fears the possibility of corruption:

"As long as we have such laws on the books, they will corrupt the policemen who are required, or worse still, yearn to enforce them. Only fools and fundamentalists deny that it's futile to attempt the prohibition of sex outside officially sanctioned heterosexual double beds".

Adams concludes that we should:

"take the cop out of copulation because it achieves so little and potentially causes much harm".

*Gay Community Press:*

The gay media frequently expresses indignation about police surveillance of beats. Brother Sister, a Melbourne gay newspaper, celebrated the acquittal of a gay man accused of offensive behaviour at a beat (24/7/92, p.9).

Its editorial said:

"For too long there has been a ready acceptance of most of society, including many gay people, that public sex by gay men is somehow depraved. This has led to the assumption that the ones who use the beats are likely to be either married closet cases, desperate or dirty old men. The conclusion often drawn is they deserve what they get ...

"Too often the law has been used in abnormal and unusual lengths to victimise and discriminate against lesbians and gay men ... It's about time we as a community and individually found a way to challenge and hopefully stop this practice of prosecution" ...

More generally, Paul O'Grady MLC has asked in Sydney's Capital Q:

"The acts are with consent, out of public view and nobody is harmed, so what's the bother?"  
(<sup>12</sup>).

*Lawyers:*

The use of police power to arrest men at beats has been widely questioned by lawyers. For example, in 1992, the Chairman of the Victorian Law Reform Commission, said in relation to a charge of "soliciting":

---

<sup>12</sup>) *Capital Q*, No.16, 6/11/92, p.12

**DRAFT**

"The sort of thing alleged against Bishop Dowling doesn't seem the thing that criminal law should be concerned with. There are many more serious crimes. It's most unfortunate that we should bother with that" (Federation of Victorian Community Legal Centres 1992)

In this matter the charges were dropped, largely because, as it was put by Mr Bernard Bongiorno QC, they were "trivial and involved no victim in any accepted sense".

A barrister interviewed for the project, based on his recent and long term experience of representing men in beats related offensive behaviour cases, provided the following discussion of practice and policy related issues:

1) Plain Clothes Practice:

"It would appear that arresting officers in beats related offensive behaviour are invariably in plain clothes ... the police and park rangers are wearing civilian clothes, jeans and shorts - in one case a male dressed as a female (but not involved in arrest, no statement, no evidence) ... it puts you off guard, you don't expect them to be police".

"they hover around, which is accepted as cruising, and I guess the police must know what they're doing, because it happens in each case. The eye contact that's made. Hanging around with no words spoken. The combination of the casual clothes and the "hovering around" gave my client the impression that the "police" were interested in some kind of contact".

2) Complaints and Behaviour Policed in Practice

The barrister also suggested that police focussed on behaviour (in some areas) which was perhaps not the subject of the original complaint. Specifically, gay men are the subjects of police intervention when the complaints related to ostensibly non-gay behaviour - ie "flashing".

"the police have said they were acting on complaints from the public or residents on offensive type behaviour - it's hard to work out what that was in each case. For example, in (one case), naked men were walking through the car park and that was why they called in this team. In reality they didn't do anything about that behaviour, they were looking at the gay beat, although they denied that. But there was no other reason to be where they were".

"That's their justification for being where they are, but they never arrest anybody for doing it. It's always gay men who get arrested. For very minor behaviour in circumstances where they're not going to be observed unless you go out of your way to find them".

3) The Absence of Sex in Offensive Behaviour.

The majority of men arrested and prosecuted, in cases which the barrister had run, have not been engaged in sex at the time of arrest:

"If you accept the police story - none of the ones I've heard of anecdotally have involved any sexual act, in fact, they rarely do. It's very rarely behaviour between two gay men. It's the police whose behaviour has got one person to do something and then the police arrest him. Very rarely do they come across two gay men doing anything. It doesn't happen in my experience.

**DRAFT**

Except for one down south and it really was a matter of debate as to what was happening down there".

As the barrister notes:

"In these three cases, there were no members of public who observed the behaviour, there were no members of the public called to give evidence and we only get the public mentioned re complaints about offensive behaviour, but not gay behaviour and none of these people were called to give evidence about that. It's doubtful that that would be admissible. But there was nothing other than the police's word, justifying their being there".

**Future Surveillance: Operationalisation of Dominion**

1. Management, trainers and peer leadership within patrols need to improve the ethical standards of police beats surveillance and develop an understanding of its potential implications for HIV prevention. This process should emphasise a critical assessment of the history of police surveillance of 'homosexuals' and beats, and acknowledge the persistence of social intolerance of 'homosexuality'.
2. The project interviews demonstrate that police beats surveillance is a matter of organised, deliberate operations in some areas, and beats are on the patrol agenda either continually or periodically in a range of areas. This results in questionable exercises of police power by general duties or beat police who often insensitively patrol beats in the course of their rounds.
3. The NSW police service remains an innately conservative and conformist organisation. Yet, it is not inevitable that beats surveillance is constituted by reactionary and intolerant practice. The police are diverse and many officers explicitly tolerant: some of them are gay, and some even do beats! Some practices clearly indicate that police are probably more sensitive to the interests of gay men (eg John Elias case) than in the past. Moreover police no longer institutionally practice peanutting and, the activity of policing beats today is sporadic. Sometimes beats surveillance is also conducted sensitively and with discretion.
4. However, it needs to be acknowledged that respect for the dominion of men who do beats does not spring miraculously from a vacuum or from an abstract notion of respect for legal ideology. In this case, people who use beats are not always accorded equal treatment and due process is imperfectly respected because such men are not considered worthy of respect or fair treatment by police. Police may, if asked, say that they 'no longer have any problem' with homosexuality or gay men, but this does not prevent police from acting on beats and it does not prevent them from saying - openly - that they believe this sort of behaviour is wrong. Despite police claims that their action is motivated by complaints, it is clear that some police have real problems with the existence of beats and hold the practice of sex - or even meeting - within such places in contempt.
5. Within this moralistic mindset, the rights of men who do beats are disrespected (they become "fair game"). This results in practices which suggest that:
  - \* police believe that men at beats are necessarily "suspicious" and are presumptively guilty of offensive behaviour;
  - \* police are prepared to gloss over the ethical implications of their practices - especially regarding the use of plain clothes - because beats are assumed to be an undesirable social presence;

**DRAFT**

- \* police respond to beats in the way they do because they know that many accused persons will not contest charges such as these for fear of embarrassment and humiliation;
  - \* operational police are also dimly aware of the punitive impact of beats surveillance upon men who do beats.
6. Operational police see themselves as primarily accountable to the local community. This narrowly limits public or community interests to the objective of the suppression of beats and the deterrence of alleged offensive behaviour. This research further suggests that while police acknowledge that their efforts will never eradicate beats and are "open" to liaison with ACON, they are still reluctant to take further steps to genuinely assist HIV prevention. Police should consider whether their primary social responsibility is the commitment of resources to the suppression of beats OR to assisting the promotion of HIV prevention.
  7. Officers invariably say that police act in response to public complaints about offensive behaviour, and complaints can be substantial. Yet, the supposed offensive behaviour is often not actually witnessed by members of the public: offensiveness is 'presumed'. Police action is generally motivated by complaints in which the alleged problem is merely what the complainant sees as "suspicious" behaviour, rather than explicit, visible sexual acts. In practice there is little investigation of the merit of such complaints and plain clothes operations are conducted on this premise. Yet the fact that plain clothes operations are even required suggests the low visibility of the alleged offensive behaviour.
  8. Police and others claim that citizens and officers are propositioned. In some cases this may be true as some men interviewed acknowledged. However, the question has to be asked whether those officers contributed to the commission of the alleged offences by remaining in the area for periods longer than a member of the public normally would and were mistaken for men 'cruising'.
  9. The police accept that the problem of beats will never be solved - it will only be displaced or pushed underground. Clearly, in spite of the punitive dimensions of surveillance and its demonstrable dispersion effects, beats can still operate where the police have conducted significant operations which were designed to "clear up the problem".
  10. Police should clarify their priorities and ethical standards to develop a "compromise strategy" which minimises operational problems caused by the persistence of public complaint, and the reality that failure to act may have negative practical and public relations consequences for operational police.
  11. Police response has to go beyond policy rhetoric and the creation of mere complaints mechanisms and develop an operational practice (a model of best practice) which is sensitive to the diverse and complex realities of beats, the experience of men who do beats and make practically *accessible* police mechanisms for community liaison or complaint.
  12. While operational police are aware of the problem of offensive behaviour at beats, it seems that with few exceptions, they are only nominally or practically periodically aware of the more serious problem of homophobic violence which periodically emerges in beats. Police response to this issue is also limited to reactive response and never employs the plain clothes or covert surveillance which is used to deter beats.
  13. The primary obstacle to policing which respects dominion is the relatively widespread perception that gay men or men who use beats are not part of their community or patrols. Future surveillance has



**DRAFT**

to be informed by an awareness that men who do beats are citizens. To assist this process, liaison initiatives should be encouraged which emphasise 'bringing together' police, men who do beats and Beats Outreach Workers in order to overcome stereotypes and prejudices based on ignorance.

**Specific Ethical and Policy Issues in Policing:**

Entrapment and Covert Surveillance:

The central ethical issue of beats surveillance is the practice of covert, plain clothes operations; and the endorsement of this practice among operational police. The efficacy of Beats Outreach would also undoubtedly be enhanced by a discontinuation of all forms of covert surveillance of beats.

"Entrapment" is often cited as evidence of police discrimination and harassment of gay men but it is rarely accurately defined or understood. There seems to be a popular misconception that entrapment is illegal or a defence (or somehow absolves a person from responsibility for the commission of an offence). While in the USA, for example, this is true to an extent (Dworkin 1985), in Australia and other common law jurisdictions this is not the case (Choo 1990).

However, the law of entrapment offers little hope for any improvement of policing as it affects Beats Outreach. More importantly, it directs attention from other more widespread and problems connected to "covert surveillance" and more general questions of ethical accountability.

Some clarification of the finer details of "entrapment" is useful.

**Elements of Entrapment in New South Wales:**

\* Entrapment is a "doctrine" which has evolved from case law not legislation and its limits have never had to be exhaustively explored. Thus, its extent remains uncertain. However, several points seem to be clear:

- i. Entrapment is not and never has been "illegal".
- ii. Despite judicial recognition of the calls for reform<sup>(13)</sup> - there is no defence of entrapment in New South Wales<sup>(14)</sup>.
- iii. "Entrapment involves "as a necessary element" the idea that an accused person has been induced to commit a crime which otherwise he or she would not, or would not have been likely to, commit"<sup>(15)</sup>.
- iv. In order to prove entrapment, as a corollary of the above formulation, the defendant must show that s/he lacks a disposition to commit the crime with which they have been charged (Choo 1991)

---

<sup>13</sup> R v Hsing (1991) 25 NSWLR 685, per Samuels JA at 689-690

<sup>14</sup> R v Sloane (1990) 49 A Crim R 270 at 272-273; R v Hsing (1991) 25 NSWLR 685 at 689

<sup>15</sup> R v Sloane (1990) 49 A Crim R 270 at 272-273; R v Hsing (1991) 25 NSWLR 685 at 693

**DRAFT**

v. The consequences of proving entrapment are that the court has a discretion to grant a "stay of proceedings" as an "abuse of process" <sup>(16)</sup>.

The consequence of this is that the case is suspended - either temporarily or permanently at the discretion of the judge. That is, the order does not equal an acquittal or guarantee an end to the case.

**Police ethical responsibility:**

Despite the legal position on entrapment, covert surveillance still raise ethical dilemmas and uncertainties for policing. NSWPS has responded to these by creating a policy which prohibits the practice of "entrapment".

Even if the NSWPS take the view that such action is not technically entrapment, ethical ambiguities still exist in relation to the conduct of plain clothes operations. The ethical question concerns whether it is appropriate for the police to:

- i) position themselves in such a way that offences are committed/contrived that would not have occurred but for their presence
- ii) if not induce actual offences but at least "provide the opportunity" for an offence to be committed.

Even if it could be argued that "the public" approved of or desired the removal of overt displays of homosexual sexuality from public view, it does not follow that "the public" would necessarily authorise the use of plain clothes operations to achieve this end - whether or not they constitute entrapment.

**Consequences of Covert Surveillance:**

- i) Deception and Violation of Dominion

The essence of undercover work is deception. Police officers who patrol beats in plain clothes conceal their official identity from the men at the beat. Citizens are lead to believe that these officers who have gone to the beat to investigate activity or make arrests are ordinary members of the public. This is the case even if police officers do not provide an explicit inducement to have sex. Further, simply by remaining at the beat for a period longer than necessary to go to the toilet (urinate or defecate) signal to the beat user that they are in all probability doing the beat themselves.

This deception is undesirable because demonstrates as Marx says, "lack of respect for the sanctity of intimate relations" (Marx 1992:14). This is of particular relevance to beats where men are involved in relationships which involve sex and company. Marx also notes that "our sense of freedom, autonomy and well-being depend partly on our ability to control information about the self and on our being able to voluntarily enter into relationships with other free from both coercion and deception". This freedom is clearly not enjoyed by men who do beats as surveillance inhibits the type or nature of the relationships people may choose to experience.

---

<sup>16)</sup> The suggestion that the proper course in raising a case of entrapment was to seek a discretionary exclusion of evidence under Bunning v Cross (1978) 141 CLR 54 has been rejected per Thompson and Thompson (1991) 58 A Crim R 451 at 453-454. See also R v Hsing (1991) 25 NSWLR 685 at 696; Vuckov and Romeo (1986) 40 SASR 498).

**DRAFT**

## ii) Relative Seriousness of the offence:

It may be appropriate for (decoys to be used) covert surveillance to be conducted in relation to crime widely regarded as 'serious' (Choo 1990:468). However, this may not be the case in relation to the behaviour of men at beats which attracts relatively trivial penalties.

**Police Discretion:**

Police power necessarily involves the exercise of discretion, especially in relation to summary offence and "public order" matters such as beats. The reality of discretion is that it is exercised selectively (Findlay and Egger 1988). When police intervene in beats they are exercising discretion. According to gay activist Jamie Gardner,

"what the police refuse to accept is that the decision to chase gay men around the bushes and prosecute is just that: a decision. A decision to spend scarce taxpayers' money persecuting gay men".

Operational police are not merely "agents" of the public who automatically respond to complaints. They respond according to what they perceive to be legitimate public complaints and make choices of courses of actions from a range of alternative responses.

Police response to public complaints does not create an obligation per se to respond to these complaints, nor is there an absolute obligation to fulfil the wishes of 'the public'. Nor does the incidence of complaint endorse police response - eg the use of plain clothes.

Professional responsibility guidelines exist in order to provide a code of ethics and a benchmark for accountability of police action. That is, it is these guidelines rather than the "demands" of the public which should determine police action. *The exercise of discretion must be consistent with these professional responsibility guidelines.*

**The Phantom of Paedophilia:**

1. It is impossible to underestimate "community perception" of the seriousness of child sexual assault. "Paedophilia" is of central importance to the debate about beats and much policing of beats is justified in the name of the protection of minors from the perceived threat of sexual assault. But the data provided for this project, both by police and beat users would strongly suggest that there is not a demonstrable - or empirically supported - problem in relation to beats.
2. The profiles of arrests made by police for offensive behaviour in beats do not justify their concern about paedophilia. Only two, out of all arrests reported to this project appeared to concern acts involving minors. The overwhelming majority of beats related arrests concerned behaviour usually involving one adult man or between adult men. The data suggests that paedophilia is practically only a *hypothetical* policing concern, despite complaints about its apparent reality.
3. However, some sex in beats may involve minors and adults. Some men who do beats themselves report having sex with older males when they were minors themselves. It is a social fact that some boys under 18 will have sex in beats of their own volition. Public policy needs to consider how sexually active many young kids are from 14 or 15 to 18. It also has to acknowledge the discriminatory age of consent for sex between males.

**DRAFT**

4. The emphasis on 'paedophilia' in beats also tends to overlook that the overwhelming majority of sex between adults and minors occurs within the family home or between adults and children who already know each other in "familiar", private environments.

5. The fear of paedophilia in beats appears to be more prevalent than the actual incidence of sex between adults and minors. Watney describes such fears as "the projection of adult anxieties onto the position of children" (p.66). As Gayle Rubin argues "there is no more reliable tactic for stirring up erotic hysteria than the protection of children".

**Research Data:**

1. Popular myths about "pedophiles" and "predatory homosexuals" in beats seriously misrepresents the character of beat behaviour. One of the major effects of the 'code' of cruising is that it generally mitigates the potential for non-consensual sex because it essentially negotiates consent for sex acts. Melbourne Age columnist Claude Forell also implicitly recognises the effect of cruising when he says that:

"innocent passers-by are unlikely to be propositioned or pestered unless they give some indication that they may be interested".

Laud Humphreys also argued that "no man need fear being molested in such facilities" (1970:16).

The Manager of the Beats Outreach project similarly reported that:

"We've got no way of estimating any quantifiable relationship between power relations due to age. I can only say that anecdotally, it's either so well managed by the perpetrators or it's just not an issue. There are under age men and boys doing beats - that's because they want to be there - that's my hunch. I have worked with men who did beats "under age". I have heard of rape but it's not pervasive. Certainly international research on child sexual abuse and anonymous interactions does not point to beat use. It's family, people in known relationships".

2. Men who do beats' experiences with police, council workers and bashers has taught them to be very wary of who they approach and made them reluctant to do anything which may attract the attention of anyone who is not doing the beat. In other words, men who do beats know the risks and behave accordingly. They do not seek to offend members of the public. As one man interviewed said:

"There's always 1 in 200,000 who's off the planet. Some are, you might say, a chop short of a barbecue. This might attract attention. But how many would go to the cops?"

3. As for the actual threat of 'pedophiles' or 'child sexual abuse', experience suggests that men are more likely to disperse when a boy (minor) enters the beat.

The overwhelming perception of men interviewed for the project affirmed this and some expressly resented the "allegation". When asked if there was a 'problem with minors doing the beat', they said:

1) "No. 95% sure. It's an insult to say you'd approach a young child. You'd never do beats in the school holidays. First thing you'd think (ie if a child entered the beat) is let me out of here".

2) "Not really. It's mainly guys 24 ish up to 60s".

**DRAFT**

- 3) "No. In forty years, I've never seen anyone misbehave in front of children. It's too dangerous".
- 4) One man reported that there was:

"Only with one person I can think of. A 'deaf mute' did the beats and used to cause problems at Normanhurst. He'd be naked on the floor. He'd ask for money". He indicated that the person was a "teenage boy" although probably underage (check) and also explained that the reason for his unusual behaviour - ie risky behaviour which attracted attention - was that he couldn't hear. He said "you rely on your hearing to guard against detection and this was something the boy obviously could not do. He added that the boy ended up being arrested".

Another man talked about the issue in relation to Obelisk Beach and said:

"There was one case where we thought it was a minor. We asked him, the boy, how old he was and he said he was 18. We said 'come off it' - as he appeared to be more like 16. We told him that he was putting people at risk. It was like a Mothers' Club really - we all got together and decided to speak to him and said "we just think you're too young to be down here". There was a suggestion too, although I have no idea if it was true, that he was asking for money".

5. Another man interviewed was more equivocal and believed that some men may have sex with minors:

"Kids know what they're in for. A lot of guys'll go after them, a lot of them won't. It does go on. But it's not a huge problem. Young kids are usually with someone - with their parents. It's not 14 and under, no, it's 15 and above. If the kid sees something's going on, the kid might stay, some fuck off".

**Gay Liaison:**

1. Police-Gay Liaison is no panacea for intolerance or 'homophobia'. It cannot magically guarantee that all police are "gay friendly" - the practical and social barriers to its success must be acknowledged. As Chan notes Client Group Consultants, (1992:68) find themselves "often sandwiched between the demands from communities and the lack of support from operational police". Practical Obstacles include limited resources and geographical restriction of liaison initiatives.
2. The unit also faces the problem of operating within an overtly conformist, conservative and heterosexist institution. Gay Liaison has to strategically position itself for realistic reform within this 'hostile context'. This may mean that gay liaison can 'only go so far' in its endorsement of the demands of the 'gay community' and addressing the tensions between gays and lesbians and police because more progressive initiatives may alienate the audience which the unit is trying to educate.
3. Beats in this context represent a complex challenge for a police-gay liaison unit. They present a confusing and heterogenous image of homosexual practice and may threaten the advances made with police officers on the subject of the gay community. The positive images of gay men and lesbians encouraged by the unit may be jeopardised by discussions of milieu whose myths may encourage a reversion to stereotypes and stigmatisation of gay men. The facts about beats also undermine many assumptions which police officers tend to hold about the sexual landscape of our society - the heterosexual institutions of marriage and monogamy which are self evidently held dear by the police are seriously challenged by the empirical realities of beats.

**DRAFT**

4. Nonetheless, the nature of our society's sexuality cannot be overlooked, if gay liaison is to fulfil its potential. Further, there is a danger that gay liaison rhetoric can be used as a rhetorical defence of police action, and the policy commitment can be mistaken for operational reality.

5. Gay Liaison's contribution to beats surveillance regulation and amelioration may be assisted by considering these questions:

**Questions for Police-Gay Liaison:****\* Identity Assumptions:**

who is the GLU's constituency? how does it define gay community? does it include MSMs, or men who do beats?

**\* Reach:**

Is gay liaison limited to those areas where GLLOs?

**\* Role:**

are Gay Liaison Officers an optional resource or something which can change operational policing?

what are the ideal selection criteria for liaison officers?

**\* Internal Pressure:**

to what extent is GL compromised in relation to beats by internal bureaucratic concerns: ie are beats put in the too hard basket because they are controversial?

**\* Agenda:**

Do gay liaison officers take beats seriously as part of their 'brief'? Do they know enough about them? Is violence a genuine beats-related patrol priority for police? Is this true outside 'ghetto' areas? Does the unit's public stance in violence adequately make the connection between beats and violence?

**\* Accountability:**

to whom are gay liaison representatives accountable? the community or the police: how to balance these responsibilities? does NSWPS public relations create unrealistic expectations of police response to the gay community?

**Community Policing:**

1. Operational obligations to men who do beats derive from the NSWPS's commitment to community policing. Contemporary police managers strongly emphasise community policing priorities but the question remains as to whether the police satisfactorily determine the identity and interests of the community. Clearly, from the population of New South Wales to the local patrol, police 'constituencies' are not homogenous but a set of complex, diverse and often contradictory groups and interests.

2. Community policing mechanisms like Community Consultative Committees can inadvertently operate to exclude the most vulnerable and marginalised groups. Such groups do not fit the criteria of community 'representativeness'. CCCs tend to serve the dominant community interests in the area and, in this context, beats are easily characterised as deviant and a minority problem.

3. For many reasons conventional Community Policing mechanisms are considered inappropriate for resolution of beats problems. Men who do beats do not constitute an identifiable group and invariably do not 'present' themselves to the community as such. Such men are also disinclined to engage police in public discussion because of legally equivocal position and social stigma. For example, Men who do beats reported a small number of complaints even in areas where significant operations has been conducted and men had complained of police impropriety.

**DRAFT**

4. The ability of Men who do beats to liaise with police depends on relative empowerment, ie the subjective experience and perception of statutory freedoms and their realisation in policing. Despite the elusive nature of the beat scene population, communication with men who do beats as a collective is not untenable.

5. The essence of constructive community policing would involve establishing within patrols that beats are part of the 'neighbourhood'. Policing could then seek to obtain a level of trust between officer and Men who do beats for mutual benefit. Rather than seeing 'beat users' as a deviant minority, operational police could regard the men at beats as citizens with whom they should liaison as part of the service extended to clients.

**Questions for Community Policing:**

\* Community construction:

who are the community? does it include men who do beats and gay men? are beats part of the patrol?

\* Complaints:

how valid are they? how is such validity assessed?; is police intervention driven by excessive pressure from (conservative) community leaders?

\* Seriousness of Behaviour:

are beats a threat to the community? have citizens actually been offended? or are complaints an expression of disapproval of the presence and socialising of gay men/homosexuals within the neighbourhood?

\* Police response:

are police briefed to patrol beats sensitively? do plain clothes operations as a police investigatory and enforcement strategy have community support? is consent for this implied from obligation to act on complaints?

**Reasons for Police to reduce Beats Surveillance:**

The reduction of the level of the policing of beats and the improvement of its professionalism have a range of potential benefits for the NSWPS. Beats surveillance in its historical forms:

- \* wastes scarce police patrol resources
- \* adversely impacts on gay liaison by reinforcing gay community antagonism to police
- \* encourages impostors
- \* causes unnecessary suffering for people arrested, especially those prosecuted
- \* methods employed: bring police into disrepute; and can conflict with statement of values
- \* damages officer morale
- \* wastes court time and damages image of police prosecutors and DPP
- \* legitimates council action and encourages waste of council resources

**Issues and Interests in the Policing of Beats:**

Police operational managers and officers in determining patrol priorities need to ask the question:

"How serious is Public Homosexual Activity and how should police respond to it?"

In answering this question they may consider and evaluate the following interests etc:

**DRAFT**

## Triviality of Offence:

- \* Should police focus on the relevant relatively trivial offences?
  - Beats related offences are "summary" not "indictable" and attract minor penalties.

## Offensiveness rather than Harm:

- \* Should police focus on behaviour whose consequence is "offence" not "harm"?

## Potential Conflicts with NSWPS Statement of Values:

- \* Are Police methods in conflict with statement of values? Do they show respect for due process and equal treatment?
- \* Is it satisfactory for police to arrest or disperse people for behaviour which:
  - would not otherwise be criminalised but for the presence of police officers (invariably in plain clothes)
  - could be dealt with by exploring alternatives to arrest?

## Personal Rights:

- \* Does policing acknowledge that gay men, men who are perceived to be gay and other men who have sex with men have the same rights of freedom of association and movement as other citizens?
- \* Does policing acknowledge that men who use Beats are especially vulnerable to violence and other threats including extortion?
- \* Does policing acknowledge that these problems are not limited to so-called gay community areas?

## Scrutiny of Complaints:

- \* Does policing acknowledge that public complaints require scrutiny by police rather than automatic acceptance?
  - Police should ask such questions as:
    - Are citizens complaining of offensive or "suspicious" behaviour?
    - Have citizens been actually offended by "prohibited" public activity?

## Actual Witnessing / Visibility:

- \* Does policing acknowledge that most beats related sexual activity is not visible?



**DRAFT**

- Men who use Beats are particularly cautious in their behaviour due to the threat of detection. Most sex-on-site occurs in areas beyond the public eye (eg in bushes or behind locked cubicle doors).

## Misrepresentation: Paedophilia

- \* Does policing acknowledge that sexual assault is not a major concern in Beats?
- \* Does policing acknowledge that the threat of child sexual abuse is not a major concern in Beats?

## Resource Allocation:

- \* Does policing acknowledge that police resources are scarce and the public interest requires that they be deployed to combat more serious problems such as violence and property crime?
  - The reported policing of beats from intelligence gathering through to court appearances shows itself to be time and resource consuming. Police attention to Beats ultimately occupies court time with relatively trivial prosecutions.

## Police Morale:

- \* Does policing acknowledge that operations in Beats may damage officer morale because officers dislike or disapprove of this kind of policing?

## Unfairness

- \* Does policing acknowledge that most men convicted of Beats related offences have no prior criminal record?

## Damage to Gay Liaison:

- \* Does policing acknowledge that police operations in Beats undermine goodwill established by positive initiatives in gay community areas?

## Overall Calculus:

- \* Does the policing of beats achieve its purported ends?
- \* Does it do more damage than good?
- \* is police beats surveillance consistent with the NSW Police Service Statement of Values, namely is it policing which:
  - Places integrity above all?
  - Upholds the rule of law?
  - Preserves the rights and freedoms of individuals?

**DRAFT**

- Makes efficient and economical use of public resources?
- Ensures that authority is exercised responsibly?

**OTHER PROSPECTS FOR REFORM AND LIAISON**

Law Reform/Lawyers/Rights and Men who do beats

**Law reform:**

*Discussion of Law Reform and HIV Prevention:*

Law reform to enhance the effectiveness of Beats Outreach could involve two sets of proposals:

- i) Provisions to Narrow Police Discretion
- ii) Provisions to Prevent Entrapment.

Ideally the improved policing of beats would not depend upon legislative change. The limits of legislative change in preventing damaging official or private conduct are well documented. It is widely accepted that "behaviour change" is more effectively achieved through a process of education which encourages self determined rather than imposed change. Police adherence to professional responsibility standards and commitment to education would be preferable in these terms and would be consistent with the image of the reflective police officer presently being promoted by NSWPS training and education.

More specifically, legislative change would not necessarily prevent the type of policing often employed at beats which does not involve arrest or prosecution viz: name checks, questioning, warrant checks etc. Legislation preventing these practices would be difficult to draft for the special case of beats and it would be extremely difficult to enforce.

However, law reform could work to improve the policing of beats alongside other measures. In this context the arguments for law reform which may assist the efficacy of HIV Prevention measures in beats are broadly analogous to those outlined in the Intergovernmental Committee Legal Working Party Report, *HIV/AIDS Prevention, Homosexuality and the Law* (Wherrett 1991:13-17).

That report focussed on the impediments embodied in criminalisation of homosexual acts per se. However, in recognising the importance of gay community attachment and development in the prevention of HIV established by Australian research (Kippax 1990), it made further "recommendations" that:

\* "as a minimum requirement, such legislation should have a neutral impact on any existing gay community, and on the ability of individuals to attach themselves to the gay community".

\* " as a minimum requirement, such legislation should have a neutral impact on attempts to reach and educate men who have sex with men who have little or on gay community attachment (Wherrett 1991:13-17).

This can clearly be read as an implicit criticism of legislation such as the NSW Summary Offences Act (1988). The case studies and research outlined above illustrate that the enforcement of this legislation in its present form impacts upon localised gay communities or networks in a specific, intentional and

**DRAFT**

discriminatory fashion: police and council activity has been deliberately calculated in many contexts to drive men out of certain areas. The interruption and damage this causes social networks which are crucial to the process of HIV prevention in beats, further demonstrate the disadvantage caused to measures such as Beats Outreach. Consequently, on neither count, could it be argued that the legislation impacts "neutrally" on either "gay community" or HIV prevention.

More specific purposes of such law reform would be to:

- \* reduce the level of policing minimise the potential for over-policing and policing which is calculated to disperse Men who do beats or suppress beats which in turn affects BO itself
- \* enhance beat user empowerment in the face of the law and in the contest of charges;
- \* discourage police activity which impacts negatively upon the general life and self esteem of men who use beats
- \* contribute to reducing impediments to reportage of violence or police impropriety including that witnessed rather than personally experienced by Men who do beats.

Further, they would help provide clear outlines for police activity in an area which, in spite of professional responsibility guidelines, remains subject to wide "constable's discretion". In other words, such legislation would also improve police accountability and reduce the potential for arbitrary or personalised policing which conflicts with NSWPS objectives.

*i) Provisions to Narrow Police Discretion*

The legislation which police generally rely on to arrest people at beats provides police officers with extremely wide discretion. As has been pointed out in other contexts, this legislation is problematic largely because:

- \* there is no requirement that the offensive behaviour be intentional;
- \* it need only be demonstrated by the prosecution that offence was capable of being taken rather than actually taken by a "member of the public";
- \* there is no requirement that a member of the public be present at the time of arrest
- \* the definition of public place under the act is (arguably) too inclusive and therefore unreasonable

It is this breadth of discretion which allows for the prejudices and intolerance of officers to come into play.

Specific means of negotiating these problems are contained in a GLRL submission to the NSW State Attorney General Hannaford in October 1992. It advised that the Section 4(1)(a) of the SOA (1988) be repealed and replaced with the following section:

i) a person shall not behave in a public place in a manner which, in all the circumstances, is seriously offensive

ii) it is a defence to a charge under the preceding sub-paragraph that the defendant believed on reasonable grounds that his or her behaviour was in the circumstances likely to cause any person offence.

*ii) Provisions to Prevent Covert Surveillance:*

**DRAFT**

The legislation could also be amended to effectively outlaw entrapment. This could of course be done directly by creating a positive defence of entrapment. However, given the resistance to the development of such a defence in Anglo-Australian law (Choo 1990), this is unlikely to prove fruitful, especially given that any recommendation would relate to relatively trivial summary offences.

Indirect measures could be more successful. These could involve exploring and implementing measures which limit the use of plain clothes per se in relation to summary offences.

*Discussion:*

- i. In brief, the policy justification for restricting the use of plain clothes in this instance is that police action which uses deception should not be permissible for offences as trivial as those prohibited under the SOA (Marx 1992).
- ii. Police action which involves the police officer(s) "going out of their way" to witness offensive conduct - should not be permissible for offences as trivial as those prohibited under the SOA. Such policing is clearly against the spirit of legislation which seeks to provide police with the power to regulate genuinely offensive conduct, rather than that which is only witnessed after some effort from the police to do so. The unacceptability of this style of policing is now recognised in Victoria as affirmed in recent cases there.

**Lawyers and Magistrates****Beats In Court: Defences and Legal Strategies**

" ... from a wider community point of view it's important gay men know they can contest these case (sic) and win. Just because they have sex in a public place is not necessarily offensive ... People shouldn't automatically plead guilty" A gay man acquitted of an offensive behaviour charge in Melbourne, 1992.

Law reform would be slow in coming if it came at all. Under the present legislative regime, it remains for lawyers to argue the cases of men who do beats and thereby contribute to their empowerment and the discouragement of over-policing. In Victoria, in 1992, the successful defence of such charges received wide publicity in the gay press: this put the issue of beats squarely on the gay agenda and may have contributed to reversing the process of oppression.

Historically, reports indicate that men who do beats often prefer to plead guilty because they wish to reduce the risk of public exposure. These preferences are understandable and deserve respect. However, convicted persons still get their names in the paper <sup>(17)</sup>. Further, lawyers may encourage clients to plead guilty because magistrates are often so conservative that it is considered not worth contesting the charge. More generally, Legal Aid solicitors' case loads and institutionalised systems of plea-bargaining and "court management" mitigate against contesting summary offences.

However, lawyers should be aware that the prevalence of guilty pleas vindicates surveillance and reinforces the policing which affects HIV/AIDS education in beats. Beats Outreach continues to struggle

---

<sup>17)</sup> See for example *Illawarra Mercury* 20/1/92, p.6

**DRAFT**

for legitimacy in the eyes of many operational the police (and the quality of liaison is strained); the conformist sexuality which informs surveillance remains unchallenged.

The difficulties of contesting "beats" charges cannot be underestimated. Entrapment is not a defence in Australia and the case law is very unclear (Choo 1991). However, some options are there for lawyers to explore.

\* men who do beats have obtained "exonerations" under s.556A in circumstances where the magistrate appears to have accepted that defendant's actions have been induced to some extent by the actions of police (<sup>18</sup>)

\* Recent Victorian cases have also endorsed Inglis v Fish which holds that police cannot "go out of their way" to witness alleged offensive behaviour.

\* burden of proof: Charges have also been defended where, because of the serious inconsistency between sets of evidence, the prosecution was found not to have discharged the onus to prove its case beyond reasonable doubt (<sup>19</sup>).

**Rights and Men who do beats****Offences and Legal Rights:**

The interviews conducted with men who do beats reflect varying but significant levels of knowledge of their rights and their belief in the "justice" of the system. Many men who do beats clearly see the police as antagonistic or unsympathetic to their interests; and do not believe that there is anything to gain by pursuing incidents through police complaints processes. In terms of Braithwaite's theory of dominion, men who do beats lack the required sense of subjective freedom - ie the belief that they can conduct their lives without the threat of (not so) arbitrary intrusion into their personal affairs.

The impact on Beats Outreach connected to the surveillance of beats may be diminished and Men who do beats personal and collective empowerment would be served by individual's being more aware of their "rights". These so-called rights are no different from those possessed by the any citizen when dealing with police and other organisations (eg councils workers, rangers, security officers). Nonetheless, the vulnerability of men who do beats and their scepticism about dealing with police reinforces their disempowerment in the face of the law - at all stages of being processed by the legal system - from direct contact with police officers at beats to their dealings with lawyers and appearing in court to "answer charges".

To an extent the problem here concerns the general ignorance of citizens of their rights as citizens per se, not merely as "men who do beats" or beat users. However, the conditions in which they encounter police, similar to those experienced by other marginalised groups, feature added impairments such as the threat of humiliation and stress involved in "detection"/stigmatisation which amplify problems for men who do beats (including 'proud' gay men).

---

<sup>18</sup>) See *Eastern Herald*, "Gay Beats: Our Most Shameful Sexual Secret", *SMH*, 18/6/92.

<sup>19</sup>) DPP v Hannah (Unreported)

**DRAFT**

Some initial attempts have been made to improve the ability of men who do beats to cope with surveillance. The GLRL has prepared a pamphlet which provides valuable information on general "legal" rights (and responsibilities) and how a beat user can and should deal with police. It also provides contact points for complaints about police contact and the reportage of violence. While the pamphlet clarifies many issues, it has many problems as it is:

- \* difficult to read
- \* poorly laid-out in that it has to be read continuously to obtain the sense of each paragraph
- \* uses unnecessarily formal language which makes assumptions about people's level of education and literacy and may only reach a portion of its potential audience.

Further, the distribution of this pamphlet has been extremely ad hoc. There has been some positive feedback - but it has not been widely distributed.

While, in terms of "health interests", there may be an evolving culture of safe sex based on an empowerment model of peer education, community attachment and socially informed support, the same could not be said in relation to "legal interests". The point is that neither the content nor the delivery of information or the development of collective awareness is informed by the same principles, despite good intentions.

The argument suggested here is that "legal rights" education of men who do beats should be informed by the same principles invoked in the conduct of Beats Outreach peer education and community development.

There is some confusion as to the relationship between ACON and GLRL - the former being a community based but not exclusively gay concerned organisation, which is in practice a "health bureaucracy" - and the latter being an explicitly gay community based "legal rights and issues" advocacy organisation".

The nexus between legislation, law enforcement and HIV prevention has long been accepted (Working Party, 1991-2). ACON needs to realise the potential of incorporating "legal issues" in its beats work. The issue comes up so often, that workers should be equipped with accurate knowledge for use in informal conversations and with culturally appropriate and flexible material for distribution. The inability of outreach workers to provide information to men who do beats - while it will never solve all their problems - contributes in a way to the disempowerment of men who do beats.

ACON should re-appraise its treatment of this dimension of BO and develop an approach which can effectively exploit peer group networks and the bush telegraph.

However, the responsibility for the enhancement of men who do beats empowerment does not fall solely on ACON. This burden could be shared by the police. This police responsibility can be conceptualised either in terms of community liaison or gay liaison. Either way, it would involve recognising the beat social networks and using them, as suggested, to promote empowerment by encouraging reportage of violence and the understanding of police complaints processes.

## DRAFT

## BEATS, POLICE, HOMOPHOBIA AND HIV REPORT

## BIBLIOGRAPHY

- Aggleton, P., (1989) 'Evaluating Health Education about AIDS', in Aggleton, Hart and Davies (Eds), *AIDS, Social Representations, Social Practices*, Falmer Press, London, pp.220-236.
- Anleu, S., (1991) *Deviance, Conformity and Control*, Longman Cheshire, Melbourne.
- Altman, D., (1970) *Homosexuality*, Penguin, Harmondsworth.
- Atkinson, P., (1991) *The Ethnographic Imagination: Textual Constructions of Reality*, Routledge, London.
- Bennett, G., (1989) with Chapman, S. and Bray, F., 'Potential Sources of Transmission of AIDS into the Heterosexual Population: Bisexual Men who Frequent Beats', *Medical Journal of Australia*, Vol 161, pp.314-8.
- (1989a) 'Sexual Practices and "Beats": AIDS Related Sexual Practices in a Sample of Homosexual and Bisexual Men in the Western Area of Sydney', *Medical Journal of Australia*, Vol 161, pp. 309-318.
- Bolton R., (1992) with Vincke, J., Mak., R, 'Gay Saunas: Venues of HIV Transmission or AIDS Prevention?', *National AIDS Bulletin*, September, pp.22-24.
- Bonney, R., (1989) *N.S.W. Summary Offences Act 1988*, New South Wales Bureau of Crime Statistics and Research, Sydney.
- Brain, G., (1992) 'Workshop on Policing', *Outreach Work with Men Who Have Sex with Men*, Bristol Polytechnic, University of London, pp.22-24.
- Braithwaite, J., (1992) 'Good and Bad Police Services', in Moir, P. and Eijkman, H.(eds), *Policing Australia*, Macmillan, South Melbourne, pp.11-19.
- Burke, M., (1992) 'Cop Culture and Homosexuality', *The Police Journal*, January, pp.30-39.
- Chan, J., (1992) *Policing In A Multicultural Society. A Report to the New South Wales Police Service*, New South Wales Police Service, Sydney.
- Choo, A., (1991) 'Entrapment: Sloane', Vol. 15, *Criminal Law Journal*, pp.220ff.
- (1990) 'A Defence of Entrapment', *Modern Law Review*, Vol.53, pp.453ff.
- Connell, R.W., (1991) 'Social Class, gay men and AIDS prevention', *Australian Journal of Public Health*, Vol 15, No.3, pp.178-189.
- Davis, M., with U. Klemmer and G.W. Dowsett, (1991) *Bisexually Active Men and Beats: Theoretical and Educational Implications*, AIDS Council of New South Wales and Macquarie University AIDS Research Unit (National Centre for HIV Social Research), Sydney.

## DRAFT

- (1990) 'Peer Education and a framework for change in Queensland', *National AIDS Bulletin*, August, pp.37-40.
- (1990a) with Dowsett G., Baxter, D., Connell, R., Watson L., Kippax, S., Crawford, J., and Berg, R., *Beats and Glory Holes*, Social Aspects of the Prevention of AIDS Project, Paper No.2.
- Delany, S., (1988) *The Motion of Light in Water*, Paladin, Glasgow.
- Delph, E., (1978) *The Silent Community: Public Homosexual Encounters*, Sage Publications, London.
- Desroches, F., (1991) 'Tearoom Trade: A Law Enforcement Problem', *Canadian Journal of Criminology*, January Issue, pp.1-21.
- Dixon, D., (1989) with Bottomley, A.K., Coleman, C.A., Gill, M., and Wall, D., 'Reality and Rules in the Construction and Regulation of Police Suspicion', *International Journal of the Sociology of Law*, Vol.17, pp.185-206.
- Downes, D (1990) with Rock, P., *Understanding Deviance: A Guide to the Sociology of Crime and Rule Breaking* (2nd ed), Clarendon Press, Oxford.
- Dowsett, G.W., (1992) 'Working Class Homosexuality and HIV/AIDS Prevention: Some Recent Research from Sydney, Australia', *Psychology and Health*, Vol.6, pp.313-324.
- (1992a) with Davis, M., and Connell, R.W., 'Gay Lifestyles of the Not-so-Rich and Quite Unfamous', in Wotherspoon and Aldrich, *Gay Perspectives: Essays in Australian Gay Culture*, University of Sydney, Sydney.
- (1992b) *Men Who Have Sex With Men: Considerations for a National HIV/AIDS Educational Intervention*, Commonwealth Department of Health, Housing and Community Services, Canberra.
- (1992c) with Davis, M., *Transgression and Intervention: Homosexually Active Men and Beats*, Macquarie University AIDS Research Unit (National Centre for HIV Social Research), Sydney.
- Dworkin, G., (1985) 'The Serpent Beguiled Me and I Did Eat: Entrapment and the Creation of Crime' *Law and Philosophy*, Vol.4, pp.17-39.
- Findlay, M. (1988) with Egger, S., 'The Politics of Police Discretion', in Findlay, M. and Hogg, R. (eds), *Understanding Crime and Criminal Justice*, Law Book Company, Melbourne.
- Findlay, M. and Hogg, R., (1985) 'Police and the Community: Some Issues Raised by Recent Overseas Research' in Freckleton and Selby (eds) *Police in Our Society*, pp.44-53.
- Foucault, M., (1986) *Discipline and Punish: The Birth of the Prison*, Penguin, Harmondsworth.
- (1985) *The Use of Pleasure: History of Sexuality Vol.2*, Random House, London.
- Godwin, J., Hamblin, J and Patterson, D., (1991) *Australian HIV/AIDS Legal Guide*, Federation Press, Sydney.



**DRAFT**

- Goodbun, R., (1993) 'In Our Own Private World: Exploring Possibilities for HIV Preventative Education Targeting Men Who Have Sex With Men', *National AIDS Bulletin*, February, pp.33-35.
- Hatty, S., (1991), 'Police, Crime and the Media: An Australian Tale', *International Journal of the Sociology of Law*, Vol.19, pp.171-191.
- Herek, G.M., (1984) 'Beyond "Homophobia": A Social Psychological Perspective on Attitudes Towards Lesbians and Gay Men', *Journal of Homosexuality*, Vol. 10, pp.1-21.
- Hogg, R., (1991) 'Policing and Penalty', *Journal for Social Justice Studies*, Vol.4 No.1, pp.1-26.
- Hudson, W.W., and Ricketts, W.A., (1980) 'A Strategy for the Measurement of Homophobia', *Journal of Homosexuality*, Vol. 5(4), pp.356-371.
- Humphreys, L., (1970) *Tearoom Trade: Impersonal Sex In Public Places*, Aldine Press, Chicago.
- Jefferson, T., and Grimshaw, R., (1984) 'The Problem of Law Enforcement Policy in England and Wales: The Case of Community Policing and Racial Attacks', *International Journal of the Sociology of Law*, Vol 12, pp.117-135.
- Kerans, P., (1993) *Gangsters, Glory Holes and Graffiti*, Report on Beats Outreach Project for the AIDS Council of New South Wales, Unpublished.
- Kippax, S., (1992) with Rodden, P., and Crawford, J., 'Project Male-Call: Gay Community Attachment and HIV' *National AIDS Bulletin* December 1992/January 1993, pp.25-31.
- (1991) with Tillett, G., Crawford, J., and Cregan, J., *Discrimination in the Context of AIDS: Disease and Deviance* Macquarie University AIDS Research Unit (National Centre for HIV Social Research), Sydney.
- (1990) with Crawford, J., Connell, R.W., Dowsett, G.W., Watson, L., Rodden, P., Baxter, D., Berg, R., *The Importance of Gay Community in the Prevention of HIV Transmission*, Macquarie University AIDS Research Unit (National Centre for HIV Social Research), Sydney (SAPA Report No.7).
- (1988) with Crawford, J., Connell, R.W., Dowsett, G.W., Watson, L., Rodden, P., Baxter, D., Berg, R., *Method and Sample*, Macquarie University AIDS Research Unit (National Centre for HIV Social Research), Sydney (SAPA Report No.1).
- Koller, K., (1990) *Working the Beat*, Edmonton Police Service, Edmonton.
- Lahr, J., (1978) *Prick Up Your Ears*, Penguin, Hamondsworth.
- Lane, B., (1988) 'Harassment of Homosexuals in Queensland: Private Lives, Public Crimes', *Legal Service Bulletin*, Vol.13, No.4, pp.154-157.
- Lesbian and Gay Anti-Violence Project, (1992) *The Off Our Backs Report: A Study Into Anti-Lesbian Violence*, Gay and Lesbian Rights Lobby, Sydney.

**DRAFT**

- Lupton, D., (1992) 'Discourse analysis: a new methodology for understanding the ideologies of health and illness', *Australian Journal of Public Health*, Vol.16 No.2, pp.145ff.
- (1991) 'Apocalypse to banality: Changes in metaphors about AIDS in the Australian Press', *Australian Journal of Communication*, Vol.18(2), pp.66-74.
- McGonigal, P., (1970) 'A Survey of Offender Behaviour in Sydney' in *Male Sex Offences in Public Places*, Proceedings of the Institute of Criminology No.2, University of Sydney, Faculty of Law, pp.15-35.
- McNeil, P., (1985) *Research Methods*, Tavistock Publications, London.
- Marx, G.T., (1992) 'Under-the-Covers Undercover Investigations: Some Reflections on the State's Use of Sex and Deception in Law Enforcement', *Criminal Justice Ethics*, Winter/Spring, pp.13-24.
- Mohr, R., (1988) *Gays/Justice: A Study of Ethics, Society and Law*, Columbia University Press, New York.
- Moir, P. and Eijkman, H.(eds), (1992) *Policing Australia*, Macmillan, South Melbourne.
- Michaels, Eric. (1990) *Unbecoming: An AIDS Diary*, Empress, Rose Bay.
- New South Wales Anti-Discrimination Board, (1992) *Report of the Streetwatch Implementation Advisory Committee*, Sydney.
- (1992a) *Discrimination the Other Epidemic: A Report of the Inquiry into HIV and AIDS Related Discrimination*, Sydney.
- (1982) *Discrimination and Homosexuality: A Report of the Anti-Discrimination Board in accordance with section 119(a) of the Anti-Discrimination Act 1977*, Sydney.
- O'Reilly, C., (1992) 'The Personals and Men Who Have Sex with Men', *National AIDS Bulletin*, March, pp.32-35.
- O'Sullivan, K., (1991) 'Sex Crimes: A Turbulent History of Police/Gay Relations', *Mardi Gras Guide*, pp.72-75.
- Oxley-Oxland, J., (1988) *NSW Police Law Handbook*, Butterworths, Sydney.
- Paglia, C., (1991) *Sexual Personae*, Penguin, London.
- Reuss-Ianni, E., (1983) with Ianni, F., 'Street Cops and Management Cops: The Two Cultures of Policing' in Punch, M., (ed) *Control in the Police Organisation*, MIT Press, Massachusetts.
- Robert, R., (1992) 'Men Who Have Sex With Men in the Bush: Impediments to the formation of gay communities in some rural areas', *Rural Society*, pp. 13-14.
- Rose, G., (1982) *Deciphering Sociological Research*, Macmillan, London.

**DRAFT**

- Scutt, J., (1983) *Even in the Best Homes*, Penguin, Harmondsworth.
- Seabrook, M., (1992) 'Homosexuality and the Police', *New Law Journal*, Vol.142, pp.325-326.
- Smith, G., (1988) 'Policing the Gay Community: An Inquiry into Textually-mediated Social Relations', *International Journal of the Sociology of Law*, Vol.16, pp.163-183.
- Sparrow, M., (1990) with Moore, M., and Kennedy, D., *Beyond 911: A New Era for Policing*, Basic Books.
- Stubbs, J., (1992) *Complaints Against Police in New South Wales*, New South Wales Bureau of Crime Statistics and Research, Sydney.
- Swivel, M., (1991), 'Public Convenience, Public Nuisance: Criminological Perspectives on the Beat', *Current Issues in Criminal Justice*, November, pp.237-249.
- Timewell, E., (1992) with Minichiello, V., and Plummer, D. (eds), *AIDS in Australia*, Prentice Hall, Sydney.
- Treichler, P., (1988) 'AIDS, Homophobia and Biomedical Discourse: An Epidemic of Signification', *Cultural Studies*, Vol.2, pp.263-305.
- van Reyk, Paul., (1990), *On the Beat: A Report on an Outreach Program of Preventative Education for Men Who Have Sex With Men*, AIDS Council of New South Wales, Sydney.
- Federation of Community Legal Centres (Vic) Inc. Police Issues Group, (1992) *Policing Offensive Behaviour*, Federation of Community Legal Centres (Vic) Inc, Melbourne.
- Walker, N., (1987) *Crime and Criminology: A Critical Introduction*, Oxford University Press, Oxford.
- Watchirs, H., (1991) *Discussion Paper: Legal Issues Relating to HIV/AIDS, Sex Workers and Their Clients*, Intergovernmental Committee on AIDS, Department of Community Services and Health.
- Watney, S., (1989) *Policing Desire: Pornography, AIDS and the Media* (2nd ed), University of Minnesota Press, Minneapolis.
- Wherrett, L., and Talbot, W., (1991) *HIV/AIDS Prevention, Homosexuality and the Law*, Intergovernmental Committee on AIDS, Department of Community Services and Health.
- White, R., (1992) 'Young People and the Policing of Community Space', Paper presented at the Conference of the Australian and New Zealand Society of Criminology, Melbourne, September 1992.
- (1992a) 'Young People, Community Space and Social Control', Paper presented at the Australian Institute of Criminology Conference on Juvenile Justice, Adelaide, September 1992.
- Wilson, P.R. (1971) *The Sexual Dilemma*, University of Queensland Press, St. Lucia.
- Wolfson, E., and Sears, B., (1991) 'Public Lewdness Cases: Fighting Entrapment and Stereotypes', *Newsletter of Lambda Legal Defence and Education Fund*, Vol.8 No.2, pp.22-23.

**DRAFT**

Wotherspoon, G., (1990) *City of the Plain*, Hale & Ironmonger, Sydney.

Wotherspoon, G., and Aldrich, R., (1992) *Gay Perspectives*, University of Sydney, Sydney.

AIDS Council of NSW  
LIBRARY