



#### P190B

#### STATEMENT OF POLICE

In the matter of:

Special Commission of Inquiry into LGBTIQ Hate Crimes

Place:

Engagement and Hate Crime Unit

Date:

28 November 2022

Name:

Ismail KIRGIZ

Tel. No:

Rank:

Sergeant

Station/Unit:

Engagement & Hate Crime Unit

#### STATES:

- 1. This statement made by me accurately sets out the evidence that I would be prepared, if necessary, to give in court as a witness. The statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I will be liable to prosecution if I have wilfully stated in it anything that I know to be false, or do not believe to be true.
- 2. I have been a member of the NSW Police Force for 29 years. I commenced my career in General Duties at Castle Hill and Blacktown police stations before transferring to the Prospect District Anti-Theft Squad in 1996. In 1998 I transferred to the Protective Security Group which later became the Counter Terrorism & Special Tactics (CTST) Command. I performed duties in dignitary protection from 1998 to 2020, when I transferred to the Engagement & Hate Crime Unit (EHCU) which is also within the CTST Command. During my time at the CTST Command I was able to work part-time and take leave without pay at various times to pursue academic studies and gain experience in other professions.
- 3. I hold a Diploma in Policing from Charles Sturt University (1998), a Bachelor of Building Construction Management from the University of NSW (2001) and a Juris Doctor from the University of Technology (2011).

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4. I have completed various internal policing training courses including the investigators course, the undercover operative's course, as well as courses relating to dignitary protection and the physical security of buildings. As a member of the CTST Command, I hold a NV1 National Security Clearance and have undertaken training in Islamic Extremism as well as Nationalist Racist Violent Extremism. I receive regular briefings on the current intelligence landscape relating to emerging threats to national security as well as social cohesion in NSW.

# The establishment of the Engagement & Hate Crime Unit (EHCU) and role of the Hate Crime Coordinator

- 5. The EHCU was established in December 2019 after the Engagement & Intervention Unit (EIU) and the Bias Crimes Unit (BCU) were amalgamated. The Bias Crimes Unit had been positioned with the EIU since November 2018 after a brief attachment to the Fixated Persons Investigations Unit (FPIU). (Annexure 1 & 1A Bias Crimes Unit Handover and Renaming Report).
- 6. Upon transferring to the EHCU in July 2020 I underwent a three-week induction period as a project officer before being appointed to the role of "Hate Crime Coordinator" in August 2020. I remain in that role.
- 7. The primary role of the Hate Crime Coordinator is to coordinate the operational and program-based response of the NSWPF to crime motivated by hate, by building the organisation's awareness, knowledge and operational capacity to respond effectively to all aspects of hate crime. The detailed key accountabilities, key challenges, key relationships, key knowledge and experience are contained in the Role Description SRD 101 (Annexure 2 Role Description Team Leader EHCU SRD 101)
- 8. To the best of my knowledge, the equivalent of the current "Hate Crime Coordinator" within the former Bias Crimes Unit was the "Bias Crimes Coordinator".

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- 9. To the best of my knowledge, there have been three Hate Crime Coordinators since the Bias/Hate Crime portfolio became part of the EIU and then EHCU, in the period between November 2018 and July 2020 when I commenced in that role. They were:
  - (i) Sergeant Ragheb (Ray) Husseini who is currently attached to Campsie Police Area Command (PAC) was in the position at various times from November 2018 to December 2019.
  - (ii) Sergeant Mark Dance who is currently attached to the Professional Standards Command (PSC) was in the position at various times from 2019 to 2020.
  - (iii) Sergeant Simon Henry who is no longer a member of the NSW Police Force was in the role at various times from January 2020 until July 2020.

#### Placement of the EHCU within the NSWPF, and staffing structure

- 10. The EHCU is a Unit within the Anti-Terrorism & Security Group (ATIG) which is commanded by Detective Superintendent Jason Dickinson. The EHCU has 15 assigned positions, and its organisational structure is as below:
  - (i) Manager Inspector
  - (ii) EHCU Coordinator Senior Sergeant
  - (iii) Engagement & Support Program (ESP) Coordinator Sergeant (Externally funded)
  - (iv) Hate Crime Coordinator Sergeant
    - (a) Intelligence Coordinator Civilian 7/8 grade (Externally funded)
    - (b) Project Coordinator Civilian 7/8 grade (Externally funded)
    - (c) Project Officer Constable/Senior Constable
    - (d) Intelligence Analyst Civilian Grade 3/4 (this role has been utilised by the Terrorism Security Intelligence Unit to my knowledge since at least July 2020).

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- (v) Engagement Team Leader Sergeant
  - (a) Engagement Officers 6 x Constables/Senior Constables
- 11. The positions of Intelligence Coordinator and Project Coordinator are externally funded by the NSW Department of Communities & Justice (DCJ). These positions were implemented soon after the introduction of hate speech legislation (section 93Z of the *Crimes Act 1900* (NSW)) to facilitate awareness about the new section by both police officers and the public. Section 93Z makes it an offence to threaten or incite violence on various grounds including race, sexual orientation, gender identity, intersex status, or HIV status. The use of the section is monitored by NSW Parliament and the NSWPF executive. EHCU provides quarterly (and as required) reports on the use of the section to the NSWPF executive, and section 93Z is an integral part of our hate crime presentations. Although the implementation of the above two positions had its origins in promoting 93Z awareness, both positions are an integral part of the Hate Crime Team and contribute to all its functions.

#### Use of terms "hate crime" and "bias crime"

12. The current use by the NSWPF of the term "hate crime" rather than "bias crime" was proposed on 18 November 2019 and approved on 16 January 2020. The reasons provided for the change were that the use of the term "hate crime" would provide greater clarity to frontline officers when considering possible hate/bias motivations and enhance their ability to correctly flag the WebCOPS report as "Hate Crime Involvement" (*Annexure 3 – Report requesting changes to WebCOPS dated 18 November 2019*).

#### Bias Crime Indicators Review Form (BCIRF)

- 13. The Bias Crime Indicators Review Form (BCIRF) is not currently in use by frontline police officers nor the EHCU. To the best of my knowledge, this form was used by Strikeforce Parrabell, and I am not aware if any other units of the NSWPF have used or are still using the BCIRF.
- 14. The tools currently in use by the NSWPF for detecting hate motivations include:

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- (i) The mandatory use of 'Associated Factors' when completing entries on WebCOPS and the relevant prompts and subcategories of "Hate Crime Related" associated factors;
  - (a) Every time frontline police officers create a record on the Computerised Operational Policing System (COPS or WebCOPS) they must complete the mandatory field of "Associated Factor" which may be factors like 'alcohol related', 'domestic violence related' or 'hate crime related'. If there is no detectable associated factor they must select the option of "no associated factor'. Each associated factor may have subcategories, for example 'hate crime related' has subcategories of each of the hate motivations such as 'Race', 'Religion or Faith' or 'LGBTIQA+' etc. and officers must select the relevant sub-category. A COPS or WebCOPS report cannot be successfully submitted unless the associated factor category is completed.
- (ii) The Hate Crime Guidelines, which are available to all officers on the intranet (Annexure 4);
- (iii) The PETE training module, this is referred to in more detail in paragraph [28(ii)] of my statement below;
- (iv) Hate Crime Awareness presentations provided to frontline police officers;
- (v) Hate Crime Awareness presentations to community groups (and the soon to be released video animations via social media) which will enhance public awareness of hate crime indicators so that the public can more readily identify these factors when reporting to police. This is further outlined in paragraph 22 of the Statement.
- 15. In August 2022, parliament passed section 93ZA of the *Crimes Act 1900* (NSW) which criminalises the 'knowingly public display of Nazi symbols'. The use of 93ZA has also become an integral part of our hate crime presentations in order to educate frontline officers about its use and to raise public awareness of Nazi symbols. In my experience, the perpetrators of hate crimes against the LGBTIQA+ community often adhere to neo-Nazi or extreme right wing ideology. For that reason, my expectation is that s. 93ZA may have some impact on hate crimes of the type

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being considered by the Inquiry in that it may be useful in disrupting the activities of extremist groups or individuals that target LGBTIQA+ persons.

#### Interaction between the EHCU and other arms of the NSWPF

- 16. The main protocol for interaction between the EHCU and other arms of the NSW Police Force that are external to the CTST (including the Homicide Squad and the Unsolved Homicide Team) is the Hate Incident Review Committee (HIRC). The HIRC was established in March 2021 and is chaired by the ATIG Group Commander who is of Detective Superintendent rank. The HIRC was established as an additional layer of supervision to all hate incidents and their investigation by the NSWPF. Its members are the ATIG Commander, the EHCU Manager and the entire Hate Crime Team, comprised of the Hate Crime Coordinator, the Intelligence Coordinator and the Project Coordinator. The HIRC convenes fortnightly and monitors all hate crimes and hate incidents that have been assessed by the Hate Crime Team to require our attention and/or follow up.
- 17. The HIRC determines whether the EHCU contacts other investigators or PACs to assist or encourage the progress of an investigation where it is considered necessary. This typically occurs by the Hate Crime Coordinator calling or emailing the investigating officer to discuss the incident and offer assistance. The Hate Crime Coordinator will remain in regular phone or email contact with the officer until the matter is finalised. Deficiencies or delays in the investigation that are of greater concern are escalated to the investigating officer's PAC's Crime Coordinator (Detective Senior Sergeant rank) or Crime Manager (Detective Inspector rank). By way of example, if a delay in an investigation is found to be as a result of an officer being on a long leave of absence, the EHCU will request the relevant Crime Coordinator or Crime Manager to allocate the investigation to another officer to progress the matter in a timely manner.
- 18. Hate Crime investigations that have been finalised by the laying of charges are monitored as they progress through the courts in order to observe and evaluate outcomes. This is done with a view to identify any failed prosecutions so that any deficiencies can be addressed with additional training or enhancements to procedures. Court sentences are monitored and if found

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to appear manifestly inadequate, the EHCU contacts the Police Prosecutions Command to explore the prospects of an appeal.

- 19. Other arms of the NSW Police Force also contact the EHCU as necessary to obtain advice on hate crime related matters including the use of specific hate speech and hate symbol legislation. This is encouraged by way of our PETE training package and internal presentations as well as screensavers and Nemesis messages to communicate any changes to legislation, procedures or guidelines. EHCU works closely with the Operational Legal Advice Unit (OLAU) and often seeks their guidance on whether hate related incidents meet the criminal threshold for prosecution.
- 20. The EHCU conducts hate crime awareness training at all LGBTIQ Liaison Officer (GLLO) training courses and liaises with GLLOs at relevant PACs if a hate incident is detected against members of the LGBTIQA+ community.

### Methods and procedures of the EHCU by which bias in crimes is identified, recorded and analysed

- 21. The methods and procedures by which hate motivation in crimes is currently identified, recorded, classified and analysed and kept by the EHCU has largely been modelled on the applicable recommendations of Strike Force Parrabell. (Annexures 5 - Strike Force Parrabell progress updates to NSWPF executive).
  - (i) The EHCU does not conduct criminal investigations but supports frontline police officers by way of education, guidance and advice into their investigation of hate crimes;
  - (ii) On a daily basis, the Intelligence Coordinator performs an EDW search ('Enterprise Data Warehouse' - the trade name of the software tool) on the WebCOPS system which performs a capture on all police reports that have been flagged with the associated factor of "Hate Crime Related". When recording events and information reports, all police officers are required to complete a mandatory field of 'Associated Factor'. It is a vulnerability that if an officer does not correctly flag a hate incident with "Hate Crime

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Related" it will not be captured by the EDW search. In order to mitigate this vulnerability, the Intelligence Coordinator also performs every few months, 'dip sample' "Powersearch" keyword searches on WebCOPS which may be associated with hate motivations, however this is not a fail-safe procedure and the most effective way to capture hate crimes is to educate frontline police officers to recognise, capture and record hate factors correctly. The EHCU's internal education package was developed to achieve this critical objective (see the discussion regarding training below);

- (iii) The EHCU also utilises several other means to identify hate crimes. Environmental scanning is performed on a daily basis, where the Hate Crime Team performs searches across commercial media channels and NSWPF daily 'Executive Media Briefing', which is a document prepared daily by the police media unit that identifies any news reports relevant to NSWPF. We also monitor any SITREPs (Situation Reports) that are disseminated across NSWPF for any hate motivation;
- The EHCU also relies on community relationships to receive reports of hate crimes. The (iv) primary role of the Engagement Team of the EHCU is to build and maintain partnerships with communities who are at risk of radicalisation, or are likely to be impacted by NSW Police Force use of terrorism powers, and communities who may be the victims of terrorism or politically motivated violence and hate crimes. The Engagement Team engages with key contacts within each community and engagement plans are formulated to address concerns that arise within communities. By way of example, geopolitical or community events often result in the targeting of certain communities and engagement plans are formulated around those events. The Engagement Team of the EHCU plays a vital role in building strong relationships with diverse communities and at times incidents are reported to EHCU via those community contacts. Some communities have their own hate crime online portals and smart phone apps to encourage reporting. By way of example, the Jewish community takes hate crime reports via their 'Community Security Group' (CSG) and the Muslim community has an 'Islamophobia Register' with a second register soon to be launched.

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- (v) The EHCU also engages with members of ACON and other stakeholders within the LGBTIQ community, on an as needs basis, which has resulted in direct reports of hate crime to EHCU in the past. Throughout late 2020 and early 2021 the EHCU had implemented a 'LGBTIQ Hate Crime Forum' that was attended by ACON and other stakeholders within the LGBTIQA+ community. ACON was instrumental in assisting the EHCU with whom to invite to these meetings. This forum was also attended by Assistant Commissioner Gelina Talbot who was the NSWPF Corporate Sponsor at the time, and her team also attended and assisted the forum. The aim was for this forum to meet quarterly to discuss and address hate crimes committed against members of the LGBTIQA+ community. However after two consecutive forums it emerged that there was a considerable overlap between this forum and the biannual LGBTIQ Stakeholders Forum, and it was decided that, rather than have two separate forums, the EHCU would attend the biannual LGBTIQ Stakeholders Forum, which is chaired by Assistant Commissioner Anthony Cooke APM, who is the current NSWPF Corporate Sponsor for Sexuality, Gender Diversity & Intersex. The EHCU provides updates on LGBTIQA+ hate crimes to raise awareness and answer questions from stakeholders;
- (vi) The incidents captured by the above means are assessed by the Intelligence Coordinator and the Hate Crime Coordinator into several categories that include 'Hate Crime', 'Hate Incident', 'Suspected Hate Crime', 'Not a Hate Crime', and 'Insufficient Information'. These are then entered into a master spreadsheet with demographic and geographic data from which statistics are compiled and monitored. Any incidents that are identified as significant or requiring follow up are attended to by the Hate Crime Coordinator to determine their inclusion into the HIRC. This may involve contacting the investigator or PAC to obtain further information and to offer EHCU's assistance. The criteria for matters to be reviewed in the HIRC include, but are not limited to, possible deficiencies or delays in the investigation, the complexity and/or nuances of the facts or legislation involved, community impact and media attention; as well as any matters decided by the manager of EHCU or the ATIG Commander. The Engagement team is often utilised to engage

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with communities in order to address concerns about hate crime or to obtain some missing context about possible motivations for a hate incident;

(vii) The Intelligence Coordinator prepares quarterly Hate Crime statistical reports which are monitored by the HIRC, to identify any emerging behaviours, trends and locations of concern. Any matters so identified are addressed in the HIRC to explore treatment options in consultation with PACs and investigators;

## Reference to "best practice investigative standards" contained in the Hate Crime Policy Statement

- 22. The term "best practice investigative standards for hate crimes" referred to in the Hate Crime Policy Statement is not intended to suggest that NSWPF has benchmarked our standards against other police forces. The term intends to reflect a philosophy that the NSWPF is committed to exercising vigilance to identify vulnerabilities and deficiencies in our systems and practices, so that any risks can be mitigated via the continual improvement and enhancement of those systems and practices. By way of example:
  - (a) The establishment of the HIRC ensures that any hate crime investigations are monitored both at the PAC level as well as the ATIG level, which significantly mitigates the risk of deficiencies in the investigation;
  - (b) Our WebCOPS system is continually updated to capture hate incidents to the highest level of accuracy possible. Recent enhancements to the 'Associated Factor' categories (discussed above) reflect this objective;
  - (c) Our internal and public presentations are updated to reflect the most recent developments in the behaviours of hate groups and our presentations can be intelligence based and directed towards areas and community groups that have been the target of hate crime. The Intelligence Coordinator is responsible for these updates, which are made by reference to the continual monitoring of hate groups and trends undertaken by the Terrorism Security and Intelligence Unit;

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#### Current training provided by the EHCU to police officers

- 23. The nature and extent of current training of officers in identifying and recording bias in crimes is contained in our current internal and external training packages, whose development commenced in July 2021 when Ms Caroline Booth was appointed to the role of Project Coordinator. The role is currently occupied by Ms Joanna Mackay.
- 24. The education packages have largely been modelled around the recommendations of Strike Force Parrabell. EHCU developed both an internal package to raise hate crime awareness for frontline officers as well as an external package to raise awareness within the community.
- 25. The training packages were also informed by a Research Study that had been commissioned by Assistant Commissioner Crandell in accordance with a Parrabell recommendation and was conducted by Professor Phil Birch of Charles Sturt University at Port Macquarie campus (now of the University of Technology Sydney). The study consisted of a Hate Crime Survey that was disseminated to the entire NSWPF, requesting the participation of sworn officers with at least 5 years' service. The survey was conducted in three phases over a 12 month period, and it was not necessary to have participated in a previous phase in order to submit the second or third phase surveys. The objective was to gauge the level of hate crime awareness among frontline officers.
- 26. I was introduced to Professor Birch soon after I joined the EHCU when the first phase of the survey had not yet commenced, and the Hate Crime Team liaised with Professor Birch over the course of the survey. Our training packages were informed by the views expressed by survey respondents that education and training was required to implement effective crime prevention strategies: "Those who took part in the study reported that crime prevention strategies are needed to further prevent, deter, and reduce hate crime. Almost all Police officers considered education to be at the forefront of this renewed crime prevention approach. It was noted that education is required for perpetrators (94%), at-risk individuals and groups (91%), the public (90%) and the Police themselves (86%)" (page 27 of the final findings of the survey) (Annexure

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- 6 "Developing consensus amongst New South Wales (NSW) Police Officers (Sworn) for addressing Hate Crime - Report of Final Findings").
- 27. A body of research was undertaken (between July 2021 and the first half of 2022) by the Hate Crime Team that included online meetings with other police forces in Australia such as Victoria Police and Tasmania Police, as well as New Zealand Police. Hate Crime policy documents were researched from police forces and prosecuting bodies in the UK and USA. This research was utilised to inform the NSWPF Hate Crime Guidelines as well as internal and external training materials.
- 28. The following internal training materials were developed:
  - (i) Hate Crime Guidelines which provide officers an understanding of hate crime legislation, policy and procedures. This document was endorsed by the Commissioner's Executive Team (CET) on the 12 April 2022 and published on the police intranet on the following day. The guidelines are actively promoted to frontline officers as a reference guide during our internal presentations. (Annexure 4 – Hate Crime Guidelines NSWPF);
  - (ii) A Police Education Training Environment (PETE) training package was developed which is an online Hate Crime Awareness package aimed at frontline officers, which involves scenarios and tests the officers' knowledge. EHCU had intended for this training module to be mandatory, however it emerged that gaining approval for mandatory packages could take more than 12 months in view of the extensive consultation and approval process that needs to be undertaken for such packages. For this reason, approval was sought for a non-mandatory package which was granted in late March 2022 and the module went live on the 4 April 2022. EHCU are actively promoting this package to frontline officers during internal presentations. (Annexure 7 - PETE Hate Crime Awareness Package);
  - (iii) Face to Face presentations are delivered by EHCU members to frontline officers at PACs during their mandatory training days. EHCU also delivers presentations to specialist commands and areas, including the Gay & Lesbian Liaison Officers (GLLO) and Youth

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Liaison & Engagement Officers (YLO) (YEO) training course. These are PowerPoint presentations that include images and videos. While the Hate Crime Awareness package itself isn't mandatory, the EHCU endeavours to schedule the presentations on mandatory training days in consultation with the Education and Development Officers (EDO) at the respective PACs. In the first instance EHCU identified the PACs with the largest number of recorded hate incidents as well as PACs that had large communities which are or have been vulnerable to hate crime. These presentations are delivered on a regular basis and since April 2022 we have averaged about 2 presentations per week. These presentations are tailored to each PAC after having considered the types of hate crime in that area so that the examples given in the presentation are relevant and topical to the PAC.

- (iv) To further promote awareness, EHCU sends out statewide "Nemesis" messages which are disseminated to every member of NSWPF to announce any new enhancements to WebCOPS that are hate crime related or any new laws or procedures. EHCU has also utilised screensavers which periodically appear on every NSWPF computer to promote hate crime awareness.
- 29. The public awareness package includes a series of two animations which will be distributed online via various social media channels. The animations were developed in consultation with various government departments, such as The Department of Communities & Justice (DCJ) and Multicultural NSW (MNSW), as well as a broad section of community groups that have been the targets of hate crime, such as the LGBTIQA+, Jewish, Muslim, Asian and Disability communities. EHCU conducted a series of workshops with representatives of those communities where they were shown the animations and invited to provide feedback. The final versions of the animations were produced after implementing the feedback provided. It is envisaged that the animations will be released before the end of 2022.
- 30. In addition to the animations, EHCU has been presenting to external stakeholders at various events and forums. We have presented our awareness package at the Police Multicultural Advisory Council (PMAC) and Countering Violent Extremism Sub Committee (CVESC). EHCU

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also regularly presents to Principals' Forums across NSW, which is a joint NSWPF and Department of Education initiative to raise awareness of policing issues including hate crime in schools. We have recently commenced providing presentations to community groups, starting with a presentation to the 'Civics for Chinese Australians' group in late September 2022.

31. The EHCU is also a stakeholder in the Engagement & Support Program (ESP) administered by DCJ. The ESP is a voluntary diversion and intervention program aimed at individuals who are at risk of radicalisation. It aims to provide support in order to reintegrate its clients into functioning members of society. Where appropriate, EHCU also refers individuals to the program. If for example, an individual comes to the attention of EHCU who has engaged in behaviours of concern, the Engagement Team will seek to interview the person (assuming they consent) to determine their ideology. EHCU convenes a periodic referral panel and if a person is deemed suitable, they are referred to ESP. Young persons who display behaviours of concern are also interviewed (again with consent) and if not deemed suitable for ESP, they are referred to Youth Command where a YLO or YEO will attempt to engage them and gain their participation in youth programs.

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