

REVIEW OF STRIKE FORCE PARRABELL EXAMINATION OF BIAS CRIME HOMICIDES

A note of respect for the victims subject to review before this report can proceed

Each and every death accounted for in this report – be they the result of misadventure, suicide crime or a reason that still alludes authorities – left in its wake great sadness, suffering and torment for the family, friends and work colleagues of the individual victims. Those who died were, variously: fathers; brothers; sons; husbands; friends and colleagues and their passing left many people deeply bereft and grief stricken.

Reviews of this nature can appear clinical and detached in the way that they literally ‘account’ for these individual cases. The production of categories, statistics, tables and graphs – and indeed repeated references to lists – can exacerbate an impression that these individual victims – in their totality – are denuded of their distinctiveness. As authors of this report, we wish to recognise that criminological and social-science methodologies can appear unconcerned with the unique humanity that victims possess in life. To the extent that individual cases are juxtaposed with other cases to produce categories, statistics and “findings”, this process is done with a view to determine objective facts. This may go some way to making better sense of their collective deaths. In doing so, a future might emerge in which gay-bias related crime is better *identified*, better *understood* and better *combated* from a public policy standpoint.

A report of this nature cannot assuage the sadness and bewildering loss that accompanies violent death, particularly in relation to those cases that remain unsolved. Many of the cases examined by the Parrabell Strike Force and the academic review team were ultimately classified as Insufficient Information. That is, despite an exhaustive exploration of the archived material, it was ultimately impossible for the detectives to make definitive determinations about many of the deaths under review, and based on available information, the academic reviewers concur. In that sense, this report may not offer the sort of closure that many families of victims and those in the GLBTIQ and wider community might have hoped for in contemplating this review.

‘Insufficient Information’ does not discount that gay bias *may* have been involved in a particular death. The sad, unassailable reality is that many of the deaths under review are from motives or causes that are uncertain or unknown. They may always be subject to conjecture (unless confessions or arrests are made in the coming years). In the 1980s and 1990s the police did not always ask the sorts of questions that might have better yielded the presence of gay bias in a case from witnesses and suspects alike. At its inception, Strike Force Parrabell undertook a thorough and meticulous review of archival holding linked to individual cases. However, it bears emphasising (and this is no direct criticism of NSW police practices at the time deaths were investigated) that an archive can only yield something that was captured in the first instance (e.g. a witness recalling that they heard someone yell “bash the poofter” in a park late at night). Secondly, homophobic sentiment/reasoning is not always recoverable retrospectively. A cognitive state – animosity towards homosexuality – does not always leave a physical trace. This is all the more pertinent in cases where no suspect was identified. And, of course, in cases involving deaths at seaside beat locations, the trio of questions: ‘*Was he pushed?* [Murder]; *Did he jump?* [Suicide] or *Did he slip/fall?* [Accident] perplex anyone contemplating the scenarios attendant to various cases where cliffs are involved. The very fact that the Scott Johnson death is subject to a third coronial inquest

demonstrates how legal closure around such deaths is often elusive. Many deaths may well be attributable to gay bashers subjecting men to fatal assaults but in the absence of cumulative facts that attest to such a fate, the detectives and academics had to classify such cases as “Insufficient Information”.

Overview of Parrabell review: some background information

In 2005 Strike Force Taradale re-investigated a number of deaths in the Bondi area during the 1980s and 1990s where it is alleged that gay men were specifically targeted, assaulted and forced off the cliffs by ‘gangs’ of youths. Some of these cases were solved; however several remain unsolved (REF police1, page 2). Allegations have been made that the NSWPF, at the time of these crimes, did not properly consider motives of bias in their investigation and therefore did not investigate these deaths adequately. In 2002, the then NSW Police Gay and Lesbian consultant, Ms. Sue Thompson, identified 88 cases between 1976 and 1999 that potentially involved anti-gay bias. The death of Scott Johnson and deaths subject to the Operation Taradale investigation are included in this list of 88 cases (REF police1, page 2). In recent years there has been significant media coverage of a so-called ‘gay hate crime wave’ of the 1980s and 1990s in Sydney. A TV documentary and a fictional drama devoted to the phenomenon of gay bashings and murders have fuelled public intrigue about the prevalence of gay-bias related homicidal violence during this era. For example, a review of the SBS television drama *Deep Waters* was published in 2016 under the heading: ‘A licence to bash gays: 1980s crime wave revisited in new TV series’ (Medhora, 2016). Another article entitled ‘Gay hate: the shameful crime wave’ was published in the Sydney Morning Herald in 2013 (Sheehan). Such articles have referred to cases identified by Sue Thompson and others and have suggested that an anti-gay bias played a significant role in the deaths.

The NSWPF “recognised that the community’s concerns may be addressed through a comprehensive review of the relevant cases from a bias crime perspective” (REF police1, page 2). In 2015 Strike Force Parrabell was established to review these previously reported deaths of persons between 1976 and 2000 to determine if a sexuality or gender bias was a contributing factor in the deaths. The self-declared ‘mission of Parrabell was to:

“Conduct a review of the NSWPF holdings in relation to potential gay hate crimes resulting in death. This review will relate to police investigations conducted between 1970s to 2000. The purpose of this review is to determine if any anti-gay bias was involved in any of the deaths” (REF police1, page 2-3).

The NSWPF then sought tenders for an academic team to provide independent advice on Strike Force Parrabell’s (SP) review of the identified 88 deaths during the specified period. The principal task of the academic team was to comment on the efficacy and quality of the SP’s review” and to comment on whether the team agrees with the SP outcomes/determinations. Additionally, the academic team was to provide recommendations for future policing, community engagement, training and development of a bias crime indicators/processes. In the future a research article based on the Strike Force Parrabell will be produced.

It bears emphasising that – in the spirit of cooperation and as suggested by the police – the academic team worked collaboratively with the NSWPF as the Strike Force findings were being finalised. Meetings were held in Sydney and clarification was sought by both parties as the process unfolded. This might strike some observers as irregular (in terms of the logic that

a review must be conducted from a perspective of pure objectivity), but the academic team believed it was better to engage in open and productive discussions as the work of the Strike Force drew to a close, rather than enter into no dialogue whatsoever and then critique the police ‘findings’. Towards the end of the process, two of the academic team members met with a large police delegation in Sydney and discussed differences in opinion with regard to the cases under review. This was a vitally important because it allowed the academics to develop a more nuanced understanding of the logic that underpinned the categorization decisions of the Strike Force. At this meeting the police finalised their position on the cases and declared a cessation to their deliberations and the academic team members were able to clarify some distinct assumptions on the basis of which those categorisations were made. From this point on the academic team could formally evaluate the operations and ‘findings’ of Strike Force Parrabell.¹ The academics engaged in fruitful and productive dialogue with the NSWPF as the Strike Force drew to its conclusion, but ultimately the NSWPF formally presented their ‘findings’ for the academic team to review. This report should be understood as a product of a process that was collaborative and consultative. The academic team contacted Sue Thompson and received valuable documents from her. Additionally, as a subsequent part of this report will discuss, the academic team also wrote to ACON was provided with information that informed this review process.

The NSWPF readily acknowledge that they could have done better in mitigating the personal and social impact of homophobic bias in the period under review. In the meantime, this report cannot make claims about how effectively or objectively the NSWPF conducted homicide investigations where anti-gay bias may have been a motivating cause of death. The reason that the report cannot generalise that from these cases will be discussed below, but it is important that the reader is aware at the outset that the terms of reference for the academic investigators are far narrower, and preclude our being able to comment on that most important question. That larger question requires a comparison of the investigatory procedures or efficacy of all homicides in the period against those motivated by anti-gay bias. A proper methodology would begin with a selection of the cases where there is the strongest evidence that the crime was an anti-gay bias crime against a strong control group that possessed like factors excepting that one.²

Historical backdrop against which this review proceeds: situating anti-homosexual bias in the Australian context.

There is a complex animosity that is often *associated with* and *directed at* male homosexuality. Bashings and murders of gay men occur in social, legal, cultural and institutional relations that are or more or less homophobic.³ Institutional authorities play a significant role in guiding the cultural preferences of groups and individuals. Together with significant others, educational and religious and community organisations are intended to

¹ However, a *caveat* has to be declared here. The late release of three cases from Unsolved Homicides necessitated that the NSWPF subject these 3 cases to the same process of evaluation as the completed cases. The police then provided these final three cases to the academics who then subjected them to scrutiny and adjusted their findings accordingly. To have excluded these 3 cases so close to the end of the review period did not make any sound methodological sense.

² An AIC study (Mouzos and Thompson 2000) that was conducted along these lines is unfortunately flawed in its dependence on the Thompson list as for the experimental group.

³ We are reporting on *historical relations*, and we are confident that anti-gay bias is no longer tolerated in most places (and the right to marry beckons as a possible momentous social change), however, the legacy anti-homosexual sentiment is still with us.

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shape behaviour; police, courts and correctional facilities offer augmentation where they are insufficient to the task. However, social and cultural expectations change over time, and institutional guidance is not always up to speed or free from corruption. Parental and peer group guidance may also be deficient. In addition, insecurity regarding sexuality may produce identity confusion which has been shown to result in acting out against vulnerable others. In a variety of conditions the experience of anomie can produce extreme and seemingly irrational violence. There are a host of other explanations that are provided in the literature (below).

Not too long ago, the view that homosexuality is abnormal was as ubiquitous and commonplace as is the view today that it is natural and common. Prior to the latter part of the 20th century, consensual homosexual sex was a crime in all states and territories of Australia with many men being prosecuted and imprisoned for crimes including 'gross indecency' or 'sodomy' (Carbery 2010; Dalton 2011). Same-sex attracted men lived furtive, secret lives with the threat of exposure and criminal prosecution hanging over their heads. During the Cold War period (Wotherspoon 1989; Willett 1987) the popular tabloid newspaper *The Truth* regularly published stories that exposed gay men as sexual deviants, effectively ruining their lives and careers (French 1986; Murdoch 1998). Such was the fear of losing one's job and being rejected by their family job loss and family rejection that many men lived closeted lives prior to the era of increased tolerance that followed the *Stonewall* inspired gay rights movement heralded in during the 1970s and 1980s (Wotherspoon 1991; Willett 2000).

The police force played a major role in suppressing homosexuality prior to the decriminalisation era. *Agent provocateur* stings operations would be conducted whereby young policemen would loiter in public toilets and either wait for a man to importune a sex act with them or encourage such an act to take place by pretending to be there for that purpose (Dalton 2007). Whilst such entrapment practices were not specific to Australia (Moran 1996) the NSW police were particularly keen to target homosexual men because the [then] acting Police Commissioner Delaney so prioritised policing the "scourge of homosexuality" (Wotherspoon 1993) obsessed with combatting homosexuality, ensuring and ensured that Vice Squad detectives devoted considerable time and resources to policing the "scourge of homosexuality" (Wotherspoon 1993 it). Indeed, the reminiscences of a famous Sydney detective named Sergeant Joe Chuck published in 1956 have three chapters devoted to his personal recollections of combating homosexual 'sex pests' in Sydney between the two world wars (Kelly 1956).

Where the police would combat homosexuality by prosecuting homosexual men, the popular tabloid media, in turn, would disseminate stories of their spectacular social downfall in lurid details that effectively in both named and shamed them (as individuals) and functioned as a type of warning to other homosexual men that the cost of the behaviour is public or social ruination. In tandem, medical discourse played a role in admonishing homosexuality. Prior to its removal from the DSM in 1973, homosexuality was understood in psychiatry in Australia as a disorder that could be treated. In Sydney and Melbourne the lower courts [termed 'Local' in NSW and 'Magistrates' in Victoria] sometimes sent a procession of convicted offenders for aversions treatment to 'cure' them of their homosexuality. For individual offenders, often agreeing to undertake such treatment would mitigate against a potential prison sentence. Such treatments typically involved subjecting the men to electric shocks or nausea inducing drugs whilst being exposed to homoerotic stimuli

(Dalton 2002).⁴ Lastly, ~~we will expose you next and destroy your life.~~ The role of the various Churches in Australia during this period should not be overlooked. They propagated the notion that homosexuality was an abominable crime and that men who participated in homosexual sex were indulging in the gravest of sins: unnatural sex (Henderson 1996). ~~In tandem, medical discourse played a role in admonishing homosexuality. Prior to its removal from the DSM in 1973, homosexuality was understood in psychiatry in Australia as a disorder that could be treated. In Sydney and Melbourne the lower courts [termed 'Local' in NSW and 'Magistrates' in Victoria] sometimes sent a procession of convicted offenders for aversions treatment to 'cure' them of their homosexuality. For individual offenders, often agreeing to undertake such treatment would mitigate against a potential prison sentence. Such treatments typically involved subjecting the men to electric shocks or nausea inducing drugs whilst being exposed to homoerotic stimuli (Dalton 2002).~~

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In 1975 South Australia made legal history by being the first State to decriminalise male homosexuality, followed by ACT in 1976 and Victoria in 1980. NSW and the Northern Territory followed suit in 1984 and Western Australia in 1989 (Bull, Pinto and Wilson 1991). One might herald the era of decriminalisation in Australia as a period that **effectively** banished anti-homosexual societal attitudes from our shores as quickly as their arrival had been in colonial times. To ascribe to such a view would be to erroneously imagine that the removal of homosexuality from the purview of the criminal law could somehow – as if by magic – undo the cumulative and collective reputational damage that such an inclusion had fostered over 200 odd years. The homosexual man may well have been freed from the criminal law, but the pejorative language of 'faggot', 'poofter', 'pillow biter' and 'queer' (before the GLBTIQ community could reappropriate this term) endured as terms of derision for gay men ~~that and~~ remind us that a change of law does not necessarily lead to an immediate change of mind in the wider community. Indeed, some of these terms emerged from the Parrabell case archives; a reminder that the legacy of anti-homosexual ideas has its origins in the historic period when the law, church, popular media and psychiatry conjoined to speak of homosexuals as – variously – deviant, sinful, perverse and mentally ill.

Taking on a life of its own: the problem of the media, mythology and folklore in relation to the 'lists' of murders

~~It is apparent that the existence of various lists of potential gay-hated related homicide cases has seeped in public consciousness in New South Wales aided and abetted by: radio, televisual and newspaper media attention (including the *gay press*). Such reports have been accumulating for a good decade or so and have culminated in a series of events that have thrust the idea of gay homicides into sharp focus. These (mainly) media and cultural events~~

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include: an SBS mini-series ‘*Deep Water*’ (REF properly); a documentary entitled ‘*Deep Water: the true story*’; a true-crime genre book entitled ‘*Getting Away with Murder: up to 80 men murdered 30 unsolved deaths*’ (McNab, 2017). Additionally, an interactive website entitled ‘*The Gay Hate Decades: 30 unsolved deaths*’ supplemented the SBS *Deep Water* documentary (<http://www.sbs.com.au/gayhatedecades/>). Based on journalist Rick Feneley’s research, the website invites the visitor to vicariously inhabit the role of the detective to explore cases presented as “unsolved” homicides. The website opens with a panoramic view of Bondi (complete with churning surf) that zooms from a close up to a more distant perspective of this most famous bluff. Capturing some of the most infamous Mark’s Park and cliff-side cases, this panorama situates the visitor at the ‘scene of the crime’ synonymous with some of the most infamous cases.

That this is an example of extraordinary anti-gay bias and questionable anti-bias policing is indicated by its receiving a prominent story in the NY Times. *The New York Times* published an article entitled ‘When Gangs Killed Gay Men for Sport: Australia Reviews 88 Deaths’ (Innis 2017).

The totality of this material circulating in society and media culture must be understood as an amalgam of facts, conjecture and suspicion—the likes of which can get overlooked when packaged as stories that circulate under a common moniker. As already alluded to, the vehicle of a “list” (irrespective of its precise number) is marshalled as an indicator of the truth of a social problem. So to the extent that wider community of NSW citizens knows about the “problem” of murders in NSW during this two decade period, it is because the trope of the list has helped shape this understanding (however distorted or undistorted that understanding might be). Discourse about gay hate murders circulates in the wider culture and has been (and continues to be) the subject of speculation both in the GLBTIQ community and the wider community of other citizens of NSW. People talk about the murders at work, at social functions, in pubs, clubs, cafes and restaurants. That speculation about the deaths occurs is not surprising. Real people died during this period; people with families and friends who grieved and continue to grieve for them. The imprimatur of potential murder strikes at the heart of any person concerned with justice who may well feel aggrieved by such occurrences and wish to join a chorus of voices advocating for justice.

Unpacking the List

The specific cases that Strike Force Parrabell reviewed derive from a list (or more accurately *series of lists*) that can be traced to the work of various individuals concerned with gay hate related homicidal violence in NSW. The following section will account for the manner in which these lists took shape. It provides a *context* for Parrabell Strike Force mandate.

For the ten year period, 1989 -1999, using the indicators used by the police service at the time, NSW Police Force employee Sue Thompson maintained a list of “possible gay hate murders”. Initially this list “was conceived to monitor actual deaths” (rather than gay homicide frequency) on the assumption that maintaining such records will assist in alerting authorities to devote adequate resources in their mitigation (Thompson email 1). Thompson was aided by Detective Sgt McCann who had first-hand knowledge of what was described as a “massive and invisible problem of unreported bashings” (Thomson email 1). Thompson stated that they were “shocked and alarmed” and that “so it began” (Thomson email 1). Like many people who seek to monitor a perceived social problem, the significance of their work

was not immediately apparent. As Thompson stated in her correspondence to the Parrabell academic review team:

“I was not even initially aware that it would become about monitoring frequency until much later when we realised there was indeed a terrible pattern of frequency that needed monitoring and a police and ultimately government response” (Thomson email 1).

Thompson’s first list contained 46 identified deaths and another 4 identified by Det Sgt McCann. (EXP) The data was secured in a registered police file and ring folder that had contained gay hate homicide materials. As the list grew in number over time, “Various versions of the formal Police “Possible AntiGay/Gay Hate Murders List” would have been in various files as updated at different times” (EXP).

Thompson has categorically stated that a list of 88 specific cases did not come from her or her work. The number of alleged murders was, she said, “publically stated and reported as up to 80” (EXP). She has stated that various versions of the list arose in the cross-fertilisation of police Working Parties, Conference documents, official submissions and other internal initiatives linked to understanding and combatting gay hate violence [see appendix # 1 containing 8 bullet points].

Over time, various people including Professor Stephen Tomsen, other academics, gay rights campaigners, gay and lesbian historians and other interested parties have sought to use various versions of the “list” to explore the incidence and character of gay hate violence and homicide during the period of 1980 to 1999 (cite his books etc on this here because they are used in the lit review). To further complicate matters, in 2013 “a group of individuals with historical knowledge on the [alleged] murders quickly gathered and recompiled a list at the request of the *Sydney Morning Herald* and a Member of Parliament” (EXP). Professor Tomsen’s list of the initials of 74 murder victims’ names (with date of murder) was used for this commission. In this particular version of the list some 74 cases were identified from 1980 to 1999. (EXP). When the *Sydney Morning Herald* published their article devoted to this commissioned research, the newspaper used the phrase ‘up to 80’ murders (EXP). From 2013 to 2015, further reviews were conducted by the community and academic parties. This group (WHICH GROUP?) determined that there were 71 possible gay homicides from 1970 to June 1999 with a further 10 needing additional research (EXP).

In her document explaining the work she did to bring the problem of hate crime to the attention of both the police and the public, Thompson says the efforts of those gay community representatives and interested academics and gay historians was designed to “indicate the tenor of the times and crimes” (EXP). This is apt phrase. It reminds us that the work that Sue Thompson and those who contributed to the compiling of lists had an honourable motivation. These interested parties wanted to bring a perceived social problem to light.

Their principal goal was to try and gauge just how serious the problem of homicidal violence was in Sydney during a 20 odd year period. The very work that *Strike Force Parrabell* conducted is directly linked to the efforts of Thompson and Tomsen to raise public consciousness and try and calibrate just what the state of play was in relation to anti-gay homicides in this period. They sought to capture an elusive truth and their efforts should be

conceptualised as being motivated by a concern for justice for the potential victims of homicide that their data captured (even if erroneously).

Of course, irrespective of the *precise* number of potential homicides at play at any time (that is, in any particular version of the list), it should be stressed that 80 is a large number; one that could be predicted to capture the attention of the public and instil anger, sadness and a sense of frustration that this *figure* might somehow attest to a prevailing social climate that could fuel so many deaths underwritten by a mix of homophobia and/or hatred of men perceived to be gay.

Taking on a life of its own: the problem of the media, mythology and folklore in relation to the 'lists' of murders

It is apparent that the existence of various lists of potential gay-hated related homicide cases has seeped in public consciousness in New South Wales aided and abetted by: radio, television and newspaper media attention (including the *gay press*). Such reports have been accumulating for a good decade or so and have culminated in a series of events that have thrust the idea of gay homicides into sharp focus. These (mainly) media and cultural events include: an SBS mini-series '*Deep Water*' (REF properly); a documentary entitled '*Deep Water: the true story*'; a true-crime genre book entitled '*Getting Away with Murder: up to 80 men murdered 30 unsolved deaths*' (McNab,2017). Additionally, an interactive website entitled '*The Gay Hate Decades: 30 unsolved deaths*' supplemented the SBS *Deep Water* documentary (<http://www.sbs.com.au/gayhatedecades/>). Based on journalist Rick Feneley's research, the website invites the visitor to vicariously inhabit the role of the detective to explore cases presented as "unsolved" homicides. The website opens with a panoramic view of Bondi (complete with churning surf) that zooms from a close up to a more distant perspective of this most famous bluff. Capturing some of the most infamous Mark's Park and cliff-side cases, this panorama situates the visitor at the 'scene of the crime' synonymous with some of the most infamous cases.

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Beats as sites of fatal violence

Media reports and true crime accounts (McNab 2017) of gay hate crimes have often gone to great lengths to point out that the crime has some sort of association with a beat. In Australia, the term beat is used to refer to “spaces where men gather to seek out or arrange casual sexual encounters with other men, irrespective of the sexual identity of participants” (Dalton 2012: 67). Beat users include homosexual men, bisexual men and heterosexual men who are closeted and/or married. Moore (1995: 328) has documented that beats have existed in Australia for well over one hundred years and that they evolve in parks, secluded hinterlands, beaches, public shower-blocks and the like. However, the most common and notorious beats are those which manifest in public toilet blocks in railways stations, parks and shopping malls. These public sex environments are found in just about every suburb in every city of Australia and many country towns (Swivel 1991: 237). In the USA these spaces are commonly known as ‘tearooms’ and in the UK they are typically referred to as ‘cottages’.

Beat spaces have a long history of attracting the attention and animosity of police (Dalton 2012) In Australia, some of the earliest arrests and criminal prosecutions for conduct at beats date back to the 1910s (Wotherspoon 1991:66). Little is known about these matters as scant offence details were preserved in court archives. Various historians of homosexual subculture note that the police were often aware of sexual conduct at beats and this period marks the start of police vigilance to the phenomenon of beats (French 1986; Wotherspoon 1991; Murdoch 2000; Carbery 1992). During the period covered by the Parrabel review, many men assaulted at beats would often not report such crimes to police for fear of being ‘outed’ or being construed as engaging in illegal ‘public’ sexual conduct (and risking prosecution).

Beat spaces are very complex and have spatial and temporal attributes. They are often ephemeral spaces and only become sites of sexual activity when like-minded men meet. Some beats are popular during the day, whilst others mainly attract men at night. Many of the cases reviewed by Strike force Parrabell make explicit references to beats, and certainly there are innumerable cases where perpetrator(s) have targeted men at beats for bashings that have sometimes proved fatal. Many notorious beats featured in the Parrabell review including Alexandria Park, Moore Park, Mark’s Park and Centennial Park.

Despite the long and well documented history of bashers targeting gay men [and men perceived to be gay] at beats, the relevance of beats to this review of bias-related violence was complex and nuanced. Whilst beats often featured as a geographical site where extreme violence was perpetrated, or where bashers were drawn to their vicinity to seek out victims, sometimes the existence of a beat did not figure as a significant explanatory feature in relation to interpreting the role of violence in a particular case. For example, in one particular case a man was determined to have died in a public toilet as a result of a drug overdose. In another case, a man was stabbed to death in a park in a violent frenzy by a drug addicted assailant. The victim was sitting on a bench near a public toilet that operated as a beat but robbery appears to have been the principal motive for the crime.

So whilst beats were often notorious and profoundly dangerous places during the period of review that Parrabell covered, it would be simplistic to immediately equate the presence of a beat in a case file as being indicative of gay hate motivated violence. Indeed, given that almost all public toilet beat spaces are architecturally fixed spaces, there is also the attendant problem of misplaced emphasis of their significance in some cases. A public toilet beat exists as a constant presence in the landscape — and may well lure gay men and bashers alike

to its location—but its presence does not dictate that a beat must always figure in an offender's core motivations or reasoning in relation to the commission of a crime.

An examination of the process and method used to conduct SP including the application of the NSWPF Bias crime indicators

All societies depend upon distinctions. Attributes and conduct that are recognized and rewarded are those that are deemed both moral and useful for the purposes of social, cultural and economic reproduction. Cultures or societies, including resident institutions, develop schemata by which to distinguish attributes and conduct that are deemed counter-productive to the means and values. In this regard, it would be short-sighted to understand the development of cultural or social bias without a view of the wider trends along which cultural or social distinctions are made. That is to say, as Australian society has been cosmopolitanised so has disadvantaging or acting prejudicially against people or groups based on sexual preference and gender identity become first, a passé, and second, an outlawed distinction.

A brief overview of gay-bias/hate literature

To some extent all gay-bias/hate literature is concerned with accounting for the behavioural or psycho-social conditions in which individual perpetrators or associated individuals develop an animus that is strong enough to express itself in anti-social (as per the above) or criminal depredations on a vulnerable group. Following this, it may be further subdivided, although much of the literature crosses these divides. There is a large body of work that is concerned with the extent or incidence of this type of crime, particularly its underreporting and under recording. This work is directed at reform, and has helped to raise the profile of this type of crime. Victimization studies conducted in the United States between 1977–1989 showed violence to be widespread.

The frequency of anti-gay bias is discovered by victimization studies (NCVS; Miller and Humphreys 1980), police reports (Nolan & Akiyama, 1999; Perry, 2001) court records (Tomsen 2009) and by dataset comparisons of regular homicides against anti-gay homicides (AIC Thompson 2002). It has also, to some extent, elaborated the putative empirical basis for legislative changes, law enforcement reforms practices and public awareness campaigns (Tomsen 2000; Mouzos and Thompson 2000; xxx). Hate crime laws are thus engaged in a process of re-moralization (O'Malley, 1999) that seeks to challenge the norms and moral boundaries that sustain racial, religious, sexual and other hierarchies of difference (Mason 2014: 76). Historians of social movements have noted the dependency of social change on the mobilisation of incipient mores on demand groups and moral entrepreneurs, so the social value of this group of activists and researchers is well-understood.

At the same time, as with all such work, there is a danger that the empirical foundation does not support summary statements about the extent of the phenomenon. In the United States findings of anti-gay and anti-LGBT violence has been criticised for its grounding on unreliable official bias crimes data that involve discrepancies jurisdictional definition discrepancies and police agency working practice differences ((Nolan & Akiyama, 1999; Perry, 2001), Boyd, Berk, & Hamner, 1996; Haider-Markel, 2002; McDevitt et al., 2000; Nolan & Akiyama, 1999). They also fail to overcome the difficulty of discovering offender motivation assessment with objectivity and reliability (Boyd et al., 1996; Haider-Markel,

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2002; Nolan & Akiyama, 1999). Jacobs and Henry (1996:xx) have concluded, for example, that “the socially constructed claim that hate crime has reached epidemic proportions flies in the face of history.”

It is also possible to see a second group of scholarship that is concerned with hate crime victimology (Barnes and Ephross 1994; Iganski 2008). For this scholarship, the emotive language of hate or bias is less important than that the target is vulnerable (Perry 2001; Chakraborti and Garland 2015; Stanko 2004). For example, it is argued that potentially anyone can be a victim of hate crime, with one important caveat: that this is done within what Mason (2014) calls a “politics of justice” framework, which acknowledges that the concept of hate crime is underpinned by ideas of justice, equality, and the right to live a life free from abuse and harassment. Groups whose actions do not sit comfortably within this (and Mason cites pedophiles as one such group) should not be accorded hate crime victim group status, even if they have been targeted due to hostility against their identity (see also Chakraborti & Garland, 2012, 2015; Garland 2016: 635). As per Christie (1979), this also has issues, as there would appear to be much politicizing in which victims are accorded status and protection. As we shall discuss, bias crime may be complicated where non-recognized groups (pedophiles) may be targeted alongside recognized groups (gays).

Another group of researchers is concerned with problematizing or understanding the unique or distinct properties and particularly the motivators of anti-gay bias or hate crime (eg. Turpin-Petrosino 2015;). This concentrates on behavioural and transactional dimensions or factors. It can also review masculinity and cultures of violence (Tomsen 2000;). Regarding designating the differential properties of hate or bias crime perpetrators, research has supported that they are young males between 15 and 30, that they are more likely (in Anglo-American jurisdictions) to be Caucasian.

Perhaps the most overwhelming view is that gay bias crimes are those which more than other crimes inflict great harm upon their victims (Iganski, 2001). The intensity of the harm, in both objective and subjective experience of extreme brutality, has been noted in these studies as being greater (Berrill 1990; Campbell 1986; Archer 1994; Dunbar, 2006; Garnets, Herek, & Levy, 1990). A study by Miller and Humphreys (1980) found that anti-gay murders are marked by “extreme brutality”, in which the victim is “more apt to be stabbed a dozen or more times, mutilated and strangled.” The crime is also more likely be carried out by multiple offenders (Martin, 1996; Tomsen, 2009; Van Der Meer, 2003; Janoff 2005).

Studies have also reported on what may be causing anti-gay violence to be more aggressive or brutal, partly because they involve weapons other than firearms (Miller & Humphreys 1980). Janoff (2005), for instance, found that 60% of sexual orientation bias homicide cases involved extraordinary or excessive violence. One of the most frequent explanations is that the perpetrator expresses an extreme overreaction to a perceived infringement against his sexual identity in a “homosexual panic” (Mullins 2006; Lewes 1995; Tomsen 2002). Tomsen (2009, p. 65) speculated that “a more hands-on approach” was needed to increase gratification for some offenders. Instances of “overkill” have also been found to be common in anti-LGBT homicides including excessive beating of victims’ heads and postmortem stabbings and mutilation.

Where the violence is by multiple perpetrators and/or for an audience, it is explained as re-establishing male honor in a version of heterosexism. Gruenewald (2012) observes that the actual or perceived challenge to sexual orientation is a threat to masculinity that provokes aggression. As per Harry (1992) and Perry (2001: 106) where that challenge is observed by

others and represents a clear moment to express commitment to masculine heterosexual gender. It has been suggested that bias violence offenders seek, in front of onlookers or peers, the “overkill” to express their masculine superiority (Perry 2001) and “disdain” (Cotton 1992: 300) for their victims.

Why a Strike Force?

How the Strike force operated

Strikeforce Parrabell operated under a “Co-coordinating Instructions” document that set out the impetus, parameters and instructional guidelines for detectives to follow. The document noted that in 2002 “the then NSW Police Gay and Lesbian consultant, Ms. Sue Thompson, identified a potential 88 cases between 1976 and 1999 that potentially involved anti-gay bias” (REF police1, page 2).

Taking this list as its point of departure – and in recognition that “The NSWPF has recognised that the community’s concerns may be addressed through a comprehensive review of the relevant cases from a bias crime perspective” (REF police1, page 2) – Strike Force Parrabell was established to review these previously reported deaths between 1976 and 2000 to determine if a sexuality or gender bias was a contributing factor. The “mission” of Parrabell –as the co-ordinating instructions termed it – was to conduct a review of the NSWPF holdings in relation to potential gay hate crimes resulting in death. The review related to police investigations conducted between the 1970s and 2000. The purpose of the review was to determine if any anti-gay bias was involved in any of the deaths that figured in the list of deaths tabled over a long period of time by Thompson, the criminologist Stephen Tomsen and other parties that contributed to this list.

Investigators commenced a systematic review of the 88 cases that formed the basis of the community activists’ list to determine if there was evidence indicative of a bias crime.

~~The definition of Bias crime indicators were taken to be:~~

~~“objective facts, circumstances, or patterns attending a criminal act or acts which, standing alone or in conjunction with other facts or circumstances, suggest that the offender’s actions were motivated, in whole, or in part, by any form of bias”
(Massachusetts Model – Protocol for Bias Crime Investigation) [REF police1, page 2]~~

It should be emphasised that the Strike Force was designed to “review matters that have *already been investigated* by the NSFPPF [REF police1, page 3, original emphasis]. The review sought to assess each individual case holding entirely on its own merit.

Holdings consist of the standard brief items that are collected in a criminal investigation, such as:

- Witness statements
- Crime scene evidence
- Crime Scene photographs
- Records of interviews

- Contemporaneous police notes (hand written and typed)
- Coronial documents

Many of these items were stored in standard NSW cardboard State archive boxes which were conveyed to Surry Hills so that the detectives could unpack them and begin the painstaking task of examining (in the case of photographs) and reading (in the case of written material) their contents. The time this took varied considerably depending on the number of archives boxes assigned to each case (in some cases 1 or 2 boxes, and in one case approximately 90 boxes). In the course of the review approximately 400 archive boxes were examined.

It was not the intention of the Strike Force to re-investigate matters that have already been investigated by the NSWPF. Rather, as the “Co-coordinating Instructions” stated:

“The proposed bias crime review is different from a homicide investigation as its primary focus will be in determining whether any of the identified deaths were in fact motivated by anti-gay bias, rather than identifying and prosecuting offenders. If during the course of a review, viable suspects or lines of enquiry are identified, that information will be passed on to the Unsolved Homicide Team, Homicide Squad, for further investigation” [REF police1, page 3]

Investigators created a ‘Bias Crime Indicators Review Form’ which was used to systematically review each relevant case file item. This instrument is reproduced in [Appendix \[x\]](#) and will be the subject of sustained critique in a later section of this report.

As the review of each case was evidence based, detectives reading a relevant holding would familiarise themselves with the TEN Bias indicators:

- 1) Differences
- 2) Comments, Written Statements, Gestures
- 3) Drawings, Markings, Symbols, tattoos, Graffiti
- 4) Organised hate Groups (OHG)
- 5) Previous Existence of Bias Crime Incidents
- 6) Victim/witness Perception
- 7) Motive of Offender/s
- 8) Location of Incident
- 9) Lack of Motive
- 10) Level of violence

Indicators 1 -9 are derived from a document entitled “Responding to hate Crime – A Multidisciplinary Curriculum for Law Enforcement & Victim Assistance Professionals”. This document was published by the National Centre for Hate Crime Prevention, United States Department of Justice Office for Victims of Crime (2000). It should be stressed that this is not a Federal Bureau of Investigation (FBI) instrument as has been widely but erroneously reported in the media (e.g. [Benny-Morrison 2016](#)). Falsely attributing the Instrument to the FBI gives it the imprimatur of being so sound that it is adopted by Federal US law enforcement, but this misrepresentation needs to be corrected. Indicator 10 ‘Level of Violence’ was developed by the New South Wales Police Force Bias Crime Unit based on research and cases. The *descriptive meaning* and *nuances* of these ten Indicators will be

critiqued in a subsequent section of the report, suffice to say that it is important to briefly note here the categories that the detectives were working with.

The detectives would read and review their holdings with a view to identify any information that would allow them to tick a particular indicator. For example – and to quote directly from the “Co-coordinating Instructions”:

“If the offender is recorded in police files as associating with persons known to have assaulted young gay men, then the investigator may mark Bias crime Indicator 4 (Organised Hate Group) as being relevant” [REF police1, page 3]

In such instance, this fact would be accurately recorded on the Bias Crime Identification Form (in the form of a tick in a box) along with the source of the evidence and a description of how the evidence relates to the indicator. The source of evidence was termed a “product” and a rigorous cross referencing system meant that that “product” was captured and numbered should it needed to be retrieved. For each indicator, the following four findings are were available:

Evidence of Bias Crime – sufficient evidence/information exists to prove beyond a reasonable doubt that the incident was either wholly or partially motivated by bias towards one of the protected categories and constitutes a criminal offence.

Suspected Bias Crime – evidence/information exists that the incident may have been motivated by bias but the incident cannot be proven beyond a reasonable doubt that it was either wholly or partially motivated by bias and constitutes a criminal offence.

No Evidence of Bias Crime – the incident has been determined as either not being motivated by bias towards a protected group or although bias motivation is in evidence it does not relate to a protected group

Insufficient Information – insufficient information has been recorded to make a determination in regards to bias motivation. This may be due to a lack of detail recorded by police or a lack of information supplied by victim’s and/or witnesses.

A team of approximately six detectives (three women and three men) worked on each case. The time this took varied greatly depending on the amount of archived material that had to be read, interpreted and coded for “products”. At the conclusion of each review, the individual detective who conducted the review would share his findings with the head detective. He would review the case, perhaps seek clarification and question any issues that seemed pertinent to the review. The head detective would then finalise his/her review in light of this feedback process. Then, approximately once a month, a team of three senior detectives would convene a committee to read and review all the accumulated cases. At that meeting, the detectives would read and discuss the cases and seek to reach consensus about any classification issues that were proving to be challenging.

How the detectives ultimately made their determinations

It should be stressed that whilst the detectives paid attention to the ten indicators on the Bias Crime Indicator Form (a qualitative instrument with four variations in each numbered category, their ultimate determination was not calibrated by counting the number of ‘yes’ or

'no' indicators of Bias and referencing that number to some sort of table that accorded Bias status to a particular *threshold* number [e.g. seven out of ten indicators]. Rather, the process was much more intuitive and relied on qualitative data in the form of contextual information derived from analysing each case. That is, having taken notice of the requisite Indicators of bias, the detectives would also take into account the "Summary of Findings" section (which itself was an amalgam of the "general comments" section that corresponded to all ten indicators). Thus the indicators were weighed against the context of the summary narrative. This narrative was often rich in detail and – when viewed in concert with the relative indicators – allowed a view of whether bias was involved to emerge. Of course, such a process can be critiqued, but will not be in this section lest it detract from the goal of clearly outlining the processes that governed the Parrabell review as conducted by NSWPF.

When the process of review was concluded, the detectives provided the academic team with their findings on the 88 cases. **It should be stressed here that:**

- **Unable to be located (insert final #)**
- **Returned to Unsolved homicide (insert final #)**
- **1 case – Tasmanian jurisdiction (Case No 53 - Brian TRAVERS was murdered by Daniel ROETZ in Latrobe, Tasmania on the 01 March, 1992)**
- **To avoid confusion – one case involved double homicide [Mokdad and Creighton]**

ACON data

Midway through this review, ACON supplied 41 complete and 8 incomplete dossiers. The dossiers are a compilation of media accounts (chiefly newspaper articles) of the crimes and some material extracted from reported and unreported court judgements, coronial documents, journal articles (mainly those of Stephen Tomsen and Sue Thompson) and library databases. The dossiers were compiled over many years and were recently vetted by teams of volunteers. The dossiers contained the following subheadings:

- Summary
- Details of person's life
- Details of person's death/disappearance
- Details of the police investigation
- Queries raised/significance
- Correspondence with family.

The NSW police read the ACON dossiers and determined that – in terms of their factual evidence [holdings] based review – the dossiers did not offer anything fresh and compelling that could sway them to reclassify any cases.

In terms of the academic review, the ACON dossiers were read with a view to reveal if they had captured any new of fresh material that was not in the individual police case files. This was a very challenging and time consuming task because one had to move backwards between each dossier and its relevant police case review form. The process of looking to identify new material in each dossier required painstaking attention to detail. Additionally, the ACON dossiers didn't have any definitive classification system. They just contained ideas (some of which were speculative) under the heading "Queries raised/significance" This also made evaluating the data very challenging. The academic team cannot guarantee that

something significant might have got overlooked, such was the complexity of the process of reconciling the two data sets [Police review forms and ACON data].

To further complicate this process, the documents often contained similar ideas albeit expressed in slightly different language. It should be stressed that the ACON dossiers were much smaller than the individual case review forms that the NSW police used. It was also noted that some key dates and spelling of names were incorrect in the ACON dossiers. And in some dossiers the ‘facts’ presented were also incorrect (e.g. in one dossier it was claimed that the murder weapon was a shot gun, when in fact it was a .22 rifle). Such discrepancies make sense when one considers that ACON did not have access to the rich, factual data that the police possess. It should be noted that the section ‘Details of the police investigation’ was often either blank or provided criticisms of police that were not substantiated. It struck the academic review team as curious that ACON would seek to evaluate the sufficiency of a police investigation without being privy to any substantive data that would permit such an evaluation to be made.

At the end of this process it was determined that the ACON data did not provide any significant discrete points of difference to the more substantive NSW police review forms. Indeed, ACON’s reliance on ideas gleaned from media reports or unattributed sources was considered quite problematic for the academic team. To provide one example to illustrate this point, in the ACON Olsen dossier (case 56) it was stated that a prisoner confessed to the crime but that this confession was subsequently denied. The academic team cannot attribute weight to something that is ultimately denied or retracted. Furthermore, the academic team have no investigative powers or way of ascertaining if such a confession ever did take place and so had to discount this factor. Additionally, it should be noted that accounts of crime by journalists can be embellished (to help sensationalise a case a sell papers) and are not wholly reliable as ‘facts’. So whilst the ACON dossiers were prepared with the most noble of intentions – a genuine desire to cast some light on the cases concerned – they proved to be a resource that did not ultimately provide any compelling reasons for the academic team to reclassify any cases.⁵

The genesis of the lists from which Parrabell derived its cases

The specific cases that Strike Force Parrabell reviewed derive from a list [or more accurately series of lists] that can be traced to the work of various individuals concerned with gay hate related homicidal violence in NSW. The following section will account for the manner in which these lists took shape. It provides a context for understanding the list that Parrabell ultimately tethered its Strike Force to.

A NSW Police Force employee named Sue Thompson maintained a list of “possible gay hate murders” for the ten year period 1989–1999 using the indicators used by the police service at the time. Initially the list “was conceived to monitor actual deaths (rather than frequency

⁵ This is not to say that the ACON data does not have a wider social value outside the parameters of this review. Its blend of media reports and court judgements illuminates the way that these deaths were reported in the press and adjudicated in the courts during the decades in question. Such a resource is profoundly valuable for other purposes [e.g. compiling social history] and the academic team thanks ACON for cooperating and sharing their dossiers with us. That the data ultimately did not prove helpful to the academic reviewers is not a reflection on the good will that saw this data collated in the first place.

thereof) in order to stop the murders happening & in particular to stop the horrendous involvement of young teenage boys in bashing and killing gay men” (Thomson email 1). Thompson was aided by Detective Sgt McCann who had first-hand knowledge of a “massive and invisible problem of unreported bashings” (Thomson email 1). Thompson stated that they were “shocked and alarmed” and that “so it began” (Thomson email 1). Like many people who seek to monitor a perceived social problem, the significance of their work was not immediately apparent. As Thompson stated in her correspondence to the Parrabell academic review team:

“I was not even initially aware that it would become about monitoring frequency until much later when we realised there was indeed a terrible pattern of frequency that needed monitoring and a police and ultimately government response” (Thomson email 1).

The first list that Sue Thompson compiled contained some 46 identified deaths and another 4 identified by Det Sgt McCann. (EXP) Some research was conducted with the Australian Institute of Criminology (between 1999 and 2001) and the data was secured in a registered police file and ring folder that had contained gay hate homicide materials. The internal list grew in number over time and, as Sue Thompson states, “Various versions of the formal Police “Possible AntiGay/Gay Hate Murders List” would have been in various files as updated at different times” (EXP).

Herein a misunderstanding should be corrected from the outset. Sue Thompson has categorically stated that a list of 88 specific cases did not come from her or her work. The number of alleged murders was, she said, “publically stated and reported as up to 80” (EXP). Indeed, Sue Thompson has stated that various versions of the list arose in the context of various police Working Parties, Conference documents, official submissions and other internal initiatives linked to understanding and combatting gay hate violence [see appendix # 1 containing 8 bullet points].

Over time, various people including Professor Stephen Tomsen, other academics, gay rights campaigners, gay and lesbian historians and other interested parties have sought to use various versions of the “list” to try and fathom just how serious the problem of gay hate violence and homicide was during the period of 1980 to 1999.

To further complicate matters, in 2013 “a group of individuals with historical knowledge on the [alleged] murders quickly gathered and recompiled a list at the request of the *Sydney Morning Herald* and a Member of Parliament” (EXP). Professor Stephen Tomsen’s list of the initials of 74 murder victims’ names (with date of murder) was used for this commission. In this particular version of the list some 74 cases were identified from 1980 to 1999. (EXP).

When the *Sydney Morning Herald* published their article devoted to this commissioned research, the newspaper used the phrase ‘up to 80’ murders (EXP). Of course, irrespective of the *precise* number of potential homicides at play at any time (that is, in any particular version of the list), it should be stressed that 80 is a large number; one that could be predicted to capture the attention of the public and instil anger, sadness and a sense of frustration that this *figure* might somehow attest to a prevailing social climate that could fuel so many deaths underwritten by a mix of homophobia and/or hatred of men perceived to be gay.

From 2013 to 2015, further reviews were conducted by the community and academic parties hitherto mentioned. This group determined that there were 71 possible gay homicides from 1970 to June 1999 with a further 10 needing additional research (EXP).

In her document explaining the work she did to bring the problem of hate crime to the attention of both the police and the public, Sue Thompson says the efforts of those gay community representatives and interested academics and gay historians was designed to “indicate the tenor of the times and crimes” (EXP). This is apt phrase. It reminds us that the work that Sue Thompson and those who contributed to the compiling of lists had an honourable motivation. These interested parties wanted to bring a perceived social problem to light. Their principal goal was to try and gauge just how serious the problem of homicidal violence was in Sydney during a 20-odd year period. The very work that *Strike Force Parrabell* conducted is directly linked to the efforts of Sue Thompson and Stephen Tomsen to raise public consciousness and try and calibrate just what the state of play was in relation to anti-gay homicides in this period. They sought to capture an elusive truth and their efforts should be conceptualised as being motivated by a concern for justice for the potential victims of homicide that their data captured (even if erroneously).

Taking on a life of its own: the problem of the media, mythology and folklore in relation to the ‘lists’ of murders

It is apparent that the existence of various lists of potential gay-hated related homicide cases has seeped in public consciousness in New South Wales aided and abetted by radio, televisual and newspaper media attention (including the *gay press*). Such reports have been accumulating for a good decade or so and have culminated in a series of events that have thrust the idea of gay homicides into sharp focus. These (mainly) media and cultural events include: an SBS mini-series ‘*Deep Water*’ (REF properly); a documentary entitled ‘*Deep Water: the true story*’; a true-crime genre book entitled ‘*Getting Away with Murder: up to 80 men murdered 30 unsolved deaths*’ (McNab, 2017). Additionally, an interactive website entitled ‘*The Gay Hate Decades: 30 unsolved deaths*’ supplemented the SBS *Deep Water* documentary (<http://www.sbs.com.au/gayhatedecades/>). Based on journalist Rick Feneley’s research, the website invites the visitor to vicariously inhabit the role of the detective to explore cases presented as “unsolved” homicides. The website opens with a panoramic view of Bondi (complete with churning surf) that zooms from a close up to a more distant perspective of this most famous bluff. Capturing some of the most infamous Mark’s Park and cliff-side cases, this panorama situates the visitor at the ‘scene of the crime’ synonymous with some of the most infamous cases.

That this is an example of extraordinary anti-gay bias and questionable anti-bias policing is indicated by its receiving a prominent story in the NY Times. *The New York Times* published an article entitled ‘When Gangs Killed Gay Men for Sport: Australia Reviews 88 Deaths’ (Innis 2017).

The totality of this material circulating in society and media culture must be understood as an amalgam of facts, conjecture and suspicion — the likes of which can get overlooked when packaged as stories that circulate under a common moniker. As already alluded to, the vehicle of a “list” (irrespective of its precise number) is marshalled as an indicator of the truth of a social problem. So to the extent that wider community of NSW citizens knows about the “problem” of murders in NSW during this two-decade period, it is because the trope of the list has helped shape this understanding (however distorted or undistorted that understanding

might be). Discourse about gay hate murders circulates in the wider culture and has been (and continues to be) the subject of speculation both in the GLBTIQ community and the wider community of other citizens of NSW. People talk about the murders at work, at social functions, in pubs, clubs, cafes and restaurants. That speculation about the deaths occurs is not surprising. Real people died during this period; people with families and friends who grieved and continue to grieve for them. The imprimatur of potential murder strikes at the heart of any person concerned with justice who may well feel aggrieved by such occurrences and wish to join a chorus of voices advocating for justice.

Beats as sites of fatal violence

Media reports and true crime accounts (McNab 2017) of gay hate crimes have often gone to great lengths to point out that the crime has some sort of association with a beat. In Australia, the term beat is used to refer to “spaces where men gather to seek out or arrange casual sexual encounters with other men, irrespective of the sexual identity of participants” (Dalton 2012: 67). Beat users include homosexual men, bisexual men and heterosexual men who are closeted and/or married. Moore (1995: 328) has documented that beats have existed in Australia for well over one hundred years and that they evolve in parks, secluded hinterlands, beaches, public shower blocks and the like. However, the most common and notorious beats are those which manifest in public toilet blocks in railways stations, parks and shopping malls. These public sex environments are found in just about every suburb in every city of Australia and many country towns (Swivel 1991: 237). In the USA these spaces are commonly known as ‘tearooms’ and in the UK they are typically referred to as ‘cottages’.

Beat spaces have a long history of attracting the attention and animosity of police (Dalton 2012). In Australia, some of the earliest arrests and criminal prosecutions for conduct at beats date back to the 1910s (Wotherspoon 1991: 66). Little is known about these matters as scant offence details were preserved in court archives. Various historians of homosexual subculture note that the police were often aware of sexual conduct at beats and this period marks the start of police vigilance to the phenomenon of beats (French 1986; Wotherspoon 1991; Murdoch 2000; Carbery 1992). During the period covered by the Parrabel review, many men assaulted at beats would often not report such crimes to police for fear of being ‘outed’ or being construed as engaging in illegal ‘public’ sexual conduct (and risking prosecution).

Beat spaces are very complex and have spatial and temporal attributes. They are often ephemeral spaces and only become sites of sexual activity when like-minded men meet. Some beats are popular during the day, whilst others mainly attract men at night. Many of the cases reviewed by Strike force Parrabell make explicit references to beats, and certainly there are innumerable cases where perpetrator(s) have targeted men at beats for bashings that have sometimes proved fatal. Many notorious beats featured in the Parrabell review including Alexandria Park, Moore Park, Mark’s Park and Centennial Park.

Despite the long and well documented history of bashers targeting gay men [and men perceived to be gay] at beats, the relevance of beats to this review of bias related violence was complex and nuanced. Whilst beats often featured as a geographical site where extreme violence was perpetrated, or where bashers were drawn to their vicinity to seek out victims, sometimes the existence of a beat did not figure as a significant explanatory feature in relation to interpreting the role of violence in a particular case. For example, in one particular case a man was determined to have died in a public toilet as a result of a drug overdose. In another case, a man was stabbed to death in a park in a violent frenzy by a drug addicted

assailant. The victim was sitting on a bench near a public toilet that operated as a beat but robbery appears to have been the principal motive for the crime.

So whilst beats were often notorious and profoundly dangerous places during the period of review that Parrabell covered, it would be simplistic to immediately equate the presence of a beat in a case file as being indicative of gay hate motivated violence. Indeed, given that almost all public toilet beat spaces are architecturally fixed spaces, there is also the attendant problem of misplaced emphasis of their significance in some cases. A public toilet beat exists as a constant presence in the landscape — and may well lure gay men and bashers alike to its location — but its presence does not dictate that a beat must always figure in an offender's core motivations or reasoning in relation to the commission of a crime.

ACON data

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the police possess. It should be noted that the section ‘Details of the police investigation’ was often either blank or provided criticisms of police that were not substantiated. It struck the academic review team as curious that ACON would seek to evaluate the sufficiency of a police investigation without being privy to any substantive data that would permit such an evaluation to be made.

At the end of this process it was determined that the ACON data did not provide any significant discrete points of difference to the more substantive NSW police review forms. Indeed, ACON’s reliance on ideas gleaned from media reports or unattributed sources was considered quite problematic for the academic team. To provide one example to illustrate this point, in the ACON Olsen dossier (case 56) it was stated that a prisoner confessed to the crime but that this confession was subsequently denied. The academic team cannot attribute weight to something that is ultimately denied or retracted. Furthermore, the academic team have no investigative powers or way of ascertaining if such a confession ever did take place and so had to discount this factor. Additionally, it should be noted that accounts of crime by journalists can be embellished (to help sensationalise a case a sell papers) and are not wholly reliable as ‘facts’. So whilst the ACON dossiers were prepared with the most noble of intentions—a genuine desire to cast some light on the cases concerned—they proved to be a resource that did not ultimately provide any compelling reasons for the academic team to reclassify any cases.⁶

An examination of the process and method used to conduct SP including the application of the NSWPF Bias crime indicators

What the academics did:

The list of cases developed by Sue Thompson and Stephen Tomsen does not have a known relationship with the number of gay bias homicides during the period that the cases were collected. Possible errors related to the list includes under-recording and uneven or inconsistent application of inclusion criteria, where cases come to attention under a variety of means. The methodology depends upon a variety of means to discover possible cases, but it does not depend upon any one means consistently. This would result in an uneven and somewhat unpredictable under-recording and over-recording. Even where the Australian Institute of Criminology report (add reference) attempted to place the list against a total of relevant homicides, the selection criteria for the list makes it impossible to draw a conclusion between the investigation of gay bias homicides and non-gay bias homicides.

Our assessment of the Bias Crime Indicator Review Form began with a query concerning the authorities cited by the police to support the use of the instrument. Our inquiry resulted in statement that the factors are used as prompts and that there is no necessary correlation

⁶ This is not to say that the ACON data does not have a wider social value outside the parameters of this review. Its blend of media reports and court judgements illuminates the way that these deaths were reported in the press and adjudicated in the courts during the decades in question. Such a resource is profoundly valuable for other purposes [e.g. compiling social history] and the academic team thanks ACON for cooperating and sharing their dossiers with us. That the data ultimately did not prove helpful to the academic reviewers is not a reflection on the good will that saw this data collated in the first place.

between any of the factors and a determination of bias. We found no case in which association with organised hate groups (factor 4) was present. There was no viable reference to witness or victim perception (factor 6), and there were several factors which we preferred to view under motive.

We determined that the Bias Crime Indicator Review Form may have produced a lack of distinction between categories of bias that are germane to this investigation. This was the finding upon attempting to use the BCIRF in categorising the cases. This led to the querying of the values or factors and to the definition of bias used by police and by those who developed the original and subsequent lists.

In short, we determined that a proper evaluation of the cases required more than a reproduction of the methodology used by the NSWPF and its Bias Crime Indicator Review Form, comprising of an “indicative” list of ten factors.

In our re-assessment, we found it necessary to develop a short list of necessary factors directly from a definition of bias crime, which we then proceeded to do. In doing so, we were aware that we needed to distinguish the direction of the animus, because it appeared that there were many cases in which there was a potential to over-categorise anti-gay bias.

[A brief overview of gay-bias/hate literature](#)

[All societies depend upon distinctions. Attributes and conduct that are recognized and rewarded are those that are deemed both moral and useful for the purposes of social, cultural and economic reproduction. Cultures or societies, including resident institutions, develop schemata by which to distinguish attributes and conduct that are deemed counter-productive to the means and values. In this regard, it would be short-sighted to understand the development of cultural or social bias without a view of the wider trends along which cultural or social distinctions are made. That is to say, as Australian society has been cosmopolitanised so has disadvantaging or acting prejudicially against people or groups based on sexual preference and gender identity become a passé and outlawed distinction.](#)

[To some extent all gay-bias/hate literature is concerned with accounting for the behavioural or psycho-social conditions in which individual perpetrators or associated individuals develop an animus that is strong enough to express itself in anti-social \(as per the above\) or criminal depredations on a vulnerable group. Following this, it may be further subdivided, although much of the literature crosses these divides. There is a large body of work that is concerned with the extent or incidence of this type of crime, particularly its underreporting and under recording. This work is directed at reform, and has helped to raise the profile of this type of crime. Victimization studies conducted in the United States between 1977-1989 showed violence to be widespread.](#)

[The frequency of anti-gay bias is discovered by victimization studies \(NCVS; Miller and Humphreys 1980\), police reports \(Nolan & Akiyama, 1999; Perry, 2001\) court records \(Tomsen 2009\) and by dataset comparisons of regular homicides against anti-gay homicides \(AIC-Thompson 200?\). It has also, to some extent, elaborated the putative empirical basis for legislative changes, law enforcement reforms practices and public awareness campaigns \(Tomsen 2000; Mouzos and Thompson 2000; xxx\). Hate crime laws are thus engaged in a process of re-moralization \(O'Malley, 1999\) that seeks to challenge the norms and moral](#)

boundaries that sustain racial, religious, sexual and other hierarchies of difference (Mason 2014: 76). Historians of social movements have noted the dependency of social change on the mobilisation of incipient mores on demand groups and moral entrepreneurs, so the social value of this group of activists and researchers is well-understood.

At the same time, as with all such work, there is a danger that the empirical foundation does not support summary statements about the extent of the phenomenon. In the United States findings of anti-gay and anti-LGBT violence has been criticised for its grounding on unreliable official bias crimes data that involve discrepancies jurisdictional definition discrepancies and police agency working practice differences ((Nolan & Akiyama, 1999; Perry, 2001), Boyd, Berk, & Hamner, 1996; Haider-Markel, 2002; McDevitt et al., 2000; Nolan & Akiyama, 1999). They also fail to overcome the difficulty of discovering offender motivation assessment with objectivity and reliability (Boyd et al., 1996; Haider-Markel, 2002; Nolan & Akiyama, 1999). Jacobs and Henry (1996:xx) have concluded, for example, that “the socially constructed claim that hate crime has reached epidemic proportions flies in the face of history.”

It is also possible to see a second group of scholarship that is concerned with hate crime victimology (Barnes and Ephross 1994; Iganski 2008). For this scholarship, the emotive language of hate or bias is less important than that the target is vulnerable (Perry 2001; Chakraborti and Garland 2015; Stanko 2004). For example, it is argued that potentially anyone can be a victim of hate crime, with one important caveat: that this is done within what Mason (2014) calls a “politics of justice” framework, which acknowledges that the concept of hate crime is underpinned by ideas of justice, equality, and the right to live a life free from abuse and harassment. Groups whose actions do not sit comfortably within this (and Mason cites pedophiles as one such group) should not be accorded hate crime victim group status, even if they have been targeted due to hostility against their identity (see also Chakraborti & Garland, 2012, 2015; Garland 2016: 635). As per Christie (1979), this also has issues, as there would appear to be much politicizing in which victims are accorded status and protection. As we shall discuss, bias crime may be complicated where non-recognized groups (pedophiles) may be targeted alongside recognized groups (gays).

Another group of researchers is concerned with problematizing or understanding the unique or distinct properties and particularly the motivators of anti-gay bias or hate crime (eg. Turpin-Petrosino 2015). This concentrates on behavioural and transactional dimensions or factors. It can also review masculinity and cultures of violence (Tomsen 2000). Regarding designating the differential properties of hate or bias crime perpetrators, research has supported that they are young males between 15 and 30, that they are more likely (in Anglo-American jurisdictions) to be Caucasian.

Perhaps the most overwhelming view is that gay-bias crimes are those which more than other crimes inflict great harm upon their victims (Iganski, 2001). The intensity of the harm, in both objective and subjective experience of extreme brutality, has been noted in these studies as being greater (Berrill 1990; Campbell 1986; Archer 1994; Dunbar, 2006; Garnets, Herek, & Levy, 1990). A study by Miller and Humphreys (1980) found that anti-gay murders are marked by “extreme brutality”, in which the victim is “more apt to be stabbed a dozen or more times, mutilated and strangled.” The crime is also more likely be carried out by multiple offenders (Martin, 1996; Tomsen, 2009; Van Der Meer, 2003; Janoff 2005).

Studies have also reported on what may be causing anti-gay violence to be more aggressive or brutal, partly because they involve weapons other than firearms (Miller & Humphreys 1980). Janoff (2005), for instance, found that 60% of sexual orientation bias homicide cases involved extraordinary or excessive violence. One of the most frequent explanations is that the perpetrator expresses an extreme overreaction to a perceived infringement against his sexual identity in a “homosexual panic” (Mullins 2006; Lewes 1995; Tomsen 2002). Tomsen (2009, p. 65) speculated that “a more hands-on approach” was needed to increase gratification for some offenders. Instances of “overkill” have also been found to be common in anti-LGBT homicides including excessive beating of victims’ heads and postmortem stabbings and mutilation.

Where the violence is by multiple perpetrators and/or for an audience, it is explained as re-establishing male honor in a version of heterosexism. Gruenewald (2012) observes that the actual or perceived challenge to sexual orientation is a threat to masculinity that provokes aggression. As per Harry (1992) and Perry (2001: 106) where that challenge is observed by others and represents a clear moment to express commitment to masculine heterosexual gender. It has been suggested that bias violence offenders seek, in front of onlookers or peers, the “overkill:” to express their masculine superiority (Perry 2001) and “disdain” (Cotton 1992: 300) for their victims.

Beats as sites of fatal violence

Media reports and true crime accounts (McNab 2017) of gay-hate crimes have often gone to great lengths to point out that the crime has some sort of association with a beat. In Australia, the term beat is used to refer to “spaces where men gather to seek out or arrange casual sexual encounters with other men, irrespective of the sexual identity of participants” (Dalton 2012: 67). Beat users include homosexual men, bisexual men and heterosexual men who are closeted and/or married. Moore (1995: 328) has documented that beats have existed in Australia for well over one hundred years and that they evolve in parks, secluded hinterlands, beaches, public shower-blocks and the like. However, the most common and notorious beats are those which manifest in public toilet blocks in railways stations, parks and shopping malls. These public sex environments are found in just about every suburb in every city of Australia and many country towns (Swivel 1991: 237). In the USA these spaces are commonly known as ‘tearooms’ and in the UK they are typically referred to as ‘cottages’.

Beat spaces have a long history of attracting the attention and animosity of police (Dalton 2012) In Australia, some of the earliest arrests and criminal prosecutions for conduct at beats date back to the 1910s (Wotherspoon 1991:66). Little is known about these matters as scant offence details were preserved in court archives. Various historians of homosexual subculture note that the police were often aware of sexual conduct at beats and this period marks the start of police vigilance to the phenomenon of beats (French 1986; Wotherspoon 1991; Murdoch 2000; Carbery 1992). During the period covered by the Parrabel review, many men assaulted at beats would often not report such crimes to police for fear of being ‘outed’ or being construed as engaging in illegal ‘public’ sexual conduct (and risking prosecution).

Beat spaces are very complex and have spatial and temporal attributes. They are often ephemeral spaces and only become sites of sexual activity when like-minded men meet. Some beats are popular during the day, whilst others mainly attract men at night. Many of the cases reviewed by Strike force Parrabell make explicit references to beats, and certainly there are innumerable cases where perpetrator(s) have targeted men at beats for bashings that

have sometimes proved fatal. Many notorious beats featured in the Parrabell review including Alexandria Park, Moore Park, Mark's Park and Centennial Park.

Despite the long and well documented history of bashers targeting gay men [and men perceived to be gay] at beats, the relevance of beats to this review of bias-related violence was complex and nuanced. Whilst beats often featured as a geographical site where extreme violence was perpetrated, or where bashers were drawn to their vicinity to seek out victims, sometimes the existence of a beat did not figure as a significant explanatory feature in relation to interpreting the role of violence in a particular case. For example, in one particular case a man was determined to have died in a public toilet as a result of a drug overdose. In another case, a man was stabbed to death in a park in a violent frenzy by a drug addicted assailant. The victim was sitting on a bench near a public toilet that operated as a beat but robbery appears to have been the principal motive for the crime.

So whilst beats were often notorious and profoundly dangerous places during the period of review that Parrabell covered, it would be simplistic to immediately equate the presence of a beat in a case file as being indicative of gay-hate motivated violence. Indeed, given that almost all public toilet beat spaces are architecturally fixed spaces, there is also the attendant problem of misplaced emphasis of their significance in some cases. A public toilet beat exists as a constant presence in the landscape – and may well lure gay men and bashers alike to its location – but its presence does not dictate that a beat must always figure in an offender's core motivations or reasoning in relation to the commission of a crime.

Over-categorising Bias

This review is concerned directly with measures of anti-gay bias crime. On one hand, there is an argument that the list presented provides evidence that police have been negligent in their prosecution of anti-gay bias in crimes of homicide specifically. On the other hand, there is an argument that whilst this may be true generically of police historically, the commentary on the evidence presented (the list) has exaggerated or even grossly exaggerated the scope of the underlying phenomenon.

As social scientists, we believe that the evidence does matter. Crimes may be both under and over-categorised, and sound public policy is not well-served where there is either an under or an over recording of bias. Where there is an under-recording of bias crime, there may be systemic or institutional bias against a social group that is not being adequately redressed by public resources or that may, as has been suggested, indicate a malfeasance by those public institutions. Where there is an over-recording of bias crime, the opposite distortion may occur. There will be over-criminalisation and the potential for public or moral panic that will have impact on freedoms. There will also be mis-categorisation, meaning also that other dimensions of an event are not properly recorded and addressed.

Defining Bias

The definition of Bias crime indicators were taken to be:

“objective facts, circumstances, or patterns attending a criminal act or acts which, standing alone or in conjunction with other facts or circumstances, suggest that the

offender's actions were motivated, in whole, or in part, by any form of bias"
 (Massachusetts Model - Protocol for Bias Crime Investigation) [REF police1, page 2]

A review of research on bias has resulted in the following findings. Researchers make the point that hate or bias offenders are "otherwise ordinary" (Hall 2004: xvii). Recognition of bias and prejudice in public policy including the criminal code is a matter of changing cultural or societal attitudes. According to Perry, there is little consensus over a global definition of hate crime (Boeckman and Turpin-Petrosino 2002: 208).

Bias crime laws are concerned with acts where hostility, bias, prejudice or hatred (we may say animus) is directed at a presumed attribute of the victim, and is an integral or key element of the offender's behavior, upon which the victim is selected. ACPO defines hate crime as "any incident perceived by the victim to be motivated by hate or prejudice" (ACPO, 2005). However, victims are often in no better position to determine the motivation for behaviour than is the perpetrator or the bystander. England and Wales have enormous numbers of bias crimes, no doubt due to the over-inclusive definition used to discover the phenomenon. As per Hall (2004:11), the concept loses meaning where it permits subjective over-inclusion.

Many researchers make the point that the perceived affiliation of the victim is important (Chakraborti and Garland 2015: 3; Mason 2014: 78; Gerstenfeld 2004: 9) which to others may be somewhat synonymous with the concept of vulnerability, or vulnerable populations (Chakraborti and Garland 2012; Wolfe and Copeland 1994: 201). Gerstenfeld defines hate crime as "illegal acts motivated, at least in part, by the group affiliation of the victim" (Gerstenfeld, 2004). Perry (2001: 29) says that it is generic subordinate identity of the victim rather than any individual characteristics that must be viewed as key. She (Perry 2001:10) defines hate crime as involving the reassertion of the dominance of the perpetrator's group over the victim. Important to a conceptualisation of bias is reference to the *relative powerlessness* of vulnerable peoples vis-à-vis a dominant, privileged class of people.

Our definition of bias is as follows. Bias crime is an act that

- a. expresses a categorical animus (directed at a person or group on the basis of his/her perceived identification with a vulnerable group)
- b. intentionally, by way of criminal predation on the basis of that categorical animus, causes harm to that person or group
- c. is mitigated or aggravated by an offender's contemporaneous associations that are linked by a commitment of denunciatory non-identification with the vulnerable person or group

In this definition we are concerned that to categorise an act as a bias crime, practitioners must be able to perceive a minimum of discrete factors that relate both with one another and directly to the phenomenon in question. In this definition, the first requirement is that the act *expresses* an animus, and does so by way of some form of communication directed at the target and, sometimes, the wider population. This expression might be in the degree of violence or in the utterances, statements, gestures or other communications. As noted in the literature, these acts are meant to communicate an expressive message of negation. This expression is *directed* at a person or persons on the basis of the perceived identification of that person or persons with a vulnerable group, and as a means of distinguishing the identity of the perpetrator against that group.

The second factor permits a review of the intentionality of harm. Criminal acts require some degree of intentionality, and some acts are planned and calculated to do harm against a specific target whilst others are more reactive, defensive, opportunistic or can claim some provocation. This matters when assessing anti-gay bias. A person who seeks out a gay person against which to do harm because of perceived vulnerability is arguably more of a threat to the community than a person who reacts violently against an unanticipated gesture or sexual advance. In addition, if the victim is chosen exclusively to express an animus toward an identity group this is more solidly a bias crime. Where the victim is chosen for another crime (robbery, for example), because he is an easy target, the *strength of the prejudice motivation* in the causal link, as Hall (2004: 12) notes, between the prejudice and the offending behavior, may be relatively weak.

Lastly, the definition makes reference to the *associations* of the perpetrator. We are more likely to be confident in a designation of bias where there is some evidence that the perpetrator has had an association with others who share the offender's presumed antipathy to a vulnerable group. It is those who associate with others *on the basis of a common bias* or prejudice against a vulnerable group and who then take an action either individually or collectively intended to cause harm to that target group that are justifiably the most concerning to public policy.

Anti-gay versus anti-paedophile bias

This investigation is concerned explicitly with *anti-gay* bias. However, in our preliminary assessment of the cases we found that there were many instances where it was at least unclear whether the bias was anti-gay as opposed to anti-paedophile. Many of the cases (N= ??) involved young men of between 15-25 who killed older men between 45-65. In many of these cases, the perpetrator's sexual identity was unclear and the victim was accused of having committed sex crimes against under-age men. Some of the perpetrators had themselves had liaisons with older men, and it appears that some of them may have been trading sex for drugs or other goods. It seemed apparent or at least more than plausible that the animus that was present was directed at men for the sexual exploitation of boys. In some cases it also appeared as though a strong animus against homosexual paedophiles may have developed from historical sexual abuse. It is not clear to us that the bias expressed in these cases is motivated against homosexuality or homosexuals as against homosexual paedophiles.

We reasoned that it is not sound public policy to conflate an animus towards paedophilia and an animus towards homosexuals. There are not too many social analysts who would want to support the historical slander that gays and paedophiles can be understood under a common moniker. Failing to distinguish the direction of animus and as a consequence over-including anti-paedophile animus under anti-gay animus would be to lend inadvertent support to this historical slander. Mason (???) argues that paedophiles should be not be accorded hate crime victim group status even if they have been targeted due to hostility against their identity (see also Chakraborti & Garland, 2012, 2015; Garland 2016: 635). Whatever the normative argument, it is clear that whilst sound public policy aims to support gays as a vulnerable minority group, public policy does not afford the same protective support to paedophiles, and nor would it be sensible, just or proper to conflate them. In short, we opted to distinguish these cases because we believe as a matter of public policy, it is important to distinguish the primary animus from what may be a secondary animus that sets up a different public policy response.

It was agreed that many if not the majority of the cases involved offenders who had a bias toward their own incipient identity. These offenders were possibly reacting against their perceived vulnerability to a sexual identity challenge (hence, provocation). Whilst this may be the bedrock for all bias, it may be perceived on a continuum that involves more or less reflexivity and supporting gestures (like the involvement of others in the reactive (criminal) action). This leads to an implication from this investigation which we will discuss later.

Other differences in coding

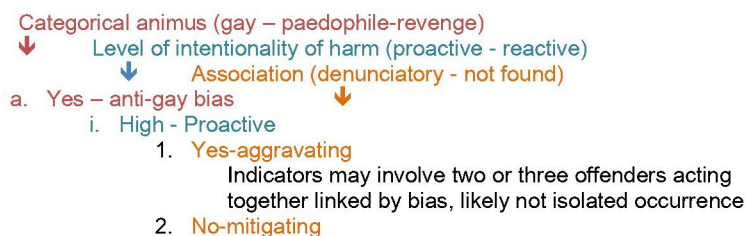
As a team, we decided that in order to maximize the reliability of an admittedly less than ideal measurement, we would independently code the cases and then review our independent scoring in an effort to reach consensus as a team. Our initial scoring led to the discussion of the nature of the bias we were coding and to a decision to clearly distinguish those that were anti-gay bias only from those that were anti-gay paedophile bias. The subsequent independent coding on the revised instrument also required a concordance consultation that resulted in the final scores. We had some initial disagreements about three or four of the cases, and we thought we would let the differences stand. (DO WE WISH TO DO THIS – NEEDS SOME REVISION DEPENDING ON OUR FINAL POSITION).

There is a distinction in coding that was identified in discussions with police concerning the understanding of the term “evidence.” Police team members of Parrabell have categorised as SBC cases where there is evidence that may support a court case that the crime was a bias crime. In contrast, we have coded as Insufficient Information [II] cases where there the evidence that may support a court case is ambiguous and requires further probing (to provide further information that the file or file summary is unable to provide). The detectives noted that Intelligence officers may use a different threshold.

We paid little attention to the extent of violence as a factor. Whilst expressive violence is an important indicator of motive, it is not clearly connected to the experimental bias (anti-gay bias). We also queried the inclusion of a case under SBC where the only evidence cited was an isolated bias statement that was not connected to any other indicators of bias, including motive, other than the act of the violence.

Our Coding Instrument

The academics subcategorized the cases into clusters as follows in terms of the identification of the victim with a target of bias (gay, paedophile, no bias, Insufficient Information), level of predation or animus (proactive, reactive), and the offender’s denunciatory non-identifications with the vulnerable group (which provides a context of offender support as an isolated or organised event) as aggravating or mitigating.



- Indicators may show solitary offender, possibly isolated occurrence.
- ii. Low - Reactive
 - 1. Yes-aggravating
Indicators suggestive of conflict of motives
 - 2. No-mitigating
Provocation is possible
 - b. Yes- anti-paedophile-revenge bias
 - i. High - Proactive
 - 1. Yes-aggravating
Indicators may involve two or three offenders acting together linked by bias, likely not isolated occurrence
 - 2. No-mitigating
Indicator of PTSD likely present, other trigger
 - ii. Low - Reactive
 - 1. Yes-aggravating
Suggest possibly stimulated by complex motives
 - 2. No-mitigating
Provocation is possible
 - c. No = no bias
 - d. Insufficient information

Comments on efficacy and quality of Strike Force Parrabell's review, the outcomes of the review [Do the researchers agree with SP outcome/determinations?]

In a comparison between our outcomes and that of the Strike Force Parrabell [hereafter, SP] we find the following:

- The SP review recorded more gay bias crime ((N=24) than the academic review (N=18).
- Both teams found the same quantity (N=25) that were categorized as II or insufficient information and therefore could be bias crimes of some kind.
- The SP team coded many more (N=33) than the academic team (N=18) as No Evidence of Bias.

The academic team is able to comment on the character of those cases where bias is suspected, according to three tiers of factors in two categories. We found (as below) that about half the cases (including the cases on which there is insufficient information) (N=43) did not clearly identify the victim with a vulnerable group or with the group that is the object of this investigation (gays). We found in about one third of the cases (N= 18) the violent act expressed an animus toward that group.

Most importantly, we are able to report with some confidence that only 12 cases are what we call proactive anti-gay bias crimes, and of those 10 are associative. This number is 12/59 (or if cases for which there is insufficient information are excluded. Given that these are arguably the most serious of crimes and that they are the ones that best represent the kind of animus against which a robust law enforcement response must be made to represent a public rebuke of bias, it is important that the number reported neither deflates or inflates their significance. How significant this number is, this report cannot say. However, it is not anywhere near the multiple dozens that comprises the total cases of the list.

Secondly, about one third of the cases for which there was sufficient information were coded as reactive (N=19/59).

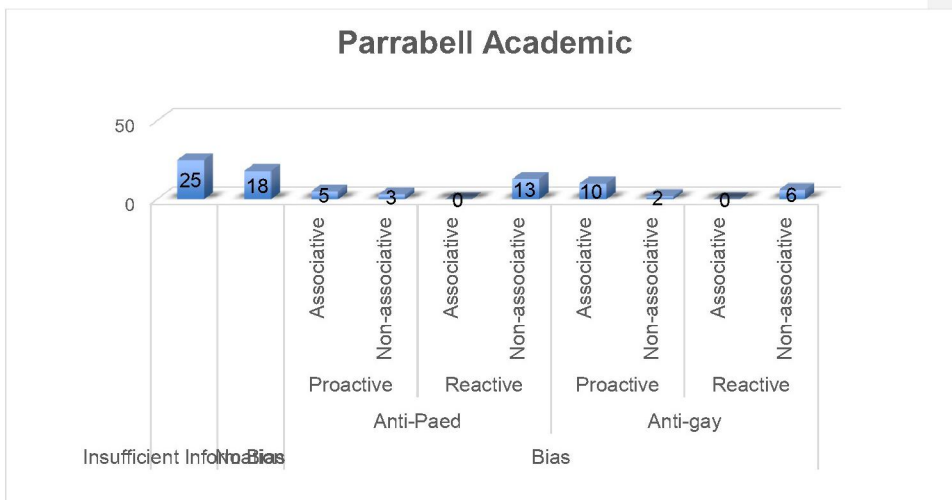
Thirdly, in dividing the cohort into two types of bias, we wish to reflect our observation that there is a meaningful distinction in these types of bias, and that the latter bias (anti-homosexual paedophile) needs more examination by research for reasons of public policy referred to above.

Many other cases may have involved post-hoc explanations of actions that expressed a gender or sexual identity conflict on the part of the offender.

Implications

Our review of these cases suggests that identity conflict is an important dimension of anti-gay bias crime appears to be under-represented in the literature. We were struck by how many cases involved perpetrators who appeared to be uncertain of their sexuality and appeared to be challenged to better define it. We derive this out of the description offered by the PS team. If this is a finding replicated in other studies of suspected anti-gay-bias homicide, then it has implications concerning the nature of anti-gay bias.

Our review also has implications for public policy that is reactive to what is properly called a moral panic as opposed to that which is based on social science. In this case, we can do a proper anatomy of that moral panic, having been given a yardstick by which to measure the extent to which panic rather than evidence has informed the reaction to anti-gay bias crime. Our evaluation of that list suggests that whatever the true dimensions of police malfeasance regarding the investigation of cases that may have involved anti-gay bias, the indicator that may be provided by the evidence of the list is not clearly evident of that malfeasance. On the contrary, in all cases that we have been able to evaluate, where police have found evidence of an anti-bias crime they have also been proactive in investigation.



Recommendations for future of policing, community engagement, training and development of bias crime indicators/processes

These recommendations strike us as flowing out of this evaluation.

- Better precision is needed regarding the discovery, assessment and recording of bias crime.
- NSW Police will need to develop a protocol for bias discovery that is prudent and grounded on evidence-based research.
 - Police will need to be cautious about over, under and mis-categorisation of bias crime.
 - The tools used to determine where bias crime is being expressed will need to be modified, and it is suggested that if the instrument currently in use cannot be supported by evidence, it should be dropped and a better instrument developed.
 - We believe it is prudent to consult widely for diverse expertise on the development of such an instrument. The development will also benefit from community engagement.
- Community engagement on bias crime is an opportunity not only to develop or improve a protocol, but also to educate community leaders on the necessity of policing bias from evidence.
- Training on bias should be sensitive to the negative outcomes where there is over, under and mis-categorization.

Do we need a section somewhere that briefly discusses HAD (advance defence) and engages with how this affected our deliberations [I sense we do?]

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