

Feedback from TC:

I have read the Parrabell draft from Derek and found it a good and well researched paper.

My comments for the research team follow:

1. Whilst not wanting to push the research team, because I think they have gone above and beyond, I wondered whether they actually prepared a bias crime indicator as an alternative to the model used by Parrabell, which is consistent with our corporate model. Does the concept of animus play a part in the identification of a bias crime that might be fashioned into a rule or guideline for operational police? If this was to be achieved I think it may have international application - clearly almost anything would be better than the UK model - Perhaps this is something we could discuss with the team in person to be a basis for a new model? I thought from earlier discussions that the research team was seeking to cut the bias crime indicators down to about 3 rather than 10, which would be positive if we were to identify crimes of bias at the first available opportunity, and to create a more consistent and easier process for front line police.

2. On Page 13 under C: THE CONCEPT OF BIAS - first paragraph you say 'based on sexual preference' a more correct statement is 'sexual orientation' because a person who is same sex attracted is not exercising their preference, it is simply their sexual orientation.

3. Page 17 deals with the Bias Crimes Unit and leads into violent extremism. Our new Commissioner has now developed the Fixated Persons Investigation Unit which is combined with the Bias Crimes Unit to address social drivers of crime including mental illness and draws upon other Government agencies including Mental Health to address people who may be engaged in fixated or serious bias crimes at a much earlier stage. The strategy is one of prevention rather than reaction and signifies a more progressive way of thinking.

4. Page 18 speaks of police in the 80's and 90's not always asking the type of questions that might have better discovered the presence of gay bias, however I think there is a balance you might wish to consider - there were equally a number of cases where detectives in the 80' and 90's addressed that very issue because of the 'gay panic' defence. In a number of cases (Craig Middleton can tell you which ones) the aspect of gay hate was well covered to anticipate and counter any later suggestion that the victim was murdered after a sexual advance. SFP investigators found this aspect comforting because it really dispelled, at least in certain cases, the notion of gay bias on the part of investigators, at least in those specific cases. Additionally, classifying the victim as gay was no easy task because many families, given the nature of social factors afoot at the time, were unwilling or simply did not know the sexual orientation of the victim, leaving either an assumption or further investigative tasks to be undertaken in order to establish a victim's sexuality if that was to be an important factor.

5. I note the content on Page 20 which indicates, I think rightly, that acts are meant to communicate an expressive message of non-identification or negation. The Thompson/Mouzos paper published by the AIC excludes same sex attracted offenders, because - 'A gay-hate related homicide differs from a gay person being killed by another gay person- such an incident is not motivated by a hatred for the individual because they are part of a particular group, such as gays or lesbians.' As I understand this research and certainly from an analysis of SFP files, with that statement we disagree based upon your definition, because animus against gays can exist when the perpetrator of harm is himself gay, albeit you may already cover this adequately on Page 22.

6. Page 25 - 'The detectives noted that Intelligence Officers may use a different threshold', I am not sure about this statement which seems perhaps a touch general in nature, even if relayed by the detectives. I think the point being made is that the criteria required an examination of available evidence rather than an approach of speculation, which by its very nature creates actual or potentially inconsistent measurement criteria. Additionally, intelligence is a form of information lower in credibility if it does not reach the threshold of classification as evidence. Within the NSWPF use of language that distinguishes

detectives from other roles performed can create unintended divisions that I would like to avoid if possible. It would be just as accurate, albeit still in my opinion too subjective, to substitute Intelligence Officers with Social Scientists, if that group was to engage in a process of speculation.

7. Page 30 above the graph - 'However there is a very low clearance or percentage of solved (20%) in the first 5 cases (1976-1980).' I think with no further detail that statement is potentially misleading - not regarding the fact of accuracy but upon the nature of the dataset - eg: if the timeframe is increased to 10 years then the percentage of solved cases dramatically rises and continues to rise with time. Also, there are a number of reasons for that statistic including improvements to investigative procedures, technology and science based forensics, although I cannot tell you what investigative improvements came along during those periods of time.

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Regards

TC

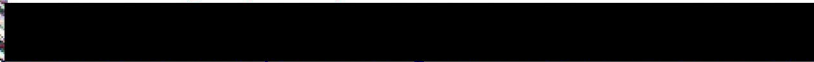
Feedback from Craig M:

Hi Jacki

I don't have much more to add to Mr Crandell's feedback. As discussed I have already supplied some feedback to Derek directly. However I do have a couple of points that support Mr Crandell's feedback (I have put them in blue under Mr Crandell's dot points



Craig Middleton | Detective Chief Inspector
Crime Manager | Surry Hills Local Area Command



From: Anthony Crandell [redacted] /Staff/NSWPolice
To: "Jacqueline Braw" [redacted]
Cc: Craig N Middleton [redacted] /Staff/NSWPolice@NSWPolice
Date: 04/07/2017 13:51
Subject: Re: Delivery of Draft report of Academic Review of Strike Force Parrabell [DLM=Sensitive:Law Enforcement (SLE)]

Hi Jackie,

I have read the Parrabell draft from Derek and found it a good and well researched paper.

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the aspect of gay hate was well covered to anticipate and counter any later suggestion that the victim was murdered after a sexual advance. SFP investigators found this aspect comforting because it really dispelled, at least in certain cases, the notion of gay bias on the part of investigators, at least in those specific cases. Additionally, classifying the victim as gay was no easy task because many families, given the nature of social factors afoot at the time, were unwilling or simply did not know the sexual orientation of the victim, leaving either an assumption or further investigative tasks to be undertaken in order to establish a victim's sexuality if that was to be an important factor.

In many of the matters we reviewed from the early years (70's, 80's and even the 90's) the sexual orientation of the victim was not necessarily easily identifiable from the records we examined. In many of these matters, it was clear that in the absence of 'direct' evidence of the victim's sexual orientation, it was 'assumed' that the victim was heterosexual. Despite this fact, in many of the matters the investigators, still explored the homosexual advance defence anyway. This may have been due to a number of factors such as the location of the incident being in a well known 'beat location' or indeed the offender raising it at interview. It shows to me that even in the era where homosexuality was essentially 'not accepted' by main stream society and in fact 'illegal', Investigators still explored these issues in an attempt to mitigate and secure a conviction of the accused.

What is clearer to me is that the homosexual advance defence was, in my opinion, heavily exploited more by criminals and defence lawyers as a form of 'legalised loophole' to mitigate the seriousness and or justify of their actions.

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The line about detectives noting that Intelligence officers may use a different threshold is inaccurate and as Mr Crandell points out creates unnecessary division. In my opinion, Intelligence officers and detectives do not have thresholds. If my memory serves me correctly I think that discussion was had in the context that there is a difference between information and what constitutes 'evidence'. Detectives will always consider all information available, (which can include 'evidence') as this will help guide their investigation and assist in directing their enquiries. However at some point detectives must ALSO consider the available 'evidence' if they are considering formally charging a suspect. That is the point of difference that we were making. Intelligence officers do not normally have to consider the 'admissible evidence' however there is fundamentally no difference in the threshold between the information that either Intelligence officers or detectives would consider.

7. Page 30 above the graph - 'However there is a very low clearance or percentage of solved (20%) in the first 5 cases (1976-1980).' I think with no further detail that statement is potentially misleading - not regarding the fact of accuracy but upon the nature of the dataset - eg: if the timeframe is increased to 10 years then the percentage of solved cases dramatically rises and continues to rise with time. Also, there are a number of reasons for that statistic including improvements to investigative procedures,

technology and science based forensics, although I cannot tell you what investigative improvements came along during those periods of time.

In my opinion the statement highlighted by Mr Crandell as to the clearance of the first 5 matters as being low, is too simplistic and somewhat misleading. The matter of No 3 Williams, no records were ever located to verify that this death even occurred. To date Parrabell has been unable to find any information that confirms the death of Williams in 1979. If we are unable even to verify that the death occurred then how can it be classed as 'cleared' The matter of No 5 SLATER. We have it as unsolved, but I can tell you even we as the police argued about whether the matter should be classed as Solved/Unsolved. In this matter an offender was identified and charged. At some point in the judicial process the matter was 'no billed' and the offender released. This may technically be classed as 'unsolved' however it would be more my opinion that the matter has been 'cleared'. It would be my argument that the investigators charged the correct offender but did not proceed to a conviction. (Parrabell was unable to determine the reasoning behind the No bill). I suppose the definition of 'clearance rates' hinges on whether you determine something has been 'cleared' based solely on obtaining a successful conviction at Court. In my opinion, this could be a point of conjecture as there is a difference between 'solved/unsolved', cleared/uncleared and they shouldn't be interlocked with each other. My point is that Crimes could be 'cleared' but still remain 'unsolved.'

8. I know you have been kind to Sue Thompson, however some of the findings are completely contrary to her authored publication eg: a significantly lower number of cases involving more than one perpetrator (Page 31). I wonder whether Payne (31) was included in Sue's list or the matter from Tasmania. If so perhaps the nature of those inclusions should more directly reference the inappropriateness of the original 88 - I understand the message is there implicitly, I am suggesting that perhaps an explicit statement should be considered.

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Regards

TC

Feedback from SS:

TC and JB

Overall, I thought the report was really well written. My comments as below for discussion on Monday 17/7:

Page 1 – I liked the acknowledgement of victims up front.

Page 4 – 2nd paragraph consider simplifying sentence “... in sociological terms the formation of animosity towards ...”

Page 4 – Towards the bottom, consider simplifying “... wait for a man to importune a sex act with them ...”

Page 8 – second paragraph, happy with paragraph, suggest changing word in bold to ‘review’: “Whatever the number, this **re-investigation** supports the view that ...

Page 9 – What are the ‘Co-ordinating instructions’?

Page 12 – second last paragraph – I do not understand what this means “We also determined that the BCIRF may have produced a lack of distinction between categories of bias, such as evidence of the character of motivation, that are germane to this investigation. This was the finding upon attempting to use the subsequent lists.”

Page 13 – second last paragraph – simplify “... to some extent elaborated the putative empirical basis for ...” and “Historians of social movements have noted the dependency of social change on the well-understood.” Sounds pompous.

Page 19 – The NSWPF bias crimes definition is not the one quoted on the top of the page. As per our SOPS, the definition is:

A criminal offence committed against persons, associates of persons, property or society that is motivated, in whole or in part, by an offender’s bias against an individual’s or group’s actual or perceived race, religion, ethnic/national origin, sex/gender, gender identity, age, disability status, sexual orientation or homelessness status.

Page 27 – I’m not too clear about the numerical differences between SFP categories and researcher’s. May be a discussion will clarify it for me.

Page 35 – I’d like to discuss the recommendations between us before providing feedback.

Shobha

Additional points:

Page 10 - 11

In addition to correcting the definition of bias crimes adopted by NSWPF, it should be noted that our definition is based on the International Association of Chiefs of Police definition and reflects international best practice.

Specifically in relation to comments on the indicators (middle paragraph page 10) There is an implication that the indicators are not robust because they are not adopted by federal US law enforcement. As noted, our indicators 1-9 are drawn from the curriculum document for hate crime from the National Centre for Hate Crime Prevention, which draws its content from the FBI Hate Crime Data Collection Guidelines and Training Manual.. Indicators 1-9 in our SOPS can also be found in the Criminal Justice Information Services Division, Uniform Crime Reporting Program’s Hate Crime Data Collection Guidelines and Training Manual.

The point being made is, our SOPS and the indicators are based on international practice ... and are used in training law enforcement and victim support officers in the US. Unless we can evaluate how useful they

have been in investigating bias crimes by our officers, we would not like to rule them as lacking or needing to be dropped.

Page 35: Recommendations:

We would disagree with sub-bullet point (2) under bullet point (3) "The tools used to determine it should be dropped and a better instrument developed".

Page 36 final bullet point under recommendations mentions that NSWPF should be vigilant to new forms of bias (eg. Anti-Muslim) ... we do not disagree that we should be vigilant to new forms of bias, but note that our current definition of bias crimes already covers crime motivated by a person or group's actual or perceived race, religion, ethnic/national origin.

Shobha

Shobha Sharma | Manager Operational Policy & Diversity Team | [Operational Programs](#) | [NSW Police Force](#)

 Please consider the environment before printing your emails and attachments 

Feedback from JB:

I agree that overall I think the report is comprehensive, well written, with very good argument and demonstrates compassion and sensitivity towards the victims, families and more broadly, LGBTI people – historically and today.

The report is very respectful of the work completed by Stephen Tomsen and Sue Thompson without necessarily supporting their findings. I wonder if a little more could be said about ACON's work – it was substantial, even if it did not shed much more lights on the cases. ACON is a key stakeholder and I think it would be valuable to add a paragraph on the work they have done in the same respectful tone as used with ST and ST.

I accept that the language in the report is academic – it is an academic review. I wonder if the executive summary could be simplified a little in language to make it more accessible to those who will not read the whole report?

Page 1. Some words are a bit obscure eg. denuded. Can we replace mitigated (second paragraph) with another word as it sounds a bit clinical in the context of the sentence. Maybe a more positive word eg 'resolved'?

Is it worth adding a paragraph in the Preface explaining the complexity of bias, that is it not black and white, the many factors involved, without sounding defensive?

Was Taradale a strikeforce?

Page 2. Deep water (no s). Rather than refer to the Force, refer to the organisation or spell out NSWPF in full. Consistency throughout the report – spell out in full first and then use NSWPF.

Second para - ... deaths of persons between ... do you need to say 'of persons' ?

Second last para – remove 'a' before bias crime

Page 3. Second para – remove 'a' before vitally. Next para, spell ACON our first and explain the nature of the organisation briefly and its interest in this issue.

Page 6. Second para, is there a more recent example of a tv show you could use?

Page 8. Replace re-investigation with review

Page 9. Replace 'struck' with another word eg initiated? (used twice on this page)
The sentence beginning "The review sought to assess...." about half way down is unclear.

Page 10. Capitals in the list of indicators. Why is it important to make such a point about it not being FBI but only Dept of Justice? Consistency with referring to NSWPF Bias Crime Unit.

Page 11. Remove ' after victim in the last category. Bias Crime Indicator Review – this has already been referred to and the reader directed to Appendix B. Capital B for Bias.

Page 12. Homicide located 11. Para beginning "Our assessment began with a query .." is not that clear.

Page 13. Change sexual preference to orientation. Consistency with gay bias (no hyphen). Consider replacing 'depredations', 'putative' and 'incipient' with simpler terms. Under reporting (two words). ... bias crime data that involves

Page 15. at trial ... gay hate (no hyphen)

Page 16. Should there be a mention here of the initiation of a NSWPF approach/policy on managing beats? From the first Commissioner's circular (in 1995) to our current chapter in the Police Handbook. This is a very fair and progressive approach and not well known in the wider community. I can provide more detail and references.

Anti gay

Page 17. Bias related incidents. Should there be a short para after the list of dot points about the evolution of the GLLO program and LGBTI portfolio within the NSWPF and their role in supporting the identification and response to bias crime?

Page 18. Gay bias.

Page 19. As per SS, use correct definition according to our SOPs.

Page 21. Interest in boys ...

Page 22. Is it necessary to refer to 'lay' readers, separating them from more educated readers?

Page 23. As above. Category 1 bias crime or Type A?

Page 25. What is SBC?

Page 27. The comparison points need a bit more clarity. ? N=9??

Page 28. The sentence "However, it is not anywhere near ..." – is it needed? Or reword a bit. Percent or %.

Page 29. Take out 'the' in last sentence.

Page 30. Rate.

Page 31. ... them be accounted ... and last sentence For example, in the case of Mills (66).

Page 33. Capital A for anti??

Page 34. Replace 'uptick' with another word eg increase. Preface ACON with "advocacy groups and organisations such as ACON" . Bias Crime Unit. ... anti-gay bias.

Page 25. NSWPF has fostered better relationships with LGBTI communities for around 20/25 years, not so recent.