

**For Official Use Only (FOUO)**

2018/146860

**Issue :**

Request from the NSWPF Research Coordination Unit for recommendation, on the publication of attached research article, **Bias Crime policing in New South Wales.**

**Background:**

In 2017 research was commenced between the Bias Crime Unit whilst under Operational Programs and the University of Sydney where a research paper was written by Professor Gail MASON.

This document outlines the NSWPF response to bias crimes from the initial creation of the bias crime unit in 2007 up until more recent times in 2017. During that time, the Bias Crime Unit has seen a lot of changes regarding its management, focus staffing and resource.

As part of this research 10 members of the NSWPF were interviewed including 1 present member of the Bias Crime Unit.

Currently the Bias Crime unit sits under the Operational Assessments Group within Counter Terrorism & Special Tactics Command. (CTSTC)

**Comment:**

At the time of the research, the Bias Crimes Unit was in the middle of an organisational wide restructure resulting in significant changes to the focus, direction and response to bias crimes.

The introduction of community engagement CVE and working closer with external stakeholders has been some of the recent initiatives undertaken whilst under CTSTC.

The research conducted does not give an accurate assessment of the status of the Bias Crimes Unit since coming under CTSTC. Further to that, the research paper does not give the NSWPF any recognition for self-identifying internal service delivery gaps and taking strategic proactive steps to strengthen those deficiencies after the organisational alignment of the unit.

For example, the Bias Crimes Unit has taken a more hands on approach incorporating intervention for victims, better educating community leaders, and the introduction of CVE programs for young and vulnerable offenders.

During the review, inaccuracies were anecdotally identified, as being based on racial bias e.g. Harris Park incident in 2009 where as the Redfern riots in 2004 where not included nor mentioned in the research paper as being racially motivated.

The reference regarding the creation of the Fixated Persons Investigation Unit is a one that can only be accurately provided by the current NSWPF Commissioner of



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Police (CoP) and his Senior Executive team. Any opinion outside of that, is purely speculative.

Other improvements regarding the reporting and recording of data has been initiated with BTS to improved reporting capabilities and improving the integrity of the data collected. As recommended by the previous NSWPF CoP Scipione.

According to the research paper, the document may be perceived in framing a picture that the Bias Crime Unit was showing favouritism towards right wing groups conducting their activities. This was evident in some of the comments made by the NSWPF personal interviewed during the research. Since the alignment with the CTSTC there has been significant movement towards broadening the scope and management of the BCU.

### Recommendation:

Due to the highlighted inaccuracies and significant changes the Bias Crime Unit has undergone since this research project commenced it is recommendation that the publication of the report is not supported. An alternative could also be to consider consulting further with researchers and edit the report to reflect the status of the BCU.

  
 Sergeant Ray HUSSEIN  
 Bias Crime Unit  
 Counter Terrorism & Special Tactics Command  
 14 February 2018


Commander Engagement & Intervention Unit

Noted. Agree with the comments of Sergeant Hussein. The research was undertaken prior to the restructure of the BCU and there has been great progress in addressing issues highlighted within the research paper. It may be difficult to withdraw permission to publish but perhaps consideration could be given to the removal or editing of parts of the document highlighted as issues for NSWPF. There may also be options to de-identify the NSWPF by referring to an Australian Police jurisdiction.

A.F Long  
 Commander  
 EIU

Commander Operational Assessments Group

*Noted & agree. Research coordinator will  
 to consider advice of Sgt Hussein & this  
 command. At the very least redaction  
 or amendment of information contained in  
 the paper should be made*

  
 Michael McLean  
 Detective Superintendent  
 Commander

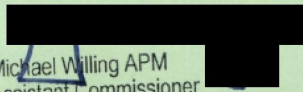
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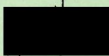
Assistant Commissioner, Counter Terrorism & Special Tactics Command

*Noted. For consideration in light of the  
opponent relevant issues raised by Sgt Hussein.*

  
Michael Willing APM  
Assistant Commissioner  
Counter Terrorism & Special Tactics Command 2/3/18.

Commander, Education & Training Command

Noted obo AC Crandell. This file was forwarded by post and received late into this office. Subsequent communication with LLU has indicated that a further file has been generated where the researcher was requested to make a number of changes. This file is forwarded to LLU to reconcile with the later paper and if required to forward both through the chain of command for notation and/or approval to publish.

  
C/Insp J Thompson  
Staff Officer  
Education & Training Command  
13.06.2018

Commander, NSWPF Command College

Manager, Research Coordination Unit





**Fw: Research Update [DLM=For-Official-Use-Only]**  
**Anthony Long** to: Mary Crumlin

21/02/2018 14:52

From: Anthony Long [REDACTED]/Staff/NSWPolice  
 To: Mary Crumlin [REDACTED]/Staff/NSWPolice@NSWPolice

Kind regards,

Tony Long BM VA  
 Chief Inspector  
 Commander  
 Engagement and Intervention Unit  
 Anti Terrorism & Security Group  
 Counter Terrorism & Special Tactics Command | New South Wales Police Force  
 Phone: [REDACTED]  
 Email: [REDACTED]



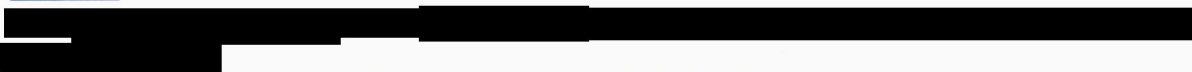
----- Forwarded by Anthony Long [REDACTED]/Staff/NSWPolice on 21/02/2018 14:51 -----

From: Christie Wallace [REDACTED]/Staff/NSWPolice  
 To: Anthony Long [REDACTED]/Staff/NSWPolice@NSWPolice  
 Cc: #RESEARCH/Staff/NSWPolice@NSWPolice, Christopher Devery [REDACTED]/Staff/NSWPolice@NSWPolice, Nathan Corbett [REDACTED]/Staff/NSWPolice@NSWPolice, Ragheb Husseini [REDACTED]/Staff/NSWPolice@NSWPolice, Shobha Sharma [REDACTED]/Staff/NSWPolice@NSWPolice, Geoffrey Steer [REDACTED]/Staff/NSWPolice@NSWPolice  
 Date: 06/02/2018 13:21  
 Subject: Re: Fw: Research Update [DLM=For-Official-Use-Only]

Hi Tony,

Geoff Steer, when he was in bias crimes, was involved in the research. I have cc'ed him in and perhaps he and Shobha could tell us who was involved.

**Dr Christie Wallace** | Research Officer | [Research Co-ordination Unit](#) | [Command College - Yarramundi](#) | [New South Wales Police Force](#)



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Anthony Long	Good afternoon, Is it possible to obtain some bac...	06/02/2018 12:13:35
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From: Anthony Long [REDACTED] Staff/NSWPolice  
 To: #RESEARCH/Staff/NSWPolice@NSWPolice  
 Cc: Christie Wallace [REDACTED] Staff/NSWPolice@NSWPolice, Christopher



Devery, [REDACTED] Staff/NSWPolice@NSWPolice, Nathan  
 Corbett, [REDACTED] Staff/NSWPolice@NSWPolice, Ragheb  
 Hussein, [REDACTED] Staff/NSWPolice@NSWPolice, Shobha  
 Sharma, [REDACTED] Staff/NSWPolice@NSWPolice

Date: 06/02/2018 12:13  
 Subject: Re: Fw: Research Update [DLM=For-Official-Use-Only]

Good afternoon,

Is it possible to obtain some background on the research in particular to the respondents to the research, who they are and the questions asked of them. ?

Kind regards,

Tony Long BM VA  
 Chief Inspector  
 Commander  
 Engagement and Intervention Unit  
 Anti Terrorism & Security Group  
 Counter Terrorism & Special Tactics Command | New South Wales Police Force



#RESEARCH	Good Afternoon, Please find attached an article t...	05/02/2018 16:41:07
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From: #RESEARCH/Staff/NSWPolice  
 To: Shobha Sharma, [REDACTED] Staff/NSWPolice@NSWPolice, Anthony Long, [REDACTED] Staff/NSWPolice@NSWPolice, Ragheb Hussein, [REDACTED] Staff/NSWPolice@NSWPolice, Nathan Corbett, [REDACTED] Staff/NSWPolice@NSWPolice  
 Cc: Christopher Devery, [REDACTED] Staff/NSWPolice@NSWPolice  
 Date: 05/02/2018 16:41  
 Subject: Fw: Research Update [DLM=For-Official-Use-Only]  
 Sent by: Christie Wallace

Good Afternoon,

Please find attached an article that has been written by Professor Gail Mason as the results of a project partnership between the Bias Crimes Unit and the university.

As per the approval of the project, this article must be reviewed by the NSWPF before publication.

Could you please review and get back to me by Wednesday 14th February.

Kind Regards

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**Dr Christie Wallace** | Research Officer | [Research Co-ordination Unit](#) | [Command College - Yarramundi](#) | [New South Wales Police Force](#)



[REDACTED]  
[REDACTED]  
Please consider the environment before printing your emails and attachments.

----- Forwarded by Christie Wallace, [REDACTED] /Staff/NSWPolice on 05/02/2018 16:36 -----

From: Gail Mason <gail.mason@sydney.edu.au>  
To: #RESEARCH <[REDACTED]>  
Cc: Gail Mason <gail.mason@sydney.edu.au>  
Date: 05/02/2018 15:19  
Subject: RE: Research Update [SEC=UNOFFICIAL]

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Dear Research Coordination Unit

Please find attached a draft publication setting out the results for the project *Bias Crime Policing in NSW*.

We welcome any feedback from the NSW Police Force.

We will be sending this article out for publication in 4 weeks.

This publication represents the completion of the project. However, I will be sending a second publication in the next couple of weeks and probably a third publication a little later.

Thank you for your support of this research and we hope these results are helpful to the NSWPF.

Kind regards

Gail Mason

**From:** Cheryl Vincent [mailto:[REDACTED]] **On Behalf Of** #RESEARCH  
**Sent:** Monday, 29 January 2018 3:44 PM  
**To:** Gail Mason  
**Subject:** Research Update [SEC=UNOFFICIAL]

Dear Gail,

I hope that your research is progressing well. Can you please send an update on the attached form.

Regards

Cheryl Vincent  
Research Coordination Unit

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This email and any attachments may be confidential and contain privileged information communication. Confidentiality or privilege are not waived or lost by reason of the m

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Force policy, including the Email and Internet Policy and Guidelines. All  
NSW

Police Force employees are required to familiarise themselves with these  
policies, available on the NSW Police Force Intranet.

[Redacted: This Content Publishing in NSW 11 February 2018 (sic) issued by Anthony Long (1111) (NSW) (sic)]



**Bias Crime Policing in New South Wales**

Professor Gail Mason

Sydney Law School

The University of Sydney

Email: [gail.mason@sydney.edu.au](mailto:gail.mason@sydney.edu.au)

Professor Leslie Moran

Birkbeck School of Law

University of London

Email: [l.moran@bbk.ac.uk](mailto:l.moran@bbk.ac.uk)

### **Bias Crime Policing in New South Wales<sup>1</sup>**

In April 2017, the Commissioner of the New South Wales Police Force announced the creation of the Fixated Persons Investigation Unit (FPIU). The FPIU is a combined policing and mental health unit aimed at identifying and countering extremism (Olding, 2017). The creation of the new unit pre-empted negative findings about police handling of the 2015 Lindt Café siege in Sydney, which led to the death of two hostages and the gunman Man Monis (State Coroner of New South Wales, 2017). Some internal restructuring accompanied the establishment of the FPIU and one area absorbed into this new unit was the nascent Bias Crime Unit.

Bias crime, or 'hate crime' as it is more commonly known, is now core business for policing agencies across the world. Institutional definitions differ but 'bias crime' refers to crime that is motivated or shaped by prejudice, bias or hatred on the part of the offender towards a group characteristic of the victim, such as race, ethnicity, sexuality, religion, disability or transgender identity. It has been suggested that bias crime is a 'barometer for contemporary police relations with minority communities' (Mason et al., 2017, p. 1). It provides an avenue for law enforcement to enhance institutional legitimacy by putting equality at the heart of policing, especially for communities with longstanding histories of mistrust. Nonetheless, under-reporting by victims is an enduring problem for policing in this domain (Giannasi, 2015). While principles of procedural fairness and performance (Sunshine & Tyler, 2003) play a role in shaping victim cooperation with police, questions of trust also mediate internal compliance with organisational values and rules. Police cultures that give rise to under-recording amongst frontline officers and resistance to change from corporate leadership limit progress (Grattet & Jenness, 2005).

Bias crime has struggled to gain a concrete foothold in routine policing in Australia. The New South Wales Police Force (NSWPF) was the first to establish a dedicated bias crime initiative in 2007. The achievements of this initiative have waxed and waned dramatically in the intervening decade. In this article we draw upon the results of the first empirical study with the NSWPF to analyse the reasons for this instability. We begin with a brief history and overview of bias crime policing in Australia, linking this to the literature on legitimacy and policing. Following an explanation of the methods used in our research study, we identify four themes that help us understand the ongoing challenges encountered by NSWPF in responding to bias crime: defining, framing, reporting and orienting bias crime. Our objective is to identify an approach that will help to integrate bias crime into the current business model of policing in NSW.

#### **Bias crime, Policing and Legitimacy**

Law enforcement agencies in the US began addressing bias crime in the late 1970's in the face of claims they were failing to protect racial and sexual minorities from violence (Bartkowiak-Theron & Asquith, 2015). In the UK, public exposure of institutional racism in the 1990s led to the transformation of policing procedures for responding to bias crime (Macpherson, 1999). This new sensitivity to bias crime found support in the rise of community- and problem-oriented policing as a means of addressing the trust deficit within 'hard to reach' or 'at risk' communities (Mason, McCulloch & Maher, 2016). Police forces in Australia have been slower to respond. The 1991 National Inquiry into Racist Violence provided the first detailed documentation of bias crime in Australia (HREOC, 1991). It recommended that Australian law enforcement agencies develop systems for recording and monitoring racist violence so as to 'enable the extent of the problem to be more accurately understood' (HREOC, 1991, p. 391). This was largely ignored at the time (Cunneen, 2009). Subsequent victimisation studies and government reports contain compelling evidence of violence, intimidation and property damage driven by prejudice, particularly racism, homophobia,

<sup>1</sup> We are grateful to the NSWPF for approving this research and to all of the staff we interviewed for generously sharing their expertise, insights and time.



Islamophobia and transphobia (Asquith, 2004; Benier, Wickes & Higginson, 2015; Mason 2001; Moran & Sharpe, 2004; Noble, 2009; NSW Attorney-General's Department, 2003; Poynting, 2002; Tomsen, 2010). In some instances, police themselves have been implicated in the commission of this violence (HREOC, 1991; Tomsen, 2010).

Most Australian police forces have now embraced programs and policies that strengthen and facilitate links between police and specific minority communities. For example, the NSWPF has had community liaison officers for Aboriginal, multicultural and LGBTI communities since the 1990s at least. Despite the early and ongoing success of these programs, bias crime remains an emerging area of law enforcement that attempts to address a particular problem across multiple identity categories with very different experiences of vulnerability and policing. To date, Victoria and NSW are the only two states to have introduced dedicated bias crime strategies. The absence of a discrete bias crime offence has been identified as a significant hurdle to embedding these strategies in routine policing in Australia (Mason, Maher & McCulloch, 2016). In jurisdictions such as NSW, the offender's biased motive is relevant only at sentencing when it may lead to a more severe penalty. As bias is not relevant to a criminal charge itself police tend to be confused about its value and hesitate to acknowledge it in recording systems (Kielinger & Paterson, 2007; Grattet & Jenness, 2005; Miles-Johnson, Mazerolle, Pickering & Smith, 2016). Moreover, police typically respond to bias crime as detached incidents (Bowling, 1999) without recognising the broader context of discrimination within which victims experience these incidents. This can lead officers to believe they have responded effectively to a complaint, while leaving victims feeling ignored, vulnerable and disillusioned with the process. This encourages under-reporting, especially amongst communities with a history of mistrust in police (Dwyer et al., (in press); Giannasi, 2015; Wickes et al., 2015). In the UK this has led to a movement away from police-centred approaches to incident categorisation that gives the victim's perspective greater recognition (Macpherson, 1999). Recent UK national guidelines highlight the importance of this approach in building positive relationships with vulnerable communities as a core component of best policing practice (College of Policing, 2014).

**Commented [S1]:** There appears to be an oversight or failure to recognise that police in fact may have responded to the incident e.g. assault, regardless of identifying the motivation. Victims would have been supported accordingly. This also does not seem to recognise the complexity of language, fear of police, loss of face and a myriad of other factors discussed with researchers that contribute to non-reporting. It is not failure to recognise bias alone.

There are many reasons people do not report bias crime to the police but recent research in Victoria suggests that a lack of trust between marginalised communities and police is a key variable (Mason et al., 2017). This finding resonates with models of procedural justice which hold that perceptions of trustworthiness, along with neutrality in decision-making, respectful treatment and community participation are core predictors of the extent to which people view police as legitimate and, in turn, cooperate with their authority (Sunshine & Tyler, 2003; Murphy & Cherney, 2011; Murphy & Barkworth, 2014). Most research in this field has focused on the positive impact that procedural justice has on improving legal compliance (Bottoms & Tankebe, 2012; Sunshine & Tyler, 2003). Although less has been said about the impact of procedural justice on people's willingness to report victimisation to the police, this question is particularly pertinent to the policing of bias crime.

In Australia, high levels of police mistrust are apparent amongst Indigenous Australians and ethnic minorities (Sivasubramaniam & Goodman-Delahunty, 2008). Similarly, research suggests that new immigrants are less trusting of police and less likely to contact police if they need assistance (Murphy, 2013), although this may vary according to the length of time since they arrived in their new country (Bradford, Sargent, Murphy, & Jackson, 2017). Other victim groups, such as members of the LGBTI community, report that police perpetuate prejudice in their interactions with victims (Mason et al, 2016). These previous negative experiences can make victims less willing to report future victimisations (Murphy & Barkworth, 2014). Murphy and Cherney (2011) underscore the need for the 'voice' of the community to be taken into account in police decision-making processes as one strategy for overcoming this trust deficit. Timely, open and interactive collaboration between police and communities can provide the latter with an 'instrumental voice' (Murphy & Cherney 2011, p. 251) that enables them to articulate localised concerns and shape policies and procedures that impact their members.

The literature on legitimacy and victim engagement tends to assume that victims are the only audience that matters when it comes to police performances of procedural justice. What is missing from this approach is that the police themselves are also an important audience for their performance of organisational legitimacy. Trust between front line officers and supervisors is an influential factor in producing officer compliance with organisational rules and due process (Haas, Van Craen, Skogan & Diego, 2015). Related research on the performance of organisational legitimacy by social elites, such as the judiciary, suggests that image making and management is of particular importance for those in positions of power, in terms of legitimating both their authority within their immediate circle of peers and with regard to other stakeholders (Barker, 2001; Moran, 2015). In the context of bias crime, this suggests that police control over bias crime must be considered in regard to how the police make an image of themselves for internal consumption as well as how this impacts on communities outside the police. Police demonstrating to themselves that they are in charge of taking bias crime seriously may have little relevance to key members of the external audience such as victims or the wider community.

### **The Study**

In NSW a bias crime initiative was inaugurated in 2007, following the Cronulla riots. Taking the form of a single officer with responsibility for bias crime it was first located within the Counter-Terrorism Unit. A year later it moved to the Operational Programs Command. This allowed liaison with other portfolios responsible for diversity (eg: Aboriginal, multicultural and LGBTI). The post was then left vacant for more than three years between June 2009 and September 2012. In 2015, concerns about right wing extremism and public disorder led to the creation of the Bias Crime Unit (BCU), supporting 3 to 4 intelligence, analyst and policy officers. Bias Crime Standard Operating Procedures (SOPs) were approved in the same year. This organisational structure continued until 1 May 2017 when responsibility for bias crime was transferred to the FPIU. With a focus on security, mental health and radicalisation, the FPIU is part of the Counter-Terrorism and Special Tactics Command. The BCU currently has a state-wide focus and provides policy and investigative advice, quarterly reports and intelligence to Local Area Commands.

The aim of our study was to analyse this institutional response to bias crime by the NSWPF. Given that this was the first study of this nature, our research questions were designed to elicit fundamental knowledge about: the purpose and priorities of NSWPF's response to bias crime; the major achievements and challenges of this response; and how the impact and legitimacy of these formal and informal processes might be maximised. Our overarching goal was to understand, critique and strengthen the NSWPF's bias crime capacity in terms of organisational culture and performance objectives.

Our study involved the collection and analysis of three forms of data. First, we conducted ten semi-structured interviews with NSWPF personnel in 2017. The interview sample was purposive in that respondents were selected on the grounds that they were currently or recently employed in portfolios with direct responsibility for bias crime or with responsibility for communities vulnerable to bias crime. Respondents included a mix of operational, policy and senior executive staff. They were asked questions about their experience and perceptions of the NSWPF's response to bias crime, centring on the broad research questions identified above. Interviews lasted between 1-2 hours. They were recorded and analysed using inductive thematic analysis (Ezzy, 2002), drawing on recurring patterns and divergences amongst respondents. This generated four analytical themes that we use to structure our analysis: how the NSWPF define and identify bias crime; how they frame the problem; reporting and recording practices; and the internal and external orientation of the bias crime initiative.

Secondly, we were given access to the Bias Crime SOPs, which includes a set of indicators for



frontline officers. We draw upon the SOPs in our analysis of the interview data. Thirdly, the NSWPF provided bias crime data from July 2007 to January 2017. All criminal incidents in NSW are logged in the Computerised Operational Policing System (COPS) but significant changes to bias crime data collection systems between 2007 and 2017 make firm conclusions about trends or patterns difficult. Hence, the interview data provides the primary source for the following analysis.

## Results

### Defining Bias Crime

The Bias Crime SOPs provide guidance for police to identify and investigate bias crime. They define bias crime as a criminal offence 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' (NSW Police Force, undated, p. 7). The 'essence' of bias crime is 'the motivation or intent of the offender – not necessarily the perception or belief of the victim' (NSW Police Force, undated, p. 4). Respondents were clear that this definition is deliberately strict, requiring firm evidence of a biased motive on the part of the offender (P1, P2, P3). All agreed that premeditated offences driven by systemic hatred fell within this definition but there was much disagreement over incidents involving mixed motives. For example, some were not convinced that bias crime extends to 'opportunistic' offences where the victim is targeted on the basis of a racial or sexual stereotype that they are an 'easy mark' (P2, P8). Other respondents excluded incidents where 'hate speech' erupts within a pre-existing conflict. One example involved a neighbour who spray painted racial abuse on another neighbour's car following a dispute: 'it's just the language that was ... racially motivated' (P1). Despite the fact that the SOPs are clear that a bias crime need only be partially motivated by prejudice, the absence of evidence that bias was the offender's overwhelming motive rendered these kinds of incidents marginal or ambiguous for some police respondents.

These narrow interpretations contrast with approaches taken by law enforcement agencies in the US and UK, where the targeted selection of victims or the demonstration of prejudiced hostility respectively are likely to be categorised as bias crime. Although the SOPs definition is consistent with NSW sentencing legislation (s 21A(2)(h) *Crimes (Sentencing Procedure) Act 1999*), it is open to the NSWPF to adopt a more flexible definition that resonates with targeted communities. Recent research with Victoria Police suggests that there is often a disconnect between police and community understandings of bias crime (Mason, et al., 2017). One way to arrive at a common understanding, and enhance the external legitimacy of bias crime strategies, is to enable stakeholder communities to have input into the definition of bias crime before it is organisationally cemented. Although every respondent we interviewed recognised the need to 'minimise the gap' (P8) between police and community perception, this good intention has not infiltrated organisational definitions or interpretations of bias crime. As one respondent put it, if the police had to take into account community views, 'you would get so many special interest groups wanting to have their own input into the definition it probably wouldn't be workable' (P2).

**Commented [SS2]:** Is this a recommendation to us from the study?

This strict, top down approach to defining bias crime has implications for the capacity and willingness of NSWPF personnel to identify bias crime. In tune with international experience (Giannasi, 2015), respondents saw the identification of bias crime by frontline officers as a major problem. Unless there is blatant evidence of a biased motive on the part of the offender, the 'average cop' simply does not understand or identify bias crime: 'The biggest challenge is police actually identifying that it could be ... and sow that seed of thought in their head as to why [the offence was committed]. And it's a hard sell ... from a general duties point of view' (P8; also P3, P5, P6, P9). A mix of factors were said to contribute to this 'hard sell' amongst general duties officers: they are too busy to ask 'why' an offence was committed; they do not see it as core business given

**Commented [SS3]:** Is the issue just definitional ... the issue of identification of bias motivated crime is more complex than just the definition.

they cannot lay a charge of bias crime; the SOPs bias crime indicators are too complicated; and there is a lack of systematic training explaining the nuances of bias crime (P3, P4, P7, P8, P10). Poor understanding amongst frontline officers translates into misidentifications of bias crime in COPs, for example by flagging an incident solely because the victim was from a minority group (P2, P4, P9).

**Commented [SS4]:** Is it a lack of systematic training? Saba in her interview stated that the integrated training strategy was very systematic. The key issue was in the fact that the Unit Coordinator was also the trainer and the process of developing capability of others was in train. The block was more in implementing a parallel training process. Further with respect to LGBTQ, Bias Crimes input was always included in GLO Course and case scenarios quite systematically.

Concerns about comprehension also applied to senior management, who were said by several respondents to neither understand bias crime nor appreciate the value of a specialist law enforcement response: 'The major challenge has been to get people to take it seriously ... and getting endorsement from senior management (P10; also P6, P7, P8, P9). In the past, this ambivalence has generated a tendency for senior officers to jump in and say "no, this is not bias motivated"' (P8). While this approach might help maintain the public image that the police are 'in control', it tends to edit out victim perceptions which, as one respondent put it, does little to appease an 'angry community ... and makes them think we don't take it seriously' (P8). Encouragingly, it was suggested that spokespersons are increasingly following SOPs advice to fully investigate all possible motives before making public comment (NSW Police Force, undated, p. 37).

**Commented [SS5]:** Corporate and Region Sponsors are increasingly following SOPs advice to use the phrase "We will investigate all avenues" before making any definitive public comments about whether an incident is bias motivated or not bias motivated.

Training emerged as a vital solution but also a key battleground in the struggle for accurate identification. Currently, the limited resources of the BCU make it impossible for systematic training to be rolled out across the force. Instead, training is offered sporadically at regional and command levels, for example, station training days. Respondents were overwhelmingly confident that even this degree of circumscribed training has had a positive impact on the understanding and recording accuracy of those who have received it (P2, P7, P8). For instance, in regions where bias crime training has been delivered, one respondent claimed that 'there's been a steady increase in recorded matters and the quality has really increased' (P8). Other respondents cited quality assurance measures undertaken by the NSWPF in the last couple of years, such as real-time training exercises and 'mystery shopper' tests of customer service, that have demonstrated internal capacity for crisis response and day-to-day service delivery in relation to bias crime (P1, P6, P8). While there was much support for integrated bias crime training there was a noticeable disparity in views about when, where and how such training should be delivered. Should it be embedded in the curriculum for recruits at the NSW Police Force Academy or is this simply too much, too early? This divergence of opinion corresponds with recent research that reveals much uncertainty about the most effective models for bias crime training, particularly for recruits (Trickett & Hamilton, 2015; Miles-Johnson, et al., 2016).

### Framing Bias Crime

'... it's looking at the greater picture' (P9)

One of the common themes of the bias crime orthodoxy is that an otherwise 'ordinary' crime when done as an act of prejudice/hate has an added and multilayered impact. While the victim directly experiences this aggravated damage, it also impacts the immediate community associated with the prejudice; usually characterised as a minority community. The community as a whole is also damaged. How does the relationship between these three forms of victimisation shape the NSWPF bias crime initiative? Of particular interest is the nature and role that the 'greater picture' plays in informing the organisational culture and adding value to service delivery.

The 'greater picture' has two characteristics. The first is that it sets incidents of individual interpersonal violence within the context of major incidents of mass public disorder, such as the 2005 Cronulla riots, public unrest amongst Indian students in Harris Park in 2009 and a protest in Hyde Park in 2012 in response to an anti-Muslim video. These three public order incidents, all associated with racial and ethnic tensions, were identified by some respondents as bringing a unique



dimension to the experience of policing prejudice related violence in NSW: 'NSW is the only Australian state to have three major public order incidents based on race and religion' (P7). Regarded as both indicators of past weaknesses in policing and a driver behind the current bias crime initiative, these public order incidents provided a frame within which this initiative was shaped, explained and justified. One key informant described the link in the following terms: 'many of the things that sit within the bias crime portfolio are drivers of that unrest ... those ripples will emerge in your community and the worst case scenario is you end up with significant public order issues' (P1). This locates and attributes significance to individual incidents that, although not amounting to a criminal offence, are precursors not only of future bias crime but also of mass disorder. Here the value attached to taking bias seriously is the potential to predict mass violence and disorder.

The second dimension of the 'greater picture' is captured in the characterisation of organised hate groups and right wing extremists as a key driving force behind bias crime: 'they may not necessarily be the ones that commit them but it's the frenzy they whip in people's minds' (P8). Much of the work of the BCU has been to build up a relationship of trust with right wing groups in NSW: 'they trusted us enough that we would allow them to do what their democratic rights allowed them to do so long as they didn't overstep the line. They trusted that and they were thankful' (P8). The rationale for making right wing groups core business for the BCU was to gather intelligence and pre-empt public disorder (P7, P8, P9). In this context, the organised group functions as a symbol of bias that has a 'ripple' effect, described above, on the minds and emotions of ordinary people. The emphasis placed on right wing groups also reflects the definitional distinction we noted earlier between crime where bias is the primary or overriding reason for the act (true bias crime) and opportunistic crimes driven by 'criminal astuteness' or unplanned encounters. The heavy emphasis placed on motive in the SOPs led some respondents, albeit not all, to see the latter as 'just targeted selection' rather than bias crime (P2). The synergy between mass disorder and organised groups is in the potential for the latter to precipitate or participate in the bias related drivers generating the former.

**Commented [SS6]:** What does this mean?

Respondents in a variety of policy settings explained that initiatives that focus on improving the delivery of policing to minority communities do not 'hit the big ticket items' (P8) that are 'core business' for the organisation, such as terrorism or domestic violence. This was poignantly captured by one respondent who commented that bias crime was viewed within the NSWPF as 'the graveyard shift: what you do when you've done everything else' (P6). This lack of institutional recognition is compounded by concerns about 'unconscious bias' amongst personnel at all levels (P5, P6, P9, P10). The challenge of valuing this work is echoed in findings in other jurisdictions such as England and Wales. A review of the impact of the reforms that flowed from the Macpherson Report, found that units that had particular responsibility for prejudice motivated crime were not valued in the wider policing environment where their work was disparaged as 'pink and fluffy' in contrast to the 'glamorous and sexy' work in other departments (Foster, Newburn & Souhami, 2005, p. 91). Framing bias crime and bias incidents as a mainstream problem of mass public disorder promises to add value to an initiative that otherwise has little institutional worth for front line officers.

**Commented [SS7]:** Incorrect quote taken out of context – the reference to 'graveyard shift' was made in relation to historical diversity training.

If the 'greater picture' framework had the potential to facilitate wider 'buy in' within the organisation by enhancing legitimacy with operational and executive audiences, it also has the potential to be self-defeating. One problem is that everyday individual victim experiences may be devalued and displaced, becoming a means to a different and more institutionally valued end. Although the BCU has worked tirelessly to gather intelligence from the right wing in NSW, a majority of respondents questioned the relevance of this focus, including its bearing on Aboriginal, LGBTI and disabled communities (P2, P3, P4, P5, P6, P10). Research with the London Metropolitan Police has shown that taking a 'big picture' approach to bias crime is invaluable but, in that environment this 'greater picture' was not about enhancing internal legitimacy but, rather, about generating local

intelligence to improve liaison with marginalised communities, many of whom have a history of secondary victimisation informed by prejudice within law enforcement (Kielinger & Paterson, 2005). Repackaging bias crime as 'real' crime does little to challenge the low value and marginal status of community liaison, another 'pink and fluffy' aspect of police work (Foster et al., 2005). Yet it is victim liaison, community partnerships and multiagency activity that are the most effective generators of intelligence about the nature and consequences of 'bias crime'. When compounded with widespread unconscious bias, the 'greater picture' may sacrifice the needs of individual victims who experience high levels of prejudice in their daily lives on the altar of more 'glamorous and sexy' police work. In this climate, lack of trust in the police resulting in low levels of reporting is likely to endure despite well-intentioned bias crime initiatives.

**Commented [SS8]:** Confusion between community liaison positions and community engagement process

**Commented [SS9]:** There have been many attempts since 2005 to explore the impact of community engagement on policing.

### Reporting

Victims play a vital role in law enforcement (Murphy & Barkworth, 2014). They are relied upon to report crimes to the police and provide evidence that is central to investigation and conviction. They also play a key role in providing wider intelligence about the possibility of future criminal wrongs, even where immediate reports do not amount to criminal offences. The importance of the role of victims in bias crime reporting is recognised in the SOPs (NSW Police Force, undated, p. 42), which record four categories of bias related events:

- bias crime: evidence of a bias motive 'beyond reasonable doubt'
- suspected bias crime: bias cannot be proven but there are 'reasonable grounds' to suspect it
- bias incidents: evidence of bias but no criminal offence has been committed
- not a bias crime: no evidence of bias

Only the first category links the operating procedures to successful prosecutions capable of attracting a higher sentence. The second links the bias crime initiative to policing more generally and the third category is designed to connect victim reports to wider intelligence gathering and risk management functions: 'bias incidents precede bias crimes and the incident is the canary ... it does end up in big rallies in the main thoroughfare of Sydney' (P1).

It is a commonplace of bias crime debates, backed by community victim surveys, that bias crime is underreported to the police (Benier et al., 2015; Giannasi, 2015). Most respondents acknowledged that the number of bias crime reports to the NSWPF is small and indicative of under reporting (P1, P2, P3, P7, P8, P9, P10). Looking at the bias crime data for July 2007 to January 2017, only 760 cases referred to the BCU over this ten year period were determined to fit the criteria of a bias crime, while 1058 were categorised as suspected bias crimes and 649 as bias incidents. There are many reasons why people do not report crime to the police (Foster et al., 2005) and police rarely want to see levels of reported incidents increase. In the context of bias crime, however, respondents were of the view that increased reporting was desirable due to the 'massive' relationship between community trust and reporting: 'if the community doesn't trust you they don't talk to you ... they cut you off' (P9). Increased reporting would signal enhanced confidence in the NSWPF amongst targeted communities (P1, P3, P6, P9).

**Commented [SS10]:** Need to reference once again that the Bias Crimes Program was dis established for 3 years in between this period.

In part, the current NSW bias crime initiative is designed to address this problem of under reporting by way of improved data capture mechanisms. Previously, where prejudice was identified as a factor in a crime, frontline officers were required to 'tick' one of multiple boxes in COPS to select the appropriate type of bias (eg race or religion) and provide answers to a set of questions. This system was said to be labour intensive and led to the kind of misidentification that we have identified above (P7). Many reports flagged as bias crime were never looked at again due to the absence of 'intell capability' (P7). The current bias initiative has a number of features that seek to meet these problems. The multiple flags have been swept away and replaced by a simple 'one box' category of



'bias motivated associated factor'. The BCU then reviews all of these reports for 'quality assurance' (P1) based on available evidence (eg: whether it is a 'bias crime', a 'suspected bias crime' or 'not bias crime') and classifies them according to the nature of the bias (eg: race or religion). According to some respondents, this simpler system means that 'the standard of recording has really improved' (P8) but according to others there are still 'many, many wrong flags' (P9). The impossibility of sustaining this system, however, was clearly articulated by one respondent: 'we were creating a single point of failure and you can't have that in a process ... you can't have an organisation of 20,000 being serviced by three' (P1).

**Commented [SS11]:** This is a process improvement that is actively being looked at by the organisation, most recently by the Corporate Sponsor, Sexuality & Gender Diversity in the context of StrikeForce Parrabell.

Respondents drew a distinction between the 'US' and the 'UK' models of recording bias crime. The NSWPF was described as having adopted a US model. This 'investigative approach' is 'more accurate' because, as we noted above, it requires 'clear evidence' of the 'offender's intent' (P3, P8). By contrast the UK model was described as relying on 'a perception test' whereby the naming of an incident as bias crime is not the sole preserve of the police but, rather, is defined as such by the 'victim's perception' (P8). This was identified as creating two problems. First, it is overly sympathetic to 'angry' communities whose perceptions 'can be way off' (P3): 'Are we just keeping the community happy to keep them happy or are we keeping them happy because we're doing our job effectively ... Sometimes ... I don't want to use the word cow tow but we can be too sympathetic' (P8). In turn, this sympathetic approach produces an 'over-representation' of recorded bias crime that, in the UK for example, 'blows their figures through the roof' (P8, P1). It was suggested that the category of 'suspected bias crime', if explained properly, can offer a middle ground to communities who are upset because 'they feel their story is not getting heard', by demonstrating that their complaint is 'taken seriously' (P8).

In the final instance, the US model puts the ultimate decision about the nature of the incident in the hands of police, despite conflicting community perceptions. What is missing from respondents' response to the UK model is an understanding of the reasons for this approach. The openness of this model to those outside the police is a way of addressing the possibility of prejudice within the organisation itself (Macpherson, 1999). The naming of an incident as a bias crime sets up a requirement to investigate it as such. This circumvents possible police failure to proceed on that basis. If, as the UK experience suggests, the number of reports are likely to rise under this model, this is potentially a positive sign of greater police engagement with issues of bias rather than a threat to stakeholder perceptions of the police. In 2016, almost 17,000 bias crime events were reported to the London Metropolitan Police, the large majority of which (14,722) were incidents of racial and ethnic hate (Mayor of London Office for Policing and Crime, 2018). As one 'dissenting' respondent pointed out, the UK model provides a much better strategy for meeting the safety needs of minority communities, particularly reducing fear of crime, a service delivery priority of the NSWPF Corporate Plan 2016-2018 (P4).

### Orientation

There are two angles to the orientation of the NSWPF response to bias crime. The first is the extent to which the initiative has been individually or institutionally driven. The second is the extent to which its service delivery model has been directed towards external stakeholders.

The concept of bias crime is foreign to the investigative model of law enforcement and research suggests that individual champions are essential to drive bias crime through the organisational structure and culture (Grattet & Jenness, 2005). This is borne out in the NSW experience, where a tiny handful of individual players were identified as responsible for the progress made to date. As one respondent put it: 'it's the only way we've survived' (P7; also P1, P2, P4, P6, P10). This reliance on the commitment of individuals, rather than the institution, has drawbacks. First, when an organisation loses these individuals it loses the drive and expertise essential to protect and promote



initiatives that have not yet been embedded in the agency's business model (P7, P8). Second, corporate knowledge that is tied to individuals is tied to the priorities of these individuals (P2). As we explained earlier, some respondents commented that this has led to bias crime being narrowly framed as a twofold problem of public order and right wing groups (P2).

Eventually there is a need to move from individual to corporate drivers: 'We as individuals are not the solution to any organisational problem' (P1). To some extent the Corporate Sponsorship program within the NSWPF has provided this support by ensuring that bias crime has a dedicated sponsor at the Superintendent level to successfully push policy and procedure through the organisation (P1). However, respondents were quick to point out that while this mid-level support is necessary, it is not sufficient. A sustainable program of assessment and response requires genuine 'buy in' at the executive level (P3; also P4, P5, P6, P8, P9). This degree of institutional commitment seemed elusive for a number of respondents. Some put this down to the inevitable competition for resources in large organisations, which resulted in bias crime being 'buried' in Operational Programs where it was 'invisible' to frontline officers and tangential to investigation (P7, P8). Others were more sceptical, pointing to unconscious bias amongst senior executive and a lack of political will: 'the biggest issue with NSW police is we're run by old white men' (P7); 'bias crime is the unwanted secret. We don't want to admit publicly here in NSW that we have tensions between various racial groups' (P8). The recent move from a policy to operational portfolio was identified as an opportunity to redirect priorities, develop investigative capacity and build the profile of the BCU, particularly within a business unit such as counter-terrorism that has significant 'street cred' within the institution (P8, P9, P10). Equally, however, some respondents believed that until the leadership vacuum is addressed, bias crime will continue to stay on the 'backburner' (P9, P6).

**Commented [SS12]:** This quote adds no value and seems to be quoted out of context. It should be removed.

The external service delivery model of the NSWPF centres on the Local Area Command. Most police-public encounters around bias crime happen at this level. With limited resources, community engagement has never been core business for the BCU. Rather, their current responsibility is to 'create the framework' within which community engagement can happen at the local level by monitoring bias crime across the state and providing LACs with monthly advice on local patterns and trends (P2). However, it became apparent during the course of our study that the BCU has engaged closely with one particular community: organised right wing groups. As we discussed above, right wing groups have been seen by the BCU as a source of intelligence and a key entry point for preventing future public unrest (P1, P7, P8, P9). Others, however, were less convinced: 'At times it was like we were watching American History X' (P10; also P3, P4). This orientation has made it difficult for the unit to develop synergies with other portfolios that focus on vulnerable and marginalised communities (eg: through the ACLO, ECLO, GLLO programs) (P3, P4, P5). It also means that there is no established conduit for the 'voice' of victim communities to play an instrumental role in the work of the unit: 'we've got to see how they see the world because if we don't know how they see the world or how they see the experiences ... then how can we manage the response to that? ... and nowhere is that more important than in the bias space' (P6; also P9).

**Commented [SS13]:** This is inaccurate. BCU engaged many communities – Muslim communities, Indian, Businesses, mosques. They engaged through MCLOs, ACLOs, CPOs, YLOs, GLLOs. They provided input into training and forums quite consistently such as ACLO, MCLO Conference, CPO, GLLO training, YLO training, Bias Crimes and diversity simulated desk top exercises for middle managers and leaders.

**Commented [SS14]:** See above. The perspective in the article seems to be that the BCU did not focus on community engagement, although the SOPs say they are central. This is not accurate. The BCU does not have to "do" all of the community engagement themselves. Rather, we do that organisation-wide through our front line and all liaison officers. In addition, BCU engaged with some peak organisations as well as per examples provided above. I think the fact that Bias Crimes was so regularly a presenter or agenda item at all liaison officer professional development days points to synergies that were being forged.

Proactive community outreach was thus identified by several respondents as the 'number one' priority if under-reporting is to be ameliorated in communities that have histories of poor relations with police, such as the Aboriginal, Muslim and LGBTI communities (P9; also P5, P8, P10). This is well recognised in the Bias Crime SOPs which state that 'sustainable community engagement is the key to addressing, responding to and preventing' bias crime (NSW Police Force, undated, p. 4). Police-initiated consultations, for instance, were proposed as an essential first step to build trust with stakeholder organisations, which can then roll out strategies for improved understanding of bias crime within their own communities (P10). Arguably, engagement with victim communities is even more important now that the unit has been relocated to the FPIU where the dangers posed by a handful of extremist offenders could readily overshadow the everyday humiliation experienced by bias crime victims at the hands of ordinary people (Iganski, 2008).



The extent to which the BCU is re-oriented towards targeted communities will ultimately 'come down to what the senior executive want[s]' from the unit (P8). In other words, it will come down to the question of purpose and direction. For some, this purpose has never been transparent: 'I think the direction in this organisation has always been to shut the minorities up ... that was their direction' (P7; also P8). Others, however, took a more pragmatic approach, pointing out that any lack of direction has had more to do with the fact that: 'We were building the plane while we were trying to fly it' (P1). Either way, the next evolution of the bias crime initiative provides an opportunity to settle this purpose.

### Discussion

Our study reveals that much progress has been made since the NSWPF first began to respond to bias crime in 2007: a dedicated unit has been established; standard operating procedures have been developed; a policy statement has been endorsed; bias crime has been included as an 'associated factor' in the COPS recording system; specialised training packages have been delivered; the capacity of officers to identify, record and respond to bias crime has improved; and potential offender groups have been monitored in the interests of public order. Much of this headway can be attributed to the expertise and commitment of individual staff, supervisors and managers.

The search for legitimacy, however, has hindered and isolated bias crime initiatives from the start. This is apparent in the ways that internal and external audiences have received the bias crime initiative. Unlike 'big ticket' items such as organised crime or terrorism, bias crime has struggled to achieve traction with senior executive or to penetrate corporate culture. This appears to have filtered down to a lack of confidence amongst frontline officers that identifying bias crime and complying with recording rules is core business. In the absence of a distinct statutory offence, bias crime remains a remote administrative category more than a useful legal category, one that is seen as adding little value to everyday policing. The NSWPF has had long-standing success in its diversity portfolios, including those that work with multicultural, Aboriginal, disabled, homeless, elderly and LGBTI identity categories. The bias crime initiative and recording system attempts to bring all of these strands of diversity under the one umbrella. While the location of bias crime within the same command as other diversity portfolios was designed to tap into this wealth of institutional expertise and corporate memory, our study suggests that the tendency for silos to develop in large policing organisations (Bartkowiak-Theron & Asquith, 2015) has precluded this ideal from being fully realised.

A top-down approach to defining and recording bias crime has afforded the NSWPF significant control over the image of bias crime available for internal consumption. At the same time, this approach has partly isolated bias crime from the model of broad community engagement adopted by these other portfolios. This is most notable in the framing of bias crime as a problem of right wing groups and civil unrest. The recent relocation of the BCU into the new FPIU business unit is an opportunity to re-frame the kind of specialist knowledge available to support operational policing. The risk, of course, is that bias crime will be further siloed as a problem of individual pathology and extreme motivation rather than one of everyday opportunism, public safety and crime prevention. The articulation of a clear purpose and vision for the BCU from senior executive - backed by resources and evidence-based training - would provide a much-needed strategic framework for identifying the future priorities of the unit: what is it designed to achieve? It will also provide a statement of endorsement that bias crime is core police business, so essential for internal legitimacy and a change in corporate culture.

In terms of external stakeholders, two core Priorities in the NSWPF Corporate Plan 2016-2018 (New South Wales Police Force, 2016) are to 'build sustained community engagement' and to 'protect the vulnerable'. Indicators of success in achieving these goals include community 'confidence' and 'satisfaction' with police. The move to an operational business unit with an emphasis on individual pathology, extremism and counter-terrorism may enhance internal legitimacy but the challenge for

**Commented [SS15]:** The concept of fully integrating bias crimes into the Corporate Plan is not a new discovery, in fact it was and has been the intention all along which is why an integrated approach was developed.

the FPIU will be to orient the work of the BCU towards sustainable community engagement around systemic social problems of inequality. Building confidence between police and marginalised communities requires 'dialogue' (Bottoms & Tankebe, 2016, p. 160). To date, the voices of communities most vulnerable to bias crime have had negligible instrumental impact on the ways that the NSWPF responds to bias crime. Victim perceptions and experiences are largely excluded from the definition of bias crime, from criteria for recording and from the overall orientation of initiatives. The impact of this isolation is apparent in the low reporting rates for bias crime, suggesting that targeted communities continue to see little reason to trust the NSWPF in this area.

Policing is by nature evidence-driven, which often carries with it the kind of offender-oriented approach our respondents identified, but victim-focused understandings of harm also need to be placed and regularly re-placed at the core of how bias crime is defined, recorded and addressed (Perry, 2016). This requires the establishment of partnerships with stakeholder communities, including representatives of targeted communities but also Local Council, business, universities and government departments at the state level. Strong partnerships with well-regarded community stakeholders provide a source of expertise and authority that can bolster the legitimacy of bias crime initiatives with internal and external decision-makers: as one respondent put it, 'you can't turn to a white supremacist to provide this kind of leverage' (P10).

#### **Conclusion**

The problem of bias crime is well documented in NSW. The recent re-engineering of the NSWPF provides an opportunity to significantly redirect and reorient its response to bias crime. Sustainable policing solutions depend on the full integration of bias crime into the force's corporate plan, recording systems, data analysis, strategic intelligence, education programs, routine policing in Local Area Commands and processes for instrumental consultation with civil society. It also calls for public statements of institutional commitment and investment in tactical evidence-based evaluation of the progress of initiatives in this domain. The tension between enduring corporate culture and best practice in bias crime policing remains to be resolved.



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