

REPORT ON PROCEEDINGS BEFORE

STANDING COMMITTEE ON SOCIAL ISSUES

GAY AND TRANSGENDER HATE CRIMES BETWEEN 1970 AND 2010

CORRECTED

At Macquarie Room, Parliament House, Sydney, on Friday 9 November 2018

The Committee met at 9.00 a.m.

PRESENT

The Hon. Shayne Mallard (Chair)

The Hon. Greg Donnelly

Ms Cate Faehrmann

Reverend the Hon. Fred Nile

The Hon. Mark Pearson

The Hon. Penny Sharpe

The Hon. Natalie Ward

ANTHONY PAUL CRANDELL, Assistant Commissioner of Police—Education and Training, sworn and examined

The CHAIR: Welcome. I noticed that you were in the audience and listening, which is really good. I remind everyone here and those who are watching today's hearing through the internet that the hearing will contain information about violent crimes committed against the lesbian, gay, bisexual, transgender, intersex, queer [LGBTIQ] community that may be distressing. If you are in need of assistance, I encourage you to seek support from counselling services, such as QLife, ACON, and Lifeline. Contact numbers for those services can be found in the brochures available at the back of the hearing room and on our inquiry website.

The CHAIR: We have your submission. Would you like to make an opening statement?

Mr CRANDELL: Yes, I would. Today's police force is a very different organisation to the agency it was 40 years ago when the first Mardi Gras in Darlinghurst resulted in violent confrontations with police—fifty-three arrests and 53 identities published when same sexual attraction was legislated as a crime. The degree of animosity towards gays and lesbians was not isolated to any particular section of society, with the police force no different, enforcing legislation prior to and beyond 1984 that classified natural behaviour as criminal. Social acceptance of gender and sexual diversity has extended well past 1984, delayed by the AIDS crisis, grim reaper imagery, and an historical acceptance of violence against LGBTIQ communities. The police force reflected the community and was no different, with culture and values taking far longer to evolve. There is still work to be done.

Within the period under review, social attitudes towards beats created dangerous environments where men were identified as legitimate targets of violence, unlikely to ever seek police assistance. Strike Force Parrabell is not commentary upon the level of violence directed against LGBTIQ communities. The NSW Police Force is acutely aware of and acknowledges without qualification the shocking violence directed at the LGBTIQ communities during the seventies, eighties and nineties. It is clear that the level of violence inflicted outside of Strike Force Parrabell's charter because of the victims' survival, was elevated, extreme and brutal. It is equally clear that many of these cases were not properly investigated and that victims were let down. The NSW Police Force accepted a culture and society that marginalised people who happened to be sexually or gender diverse. Since 1984-85 the NSW Police Force has made slow but steady progress through strong community partnerships, an active engagement agenda, and a glowing network of LGBTIQ champions across the force that, as at 4.00 p.m. today, will increase to 233 officers, with 29 graduations.

The CHAIR: Mr Greenwich is attending that.

Mr CRANDELL: I will see him there.

The CHAIR: Thank you for coming in today and recognising the sensitivity of this inquiry and the expectations of the community for us to conduct this inquiry. Could you outline how Strike Force Parrabell came about and give a chronology of the history of how we got to that report?

Mr CRANDELL: Strike Force Parrabell commenced in 2013, but in 2013 that was a single officer who was attached to the Vice Crimes Unit. That officer was tasked with looking at crimes that were potentially bias related, and there was an 88 list that was published by the Australian Institute of Criminology. That officer only got to one case, and that was the Scott Johnson matter. That officer really simply assisted the Unsolved Homicide Unit. In 2015 I reinvigorated Strike Force Parrabell and changed their terms of reference. It became from an operation in 2013, to a strike force in 2015 because of its longer term nature. That was an 18-month project and required the secondment of up to ten detectives from across the Central Metropolitan Region. That was authorised by our commissioner, who was then Assistant Commissioner of Central Metropolitan Region, Michael Fuller.

Those officers worked for 18 months on a review, not a reinvestigation. That distinction is important because a reinvestigation, as you could appreciate, constitutes a much larger undertaking and certainly would not take 18 months. Strike Force Parrabell reviewed 86 homicides—sorry, not homicides, 86 deaths of gay men and transgender people. There were two cases that were not reviewed. One was a 1978 case that had no material at all, no records at all, despite many attempts to find those records. Another case listed was a death in Tasmania, and outside the jurisdiction. There are statistics in relation to the other 86 cases: 23 of those cases remain unsolved; 63 of those cases are solved, resulting in 96 charges and 80 offenders being put before the courts. There were a number of acquittals but there were also a number of convictions for various matters, predominantly charged with murder but then plead down to manslaughter, as well as other offences that were committed.

Strike Force Parrabell originally was put together to bring the community closer together. It was about acknowledging the past. It was about looking at failures in policing. It was about looking at whether we could assist from this point in history and move us closer together. Whether it has achieved that aim or not, I do not know. It has certainly given us a little bit more clarity around whether bias-motivated crimes should or should not have been listed on that 88 list. Can I put that into perspective as well? This is only about the 88 listed deaths. It is not about violence across the community, or people who may have survived. It is very difficult to quantify the number of homicides in New South Wales between 1976 and 2000. I have attempted to do that and our statisticians have had a look at different databases, because we have a COPS database that did not come into play until 1994. It is an estimate but we think about 2,540 homicides in New South Wales between that time frame. These 88 deaths are simply from a list compiled by the Australian Institute of Criminology, Sue Thompson, who was a former gay and lesbian liaison officer for the NSW Police Force, and had some input from Stephen Tomsen, who is an academic now at the University of Sydney.

The CHAIR: You heard from ACON, and probably generally, that there is disappointment from the community about Parrabell. Is that because the expectation was it would be an investigation as opposed to a review?

Mr CRANDELL: I do not believe so. A review is basically looking at what material we have available to us. Some of those case files were up to 90 boxes of paperwork from archives. It was a huge undertaking for those officers, ten officers over 18 months. There may be some disappointment from victims' families, who are very difficult to identify now with the passage of time. I do not believe it is because it was a review. The 23 cases that are outstanding are part of a review process from the unsolved homicide team. There are a number of reasons why those matters are unsolved. It is not simply because we do not know necessarily who the perpetrator is. It could also be that a person was charged and acquitted. It could be that the circumstances are simply unknown.

The CHAIR: The 23 unsolved cases, effectively those files are open?

Mr CRANDELL: Yes.

The CHAIR: What was the term you used for reviewing the historic cases?

Mr CRANDELL: Unsolved.

The CHAIR: They obviously had a lot of cases on their desks. They are looking at evidence, new DNA technology, and so forth?

Mr CRANDELL: Yes, they are. I have a brief version from them. I apologise for reading. The unsolved homicide team has configured a model consistent with a United Kingdom model where there are different categories of homicides. One is unsolved, so not resolved in any person charged. Unresolved, so judicial proceedings are commenced but the matter has been withdrawn, suspects are acquitted at trial, or the suspect was convicted and that conviction was later overturned. They are unresolved matters. Undetermined matters, where the cause and manner of death is unknown and cannot be established; apparent suicide, but there is doubt as to the manner of death; apparent misadventure, where there is doubt as to the manner of death, or referred to the homicide squad by the Coroner.

Then there are solved matters. Those solved matters are only for matters that a suspect has been charged, convicted and all appeals are finalised; a suspect has been acquitted on the grounds of self-defence or mental illness; or an arrest warrant for a homicide offence is in existence but the suspect is still outstanding. They are the classifications. But the unsolved homicide team will review all outstanding matters. It rotates on a six-monthly basis. The commander of the homicide unit will write to the families of the victims to say whether or not there is fresh information that has come in or not. That is a constant review. If there are further inquiries to be made, then that is sent out to the different regions or wherever the death occurred in the first place. That is then given oversight by the homicide squad.

The CHAIR: The alleged perpetrators would be late middle age now?

Mr CRANDELL: Yes certainly.

The CHAIR: Have there been rewards offered for information?

Mr CRANDELL: There have been rewards offered. It is not a blanket coverage. I know that the commander of the homicide squad has said that he sees the reward system as that of an investigative strategy and generally you will see rewards come out where there is a likelihood of resolution.

The CHAIR: As people are getting older, more people become aware and conscience comes into play.

Mr CRANDELL: The difficulty is that, as the cases age, if you are relying on eyewitness testimony that can be difficult. There is certainly a case in the 88 from Parrabell where there is DNA evidence that is available. It has not been identified at this stage so that case needs regular reviewing to make sure when that does occur, we act.

The Hon. PENNY SHARPE: I want to pick up the issue of unsolved homicides, in particular, the Scott Johnson case. Obviously there was a Coroner's finding that he most likely died at the hands of others.

Mr CRANDELL: Yes.

The Hon. PENNY SHARPE: What action has been taken by New South Wales police in the year that has followed that finding?

Mr CRANDELL: I know there has been correspondence and discussion with Mr Johnson's lawyer. There was a reference made by New South Wales police to the New South Wales Crime Commission. That reference has been returned to the NSW Police Force. They have now put together a task force with the sex crimes squad not being part of the homicide squad, as was the request from Mr Johnson's family. That task force is being set now to have a look at a lot of the outcomes of the coronial investigation and look for a way forward, I guess.

The Hon. PENNY SHARPE: Not an investigation, but potentially another investigation?

Mr CRANDELL: It will be another investigation.

The Hon. PENNY SHARPE: There will be another investigation?

Mr CRANDELL: Yes, there will.

The Hon. PENNY SHARPE: I know you are not directly involved in this, but I am interested. I have been very concerned about the Johnson case and some of the other cases and, in some way, this is why we are here. I accept that there have been a lot of changes. I also would make the point that there is still a long way to go and I am not at all confident that within all areas of the police these matters are being dealt with appropriately. I am not putting that on you, Assistant Commissioner. I want to know, why did the NSW Police Force resist the finding of homicide in the case of Scott Johnson after three inquiries? They fought right up until the end.

Mr CRANDELL: There are individual views and there are views of the police force. The individual views have come to the forefront as that matter has gone through. The comment I ought to make about that is that the Johnson case, and many other cases, originally go before a Coroner. The Coroner, under section 10 of the Coroner's Act, has to be satisfied that the evidence before him or her is appropriate and that appropriate and full inquiries are being conducted. This was a difficulty with Parrabell too, by the way. Parrabell looks at that. When a Coroner says, "This is what I find", they are in a much better position than we are because that person has looked at it objectively.

They have all sorts of different evidence before them. When the matter goes back for a third time to a Coroner, that shows the difficulty of classification. This has been right through Parrabell. The difficulty of bias crime identification, you never get away from that. In relation to the Johnson case, I think that is perhaps more an individual matter than necessarily a policing matter. I understand the family's concerns about investigators that may not have been coming from an objective view. But when you look at it from the family view, you can see that they simply want an open and transparent investigation. I think that is our goal. That is what we should give them.

The Hon. PENNY SHARPE: They have made some strong comments about their feelings about the adversarial nature that this matter has occurred over a long period of time. Do you think that is less likely to happen in future, given the experience here, and what action has been taken to deal with that? Their criticisms have been strong. I do not think anyone wants families to be adversarial with the police when they are just trying to get to the bottom of the death of or harm to a loved one.

Mr CRANDELL: It is a difficult area. Sometimes families have expectations that cannot be met by police. Certainly some families will offer forward suspects. But it is one thing to offer a person as a suspect; it is another thing to prove their involvement or complicity. My view is that it is often a very grey area. Our obligation is to make sure it is an open, transparent and objective investigation. Are we able to do that now? I think so. I think assigning it to the sex crimes squad is a good start. There are quite a number of recommendations and there are also quite a number of inquiries from the family that obviously need to be dealt with in an objective fashion.

The Hon. PENNY SHARPE: I am happy for you to take this on notice. Would you be able to provide to the Committee the cost of the legal bills from the New South Wales police relating to the Johnson coronial inquiry? I know you would not be able to give it to me now.

Mr CRANDELL: Certainly.

The Hon. PENNY SHARPE: More broadly, some of the comments made were that there was a pattern of behaviour in some of these locations. The crimes at the time have been dealt with in a very siloed approach. As you are talking about the unsolved crimes unit going through this, what is the ability to look at those in a connected way with a broader context about what was happening at those sites at the time?

Mr CRANDELL: The answer to that lies in our classification of bias crime. It has been a difficult road. At the moment we have a document that has 10 points to indicate whether there is a bias crime or not with a caveat that says all points could be indicated and it is not a bias crime, or none could be indicated and it is a bias crime. It is simply a guide. My goal is to make it simpler for police on the street to be able to identify bias crime and get it through to a review process. If that happens, then we can see patterns of behaviour and then start talking to the community early and try to prevent the crime from happening in the first place. I think that has been a failing in the past in that we have not had the data available, we have not warned the public, we have not had police in the right place necessarily at the right time and then particularly at beats these sorts of violent offences against men are simply perpetuated.

Reverend the Hon. FRED NILE: In following up those questions, in your submission you talked about the bias crime identification. You state in your submission that once a suitable system of bias crime identification is determined, a training package will be required for information of all officers, et cetera.

Mr CRANDELL: Yes.

Reverend the Hon. FRED NILE: How close are you to getting that system for identification and the production of that package that, I assume, would be used at the Goulburn training college and so on?

Mr CRANDELL: It would, as well as right throughout the police force because the older officers obviously need to know about that as well. The current system can get us through, but the difficulty is we are not identifying each and every bias crime incident. We need more police on the ground to simply tag the bias crime report as suspected bias crime. They can now do that. I think it is—I do not know. Then there is an escalation process that goes through to higher ranked officers and indeed the bias crimes unit that then determines whether that case is or is not bias related. Of the incidents that we have recorded, there is probably about 80 per cent that are correctly recorded as bias crime and then 20 per cent that come out after review. I am happier with more being reported rather than not.

We have instructed Dr Phil Birch from Charles Sturt University to commence an international investigation, if you like, or research into an appropriate bias crimes tool. He is looking at the United Kingdom. He is looking at how to bring all that nuance from bias into something that is fairly simple for the front line and then give us more of an idea as to what is and is not a bias crime. You can see the difficulties in Strike Force Parrabell and the academic review where we have not agreed on many of the cases. I am aware that there was a submission put in for the murder of Mr Dempsey, which was an awful murder, but there are two conflicting views on whether or not that is a bias crime. To answer your question, the researchers tell me that they will have a proposal in the first quarter of 2019 for implementation in mid-2019 for a fresh look at what we are doing to try to capture more and more of that bias crime element.

Reverend the Hon. FRED NILE: You may take that on notice and give us a progress report on how that is developing.

Mr CRANDELL: Certainly.

Reverend the Hon. FRED NILE: The classification of bias crime, is there a simple way of classifying 10 classifications or 100?

Mr CRANDELL: There are a number of classifications. They are, in short, sexual orientation, sex, gender, religion, race, homelessness, gender identity, ethnic or national origin, disability and age. There are nine protected categories for bias-motivated crimes currently in New South Wales.

The Hon. GREG DONNELLY: Could you make those classifications available for the Committee?

Mr CRANDELL: Yes, certainly.

The CHAIR: You heard ACON being critical of the COPS system—what does the acronym stand for?

Mr CRANDELL: Computerised operational policing systems.

The CHAIR: On page 9 of your submission you say that in 1997 sexual preference prejudice was added as a category. ACON says it is not collecting enough information. What is your response to that criticism of COPS?

Mr CRANDELL: We were not particularly happy with sexual preference prejudice; that came in in 1995. The COPS system has been updated since then; it does not talk about sexual preference anymore, it talks about the vice crime categories that I indicated. The difficulty for me is that the officers on the ground do not necessarily have the time or wherewithal to go through all of the details to determine whether or not it is a vice crime. I think they need support from people in positions of supervision who can make a call on whether an incident is or is not. The difficulty for me is the actual recording of it, because an archive cannot show bias if it is not recorded in the first place.

The CHAIR: It would be helpful to know, especially for organisations like ACON that provide programs in communities. If it picks up that bias is occurring in regional communities, as it is in urban areas, such organisations could get some funding to do some targeted programs.

The Hon. GREG DONNELLY: Thank you for the submission. On the issue of bias crime, I think you heard evidence from ACON. If the brutal killing of an individual is conducted behind closed doors, so to speak, how does one start to comprehend whether or not that crime involved bias? The gentleman from ACON were very helpful in taking us through an explanation of their dossier concerning Strike Force Parrabell, and we will be fortunate to look at it in due course. I am trying to get the differentiation straight in my mind. If there is a public incident, it might be easier to determine whether the crime involved bias, but if it is behind closed doors, how does one discover bias?

Mr CRANDELL: It is very difficult. The sole purpose of an investigator, if they want to determine bias, is to jump into the mind of the perpetrator and what is motivating that crime.

The Hon. GREG DONNELLY: Is that undertaken by the investigating police officer?

Mr CRANDELL: Yes, and a number of things can indicate that. When you have a look at Parrabell statistics, the solved matters will show us greater indicators of bias or no bias because we have evidence of what the perpetrator was thinking or intending to do at the time. If we can get that evidence from the perpetrator then it is quite simple to allocate it as bias crime. We came up with 27 of those cases that we say either contained bias or we suspect strongly that contained bias, whereas there were 34 where we said we did not think there was bias and there was another that we did not have sufficient information to make a call.

The Hon. GREG DONNELLY: Were there effectively three subsets?

Mr CRANDELL: Yes, there was a bias crime, a suspected bias crime and insufficient information. There was one other, but I cannot remember what it was.

The Hon. GREG DONNELLY: That is alright; I do not mean to put you on the spot.

Mr CRANDELL: The investigator can go in and get circumstantial evidence, and that will take you so far. If other direct evidence from the perpetrator can be established then that is another question. When you look at the Crimes (Sentencing Procedure) Act, these sorts of things are taken into account—intent, particularly if it is bias motivated, should be taken into account by the sentencing justice. There can be a disincentive for a perpetrator to tell you the actual intention, because that may well mean a greater sentence for them. We try to determine whether a matter is bias related or otherwise, particularly in a death because there are not too many clean deaths that are the subject of investigation. Frenzy is one part of it, but there could be a range of other circumstantial or direct evidential matters that need to be taken into account.

The Hon. GREG DONNELLY: I was thinking about the recent horrible case on the northern beaches that involved frenzy and was reported in the media. There was speculation about whether the incident was drug related. I now I go to the figure of 2,540 mentioned in your opening statement. Please clarify what was covered in that figure.

Mr CRANDELL: That is the total homicides in New South Wales between 1976 and 1999. I cannot tell you that is an exact figure, because the COPS system did not come into play in the NSW Police Force until 1994. We were looking at earlier systems, basically paper reports, before that, and this is unfortunately a best guess. The lower level was estimated at 2,227, the upper was estimated at 2,854 and the midpoint is 2,540.

The Hon. GREG DONNELLY: I presume there is an ongoing procedure for seeking a refinement, enhancement or next iteration of the COPS system. These upgrades could be major at particular times, but between major upgrades there could be tweaking here and there. Is refining or adding fields into the COPS system done on a regular basis? If so, could you outline the decision-making process—the reasons and justifications for a case to be put forward to refine the fields?

Mr CRANDELL: Yes, it is an ongoing task. The COPS system is updated on a very regular basis. It is a customised system, and it draws information from many other systems. There is a priority list. If an enhancement is required, it goes onto the priority list and it is then costed and a determination is made in terms of the time frame as to when the enhancement can be done. We are currently looking at the COPS system, and I expect an enhancement to the system next year, which may be a wholesale enhancement. That would give somebody like me the opportunity to configure the system as I think it should be configured. There are always ongoing upgrades and system changes; the list is extensive.

The CHAIR: I imagine it would be helpful if we supported you in that endeavour.

Mr CRANDELL: Yes, it would.

Reverend the Hon. FRED NILE: Referring to your submission, in point No. 8 you say that a major success in recent times has been the involvement of members of the LGBTIQ community in education of every potential police officer in the NSW Police Academy. Could you outline what is actually happening?

Mr CRANDELL: In 2009 the then corporate sponsor was Superintendent Donna Adney. She was able to secure a two-hour window of opportunity to speak to each police recruit. We went a step further with that in 2013, after a disastrous Mardi Gras for the police, and introduced members of the LGBTIQ community to address every police recruit before they hit the streets.

Those people have ranged from members of the transgender community who have simply got up and told their story, and every single member of the transgender community will have a story, and also their interactions with police. I have never seen communities like LGBTIQ that value their relationship with police. It has been a difficult relationship. There is a long way to go to repair injuries and hurt from the past. But this is a really good step. It involves a presentation and a procedure over two hours where the recruits basically hear what the expectations are from the LGBTIQ community of their behaviour when they are policing. That is good for me when I do Mardi Gras each year where we do electronic briefings not only from me but also from the chief executive officer of Mardi Gras on behalf of the community to say, "These are our expectations of you as police officers."

Reverend the Hon. FRED NILE: How do you select those briefing people? Is it done by the organisation?

Mr CRANDELL: I have a senior policy officer with me which is a team of one, that is, Jackie Braw. Jackie will organise people from different parts of the community. We tend to favour the transgender community because I think that they are terribly marginalised. If you think of the gay and lesbian community 20 years ago that is where I think the transgender community may well be, possibly longer.

The CHAIR: I agree with that.

Mr CRANDELL: I just think that we should show more support. There is animosity towards the police in the transgender community, I can assure you but we are making some inroads. We erected a monument out the front of Surry Hills police station just to acknowledge on 20 November every year when it is Transgender Day of Remembrance we all gather, do a visual and some speeches and then a walk up to Taylor Square to acknowledge people that have lost their lives due to violence. A lot of those people will raise historical matters like Stonewall 69, 78 with the Mardi Gras protest activity, and there is still deep hurt in that community. We probably focus more on those people. Some of the things that hurt them we would think are fairly minor—it might be a police officer pulling them over to a person who is presenting as female and calling them by their birth name because it is on their licence. That might seem funny to a police officer but I can assure you it is not funny to a person who is in the transgender community.

Ms CATE FAEHRMANN: How much in the education module did the gay and lesbian liaison officers undertake? You just mentioned the two hours for every officer I think?

Mr CRANDELL: Yes. Our gay and lesbian liaison officer course ran for a week. We have now modified that to three days but we have guest lecturers and guest presenters that come through. They talk about relations with the community but we have also moved to a focus on support for our own officers. I am happy to say that

we have recruited many gays and lesbians over the years but we are also starting to recruit now transgender people. That is a fantastic thing because that allows us to understand the issues in that community. There is an internal support process but there is also an external community engagement process.

We have four large community events that we are always involved with each year—Mardi Gras and Fair Day and then we move to International Day Against Homophobia, Transphobia, Biphobia, and then Wear it Purple Day for youth generally—LGBTIQ youth. That is a really important thing because we need to solidify that relationship so that when these people come through as adults the police are not their enemy, we are their friend but they can at least report things to us. The underreporting is an extreme issue. If you have a look at domestic violence in same-sex relationships we estimate the reporting in that to be about 2 per cent. That has got to be an historical issue with our relationships. And then of course we have Transgender Day of Remembrance on 20 November.

Ms CATE FAEHRMANN: In relation to the education of officers, we have received a number of submissions recognising that this Committee will largely look at what has occurred in the past. A number of submissions have said that the response to Strike Force Parrabell suggested it was disappointing in that it seemed to frame everything in relation to police attitudes of the past, possibly inferring that everything was okay now. Some submissions suggested that the NSW Police Force is not perfect in relation to some instances of homophobia still within the force. They have referred to the circumstances surrounding the Johnson case as well as the alleged homophobic bullying in the Newtown Local Area Command.

The Gay and Lesbian Rights Lobby submission says that they want to see ongoing education modules relating to LGBTI people as a standard of employment for every employee of the NSW Police Force from the commissioner down. It is no longer good enough to have a handful of trained gay and lesbian liaison officers. You have just said even those officers have just three days of training. In your opinion what is stopping the police force in from having more than two hours and every member having about three days?

Mr CRANDELL: There is nothing stopping us from doing that. In fact, I would be more than supportive of that. We are moving onto some online engagement educational products. There is absolutely no reason why we could not put out educational material to more and more people. I also say that the criticisms of Parrabell I am a bit surprised at. I understand that Parrabell is an issue for a lot of people but I do not think at any stage I have indicated that the NSW Police Force is in the ideal place and there is no more homophobia, transphobia or that sort of sentiment. We reflect the community. If we can say that about the community then perhaps I could say that about the police force, but you cannot say that about the community and I cannot say that about the police force, otherwise what is my function? What is my role? My role is to make sure it gets better.

Ms CATE FAEHRMANN: That is right but in the area of education members of the police force in some way have to hold themselves above the general standard. A way to do that in the recommendations is potentially to make sure that there is training on transphobia and homophobia for your force.

Mr CRANDELL: Yes, absolutely no problem in the world. I am more than happy to spread our messages as wide as possible.

Ms CATE FAEHRMANN: I have just one more question on that. I know that there have been several reviews and community recommendations over many years that all the force should have more training. What is the resistance? Why have we not seen that yet for it to be for everybody not just gay and lesbian liaison officers?

Mr CRANDELL: I guess my view has been that we started with the recruits, and that is a really good place to start because they are making life-changing decisions coming into a police force and their lives certainly change when they go out. For me, for the past nine years, we have influenced every recruit. Eventually, as they move through, we get to a hell of a lot of police officers. I am not certain that there is resistance to do that. I did indicate Jackie as a team of one. Jackie does a marvellous job. I do not know how she does it, but perhaps it has been some sort of a misalignment with what I have seen. Being aware of that recommendation I am more than happy to push forward with it.

The Hon. MARK PEARSON: Earlier you made quite a striking statement that there was a culture of a legitimate object of violence. Was that part of the culture of the police service in the past?

Mr CRANDELL: I think it has been. When I speak about Parrabell that is about the 88 deaths. But you talk about a culture of violence beyond those deaths. I think there was. I joined the police force in 1987. I knew officers that did not come out deliberately because they were fearful. If you look at the statistics in the NSW Police Force you will see no gay or lesbian police officers prior to 1987, I can assure you, according to the statistics. So

we are getting to a better place because the gay and lesbian liaison officer [GLLO] program actually encourages people to come out and come to work and be who they are.

The Hon. MARK PEARSON: If an officer working in a jurisdiction, and more specifically in regional areas, recognises that there is a culture of homophobia or intolerance, what is the avenue for even a junior constable who does not have any other support to try to change it or deal with it?

Mr CRANDELL: We have a peer support officers program which the gay and lesbian liaison officers program complements. So there is some support mechanism in that. And then obviously they go through a complaints process. When you say a young officer, that is difficult for a young officer because that is a fairly big call to make. They are the avenues, though—to seek support from the peer support officers around them, seek support from a GLLO police officer. Yes, you can make a complaint and take that up with the commander, but beyond that I think that is probably the best advice I would give them.

The Hon. MARK PEARSON: So beyond that there is nowhere else to go if they face a brick wall at that stage?

Mr CRANDELL: No, I do not think so. There is a great emphasis on local area commands, as in police area commands now and police districts. They are not autonomous; they have a region over them, but in terms of chain of command I think individually that is the opportunity for the officer to go up that chain of command and raise the concerns. Obviously, if there is a culture of homophobia in a workplace, that is an entirely different issue and the officer would then need to potentially go outside of that chain of command, and that would depend on individual circumstances, I guess.

The Hon. GREG DONNELLY: On the question of the education modules and materials provided for the education of the police training at Goulburn and related other modules that are run, can I pose this question to you—and if you can explain to me how this is explained to a trainee or indeed someone who might be coming in to do some additional training around these matters: With respect to a transgender person who is male to female, so a transgender woman, that individual says, "I am a woman". Equally we have statements made by individuals, transwomen, that are, "I am identifying as a woman". In terms of explaining to the trainee police officers, how is it explained to them? Is it explained to them that, "We are dealing with a transwoman", that, "We are dealing with a person here who is a woman", although they were born unequivocally a male—in other words, the XY chromosomes, the gonads, all very clearly at birth—their birth sex, not gender, was male although they are transwoman. Is it explained to the police officers that, "We are dealing with a person who is a woman" and it is stated as such, even though they are at birth male, or is it explained to the police trainees that, "What we are dealing with here is a person who is identifying as a woman"?

I ask the question because I suspect that for many of the trainees, trying to grapple with some of these fine distinctions is very challenging. We have talked about LGBTI as the moniker to describe a group as such, but we know that the actual fine definition beyond that continues to grow, and just keeping aware of what those additional categories are and the actual specificity of their meaning I have to say I personally do find a challenge and do find some inherent contradictions in it, just on a plain reading of the way in which some of these terms are explained. In the curricula at the police academy, using certain language, explanations, terms, if you could elaborate on that, and particularly on this issue of a transwoman who was born biologically male versus the identification argument.

Mr CRANDELL: When we speak to the recruits, for example, we bring Pride in Diversity with us—we are a member of ACON's Pride in Diversity. They certainly talk about identification of different agendas et cetera. To go to your example, this is a problem because our instruction to the police—and I might take a piece of this on notice because I can go and check my records—

The Hon. GREG DONNELLY: If you need to do so, feel free. I am just trying to grapple with this because thinking about a young trainee perhaps for the first time having someone that is presented to them and what they bring to it in terms of their general understanding of some of these issues is probably quite challenging.

Mr CRANDELL: It is, and generally we would say if a person presents as female then they are treated as female; if a person presents as male we treat them as male. Some difficulties arise, particularly if you need to stripsearch that person—and bear in mind that we also now have transgender police officers. The Law Enforcement (Powers and Responsibilities) Act—LEPRA—indicates "sex", so it is whatever sex. So if you have a police officer who is born male and presents as female and they need to stripsearch another person, they will not be able to stripsearch a female because their sex is male.

The Hon. GREG DONNELLY: Sorry to interrupt, but when you say "present", could you explain what that means?

Mr CRANDELL: Their outward presentation is female.

The CHAIR: They identify as female.

Mr CRANDELL: They identify as female. They may not be biologically female but they identify as female.

The Hon. GREG DONNELLY: That is what I am trying to get. They are presenting and identifying as a female; so they dress accordingly, their facial features, their hair, their general presentation would clearly identify them as such.

Mr CRANDELL: Then the instruction is that the police should take them as they present, not treat them in any other fashion. I only go into the stripsearching thing because that does become an issue when—

The CHAIR: It is an operational issue.

Mr CRANDELL: It is, but even in the legislation it does not talk about gender, the legislation talks about "sex", and that is an issue.

The Hon. GREG DONNELLY: These are the practical issues. If a policeman or policewoman, as the case may be, is dealing with an individual over a matter, are they told simply that what one does as the police officer is make an assessment about that individual in the way in which they visualise, apprehend, even the form of a conversation, to come to the conclusion about that person's sex, but the issue of actually asking them the question, that does not get raised—it is an assessment that the police officer makes.

Mr CRANDELL: No, the communication is raised. Say an officer looked at a person and was not able to make a decision, we say, "Then you say respectfully, 'How would you like me to refer to you?'"

The CHAIR: "How do you identify?"

Mr CRANDELL: Yes, "How do you identify"—trying to be respectful.

The Hon. GREG DONNELLY: That gives the lead then to the response about how to proceed forward.

Mr CRANDELL: Yes.

The Hon. GREG DONNELLY: If anything was left unsaid, take that on notice, but thank you for that.

The CHAIR: I think while you are here we need to touch on, because it concerns the terms of reference, the Alan Rosendale issue. You have not seen it yet but it will be online very soon, Duncan McNab's brief submission, and Rick Feneley as well—I do not think he has made a submission but he has certainly communicated with me about this issue—on the allegation that police were involved in that bashing, more contemporary suggestions of evidence around that. Mr McNab is suggesting, and Rick Feneley also raised it with me, access to the charge books, I think they are called, in the archives, which are confidential, which would help identify if there were police on duty that night. How would you respond to that and could you give some background or some information around that particular case?

Mr CRANDELL: I am aware of the Alan Rosendale case. I would make a number of points in relation to that. This was prior to the COPS coming in—I think it was about 30 years ago.

The CHAIR: In 1988.

Mr CRANDELL: Mr Rosendale was let down by the police, in my view, in 1988. He was savagely assaulted, he was taken from Moore Park to St Vincent's Hospital where he was treated. At some stage during the course of his treatment some police went to St Vincent's Hospital and took some details from him. They then recorded it on a report, and I have access to that report, and there was a witness identified. That witness was not a witness who has subsequently come forward—that is a different witness. That witness was never interviewed, there was no investigation ever undertaken; that report was simply filed, from what I can gather. We reinvestigated that matter. As you can appreciate, 28 to 30 years later—

The CHAIR: Reinvestigated. Let us make that clear.

Mr CRANDELL: Reinvestigated. We went back to try to discover the witness and we did speak to the witness. The evidence that was able to come out of that indicated to me that the event that was described by this witness that had come forward 30 years ago was not the witness to the Rosendale assault. Mr Rosendale indicated

that he believed that police officers were involved, and this witness who said that he saw the assault on Mr Rosendale said that he went to a police building and he spoke to some high-ranking officers and they had indicated to him that some off-duty police had bashed somebody and that an off-duty vehicle was in the vicinity. I did a thorough investigation through one of my detective inspectors at that time and I could not—

The Hon. PENNY SHARPE: Sorry, when was that?

Mr CRANDELL: That would have been approximately two years ago, but I have those documents. I can produce those documents if you like.

The CHAIR: Take it on notice.

The Hon. PENNY SHARPE: I would appreciate that.

Mr CRANDELL: I can show you the investigation and the documents that we had.

Reverend the Hon. FRED NILE: Are you saying 2016?

Mr CRANDELL: I would say so, sir.

The Hon. PENNY SHARPE: You can take it on notice.

Mr CRANDELL: If I could take it on notice, that would be great. I came to the view that I could not link the police officers to the assault on Mr Rosendale. The fact that Mr Rosendale was savagely assaulted is not in doubt. The fact that the police let him down in relation to the investigation is not in doubt. The link between the witness who has come forward 30 years later, or thereabouts, and the police is something that I could not establish.

The Hon. MARK PEARSON: The witness who took the photograph of the numberplate was not available.

The CHAIR: Just wrote it down actually, I think.

Mr CRANDELL: Sorry, that witness, I do not believe has witnessed the incident that has occurred to Mr Rosendale; I believe he has witnessed possibly another incident.

The CHAIR: That is your determination from your investigation?

Mr CRANDELL: Yes. In any event, I could not draw the link between the police and that particular incident.

The CHAIR: Did you find any evidence of other such bashings?

Mr CRANDELL: There have been plenty of other bashings, unfortunately. The relationship with the police force in those times prevented people from reporting them. Our records are awful. I am aware that ACON at that time was taking up to 20 reports a day from gay men. Those reports do not appear on police records because they were too fearful to speak to the police, which is why we are heavily involved in community activity, because without that trust and confidence in the police you will not get reports.

The CHAIR: In your investigation you would have had access to that charge book? It has actually listed the number and details of it in the submission from Mr McNab. You would have had access to that, seen what police were on duty and interviewed them?

Mr CRANDELL: I would be confident in that, yes, but I would like to check the records.

The CHAIR: That is right; you did not deal directly with this.

Mr CRANDELL: I did it through a detective inspector of mine, Mandy Hancock.

The CHAIR: Can you take that on notice because it addresses a specific point that Mr McNab raises in his submission?

Mr CRANDELL: I am happy to do that.

The Hon. GREG DONNELLY: I turn to the material that will come forth following what you have taken on notice, Assistant Commissioner. I am sure you are clear about this. Normally the default position of the Committee is to publish into the public domain whatever comes in. I am trying to think in advance whether some matters are currently being followed up.

Mr CRANDELL: Yes.

The Hon. GREG DONNELLY: I am not seeking to complicate things here but we would not want to inadvertently put anything in it. This obviously will be determined through a meeting chaired by the Chair, whether we, the Committee, can look at it but not publish it; in other words, inform ourselves. We do not want anything to slide into the public domain.

The CHAIR: Indicate to us and we will respect that if it is sensitive such as investigations or privacy matters as some family members might not want to have that information revealed. To that point, you have a document that you provided to us to table, which I assume are the 88 cases of Operation Parrabell, which gives some detail and which you have asked to remain confidential.

Mr CRANDELL: Yes.

The CHAIR: Will the Committee agree to that?

The Hon. PENNY SHARPE: Yes, absolutely.

The CHAIR: This is really helpful and confronting. I have started looking at it.

Mr CRANDELL: Yes, it is.

The CHAIR: Thank you for that. We will circulate hard copies to the members of the Committee to investigate it. Assistant Commissioner, thank you for coming in. I congratulate you on the work that you do. Feedback from the community is that you are highly regarded which is really important. Thank you for that.

Mr CRANDELL: No worries, thank you.

The CHAIR: You took some questions on notice. You have 21 days.

The Hon. PENNY SHARPE: And we may put some more on notice. I will have some more for you.

The CHAIR: We may put some more on notice. I did not say that before. We will have some more for you.

Mr CRANDELL: I am more than happy to take them on notice.

The CHAIR: You have been really informative and frank with us and it helped us a lot today. Thank you for coming in.

Mr CRANDELL: You are welcome. Thanks very much.

(The witness withdrew)

(Short adjournment)