

**Submission  
No 27**

## **INQUIRY INTO PARTIAL DEFENCE OF PROVOCATION**

**Organisation:** NSW Beat Project  
**Name:** Mr Richard Capuano and Mr Maurice Farrell  
**Date received:** 10/08/2012

---



The Director  
Select Committee on the Partial Defence of Provocation  
Parliament House  
Macquarie St  
Sydney NSW 2000

# Submission to the Inquiry into the Partial Defence of Provocation

Richard Capuano | Maurice Farrell

**NSW Beat Project**

[www.beatproject.org.au](http://www.beatproject.org.au)

[sydneybeatproject@gmail.com](mailto:sydneybeatproject@gmail.com)

10<sup>th</sup> August 2012

## Executive Summary

The NSW Beat Project was initiated in 2008 in response to an alarming increase in police activity and prejudice motivated (homophobic) violence toward men who visit beats<sup>1</sup> across NSW.

Based on our observations and work with these men, this submission will raise several issues that directly affect these discussions, with a focus on the adverse effects of policing beats and failure to adequately address the subsequent increase in homophobic violence at beats.

There is considerable concern that this ongoing violence could result in further deaths, which raises the possibility that Provocation could be used to negate intent or recklessness as seen with the reduced sentence of manslaughter handed down to the teenager who fatally stabbed Gerard Fleming at a Narrabeen park in 2007.

In consideration of the Inquiry terms of reference, we recommend:

- Abolition of 'Gay Panic' and 'Homosexual Advance Defence' (HAD) principles.
- The exclusion of non-violent homosexual advance from forming the basis of a Partial Defence of Provocation, by way of legislative reform of [section 23](#) and [section 421](#) of the *NSW Crimes Act 1900*.
- Mandating jury warnings and sentencing enhancements for prejudice motivated (homophobic) crimes, and continuing judicial direction in criminal trials with regard to HAD.

Since the release of the [HAD Working Party's Final Report](#) in 1998, all the recommendations have been implemented, except the exclusion of a non-violent homosexual advance from forming the basis of the defence by Provocation.

***“Ultimately, however, if Australia is to profess to have a civilised criminal justice system, then it must be a standard of the law that claims of non-violent homosexual advances can neither excuse fatal violence nor mitigate any offence of violence.”<sup>2</sup>***

---

<sup>1</sup> The term 'beat' describes a public location where men meet to engage in social and/or sexual contact with other men. In addition, men who visit these locations tend to be discreet to avoid unwarranted attention.

<sup>2</sup> Homosexual Advance Defence: Final Report of the Working Party, Sept. 1998, p. 21.

The Beat Project also offers the following further recommendations:

- The removal of laws that permit discrimination by law enforcement agencies that discourage the GLBTI community from reporting prejudice motivated (homophobic) violence, resulting in lack of trust in NSW Police and crisis of faith in the NSW Judicial System.
- Improved training for all NSW Police officers and GLOs with regard to policing beats and responding to prejudice motivated (homophobic) violence at beats.
- Amendments to the [Young offenders Act 1997](#) to deter teenagers from engaging in prejudice motivated (homophobic) violence.

A petition was also established to gauge community reaction on the issue of 'Gay Panic' and HAD.

At the time of this submission, 712 signatures were received through the online petition, and another 188 signatures were received at Fair Day in February 2012.

The petition and comments are included with this submission.

We thank you for the opportunity to make this submission to the Inquiry into the Partial Defence of Provocation.

## **Contents**

Introduction .....	5
NSW Beat Project – Background .....	6
Case Study: R v C R (2008) NSWSC 1208 .....	7
Crime Prevention .....	8
Policing and Vigilante Empowerment .....	9
The ‘Interagency Approach’ .....	10
Reported Homophobic Violence .....	11
Petition – Abolish ‘Gay Panic’ in NSW .....	13
Petition Comments.....	15

## Introduction

Beat culture has long been a significant part of 'gay male' culture and identity for many men, often providing a means for men to meet and socialise, maybe even explore their sexual identity, within a somewhat discrete and anonymous environment. This is particularly the case in regional areas where there are few social venues to meet other men.

Beats have also helped many men with the sometimes fraught process of coming out, and provide an important avenue for peer support and education - with 'beat outreach' once playing an integral role in spreading safer-sex messages to the community.

Even the closure of gay venues and violence on Oxford St. has led many men to abandon their once traditional watering holes to take refuge at beats.

Straight identifying and bi-curious men can also feel intimidated and confronted when venturing into gay clubs and sex-on-premises venues – often fearing they may be 'caught out'.

Studies indicate that approximately 15% of men who visit beats identify as gay, and that beat usage is similar in concept to a "*Lover's Lane*" or heterosexual couples fumbling on a beach at night - which rarely attracts police attention.

This highlights disproportionate policing when male-to-male social and sexual activity are singularly treated as 'Indecent Acts' when compared to heterosexuals engaging in similar activities.

Beats can also be dangerous places, as noted by the murders at Marks Park in the 1980s, the fatal stabbing of Gerard Fleming following a non-violent homosexual advance, and recent incidents of prejudice motivated (homophobic) violence reported at several beats across NSW.

We believe it is important to push the discussion on beat related issues toward a more holistic view of beats as part of health policy regarding 'Public Sex Environments' – as seen in the UK and Amsterdam, rather than simply a low priority policing issue.

## **NSW Beat Project – Background**

The Beat Project is a peer-based GLBTI community network that was initiated in November 2008 in response to an alarming increase in police activity and prejudice motivated (homophobic) violence toward men who frequent beats across NSW.

### **The focus of the Beat Project is to:**

- Inform men of their rights and ways to keep safe.
- Provide a network for men to monitor and report police activity and homophobic violence.
- Actively encourage men to report homophobic violence directly to police.
- Work with NSW Police to address problematic behaviour by officers and homophobic violence.
- Seek legislative change to remove homophobic laws that permit discrimination by law enforcement agencies, which discourages the GLBTI community from reporting homophobic violence; resulting in lack of trust in NSW Police and crisis of faith in the NSW Judicial System.
- Seek improved training for all NSW Police officers and GLLOs with regard to policing beats and responding to prejudice motivated (homophobic) violence at beats.

### **‘Homosexual Advance Defence’ (HAD) and ‘Homosexual Panic’ Eradication Proposals**

1. Abolition of ‘Gay Panic’ and ‘Homosexual Advance Defence’ (HAD) principles.
2. Amending Section 23 ‘Provocation’ – *NSW Crimes Act 1900*, to exclude non-violent homosexual advance.
3. Amending Section 421 ‘Self-defence-excessive force that inflicts death’ - *NSW Crimes Act 1900*, to exclude non-violent homosexual advance
4. Mandating jury warnings for hate-related crimes, and sentencing enhancements.
5. Enhancing existing NSW Police resources to better address prejudice motivated (homophobic) crime toward the GLBTI community.

**We also seek amendments to the *Young Offenders Act (1997)* to better deter prejudice motivated (homophobic) violence by teenagers.**

## Case Study: R v C R (2008) NSWSC 1208

In November 2008, the [Supreme Court](#) handed down a reduced sentence of manslaughter to the teenager who fatally stabbed Gerard Fleming at a Narrabeen park in 2007. The teenager claimed he was provoked and acted to protect himself after Fleming had made a non-violent sexual advance toward him.

Stabbed twice, once fatally through the heart, Fleming was found bleeding and calling for help at a bus shelter, and later died while being transported to hospital.

It was reported that the teenager had disposed of the knife and ran from the scene, leaving Fleming to die. The teenager told a friend that night: *"Some guy tried to grab me so I stabbed him."*

When the friend sent him a text message the next day, saying: *"You killed him,"* the teenager was reported to have said: *"It's probably good that the guy's dead so he can't identify me."*

The teenager faced up to 25 years in prison, but successfully argued his actions were a result of 'panic' and received a seven-year sentence, with a non-parole period of three-and-a-half years.

At the time, the sentence sent a shockwave through the GLBTI community and there was considerable concern that 'Gay Panic' was working its way back into the legal system.

Rev. Fred Nile and MP Clover Moore wrote to the then Attorney General, John Hatzistergos, requesting the decision be appealed, however he instead defended the law and stated the jury found him guilty of manslaughter rather than murder on the basis of excessive self-defence –section 421 under the *NSW Crimes Act (1900)*

Section 421 relates to the situation where excessive force is used in self-defence which results in death. In such a case, if the defendant believed that his conduct was necessary even though it was excessive, the defendant is not criminally responsible for murder but is guilty of manslaughter.

The use of this partial defence questions whether a non-violent homosexual advance would warrant such an excessive response, even though they believed it necessary, yet was not reasonable.

The defendant does not have to prove provocation. If there is evidence that there may have been provocation, the Crown bears the onus of proving beyond reasonable doubt that a defendant was not provoked, which is often impossible in situations when there is no corroborating witnesses and/or the victim is dead.

## Crime Prevention

Police have had a long and colourful history of patrolling beats, with numerous stories of intimidation and arrests - often a result of covert operations employing 'agent provocateur' and entrapment techniques to 'catch men in the act'.

Police also have a questionable track record when it comes to responding to vigilante behaviour and homophobic violence at beats, particularly in relation to the murders at Marks Park in the 1980s where officers inappropriately handled investigations, as outlined in the 2005 Inquest by Magistrate Jacqueline M. Milledge, Senior Deputy State Coroner – [Operation Taradale: Findings and Recommendations](#).

In recent years, the focus on Crime Prevention has re-enforced the stereotype of the gay man as predator and paedophile, further entrenching the shame and stigma often associated with being gay – which have become powerful tools in the Crime Prevention arsenal.

Crime Prevention is informed by the [Children \(Protection and Parental Responsibility\) Act 1997 No 78, Part 4](#) – which adversely links beat use with paedophile activity, and facilitates homophobia and vigilante activity.

The previous 'harm-minimisation' approach appears to have been abandoned in favour of initiatives that result in heavy-handed policing and vilification of gay men – particularly in regional areas where men are vulnerable to police intimidation and homophobic violence.

This results in men becoming isolated and alienated. It also has the potential to exacerbate mental health issues, including suicidal thoughts and attempts.

We have also identified numerous incidents of highly questionable behaviour by officers and a systemic failure to adequately address homophobic violence, particularly in regional areas where:

- Officers have not recorded incidents of homophobic violence when reported.
- Officers searching men for condoms, the use of excessive force, the use of homophobic and derogatory comments, failing to identify themselves when requested.
- Officers engaging in entrapment techniques.
- Officers recording vehicle registrations, then visiting men at their homes.
- Officers telling men they're on the 'Sex Offenders Register'
- NSW Police, Crime Stoppers and local councils have also installed signage that incite the vilification of gay men and re-enforce the misplaced paedophile stereotype.

## **Policing and Vigilante Empowerment**

Prejudice motivated (homophobic) violence toward the GLBTIQ community continues to be a problem and most incidents will go unreported, especially in regional areas where there are fewer social avenues for men to meet and greater opportunity of violence. Much of this violence is the result of homophobia and community prejudices, and reinforces the shame and stigma often associated with being homosexual.

Our experience indicates that at locations where there was an increase in police activity, there was also an increase in vigilante behaviour and homophobic violence by teenagers. This raises considerable concern that an increased police presence can also lead to increased levels of violent crime.

Between 2008 to the present, this has been particularly noticeable at several locations in Sydney and across the Hunter region where men were being verbally abused, physically assaulted, and had their property damaged by homophobic teenagers.

We are also aware of numerous assaults that were not reported to the police for a variety of reasons, and we were even requested not to report incidents to police by innocent men for fear of retribution by police and further targeting at one location.

What we found was that even though men were encouraged to report these incidents to police, when they did so officers often failed to adequately investigate or record the incidents and would treat these victims of crime with disrespect.

Many men have indicated they are reluctant to report homophobic violence due to:

- Previous negative experiences with officers when patrolling beats.
- Fear of retribution from vigilante residents and homophobic teenagers
- Fear of reprisals and further intimidation by police
- Lack of trust in police and the NSW Justice System.

With increased policing of beats, it is clear that beat users are often considered criminals and 'crooks'; ignoring the reality that we can also be witnesses and victims of crimes.

When speaking with officers, there is a general perception that we do not want police to patrol beats. This couldn't be further from the truth, as we remind officers they can play a more integral role in addressing prejudice motivated (homophobic) violence at beats if they choose to.

We have endeavoured to work with NSW Police and other government agencies to counteract these negative perceptions and encourage a better understanding of beats and the men who visit them, however we have been met with animosity at almost every turn.

## The 'Interagency Approach'

What we discovered was an interagency group that was informed by the Department of Attorney General and Justice, referred to as the 'Beats Working Group' - a 'network of government agencies' that also includes representatives from NSW Police, ACON, Health, and City of Sydney Council.

We are also aware that NSW Police and ACON advise local councils on 'Crime Prevention' approaches and funds CPTED initiatives designed to eradicate beat use, including removal of trees, signs that encourage vigilante behaviour and homophobia, and increased police presence.

This often results in displacement of men who visit these locations, who are then driven further into more remote locations and/or closer to residential areas - with all the associated risks.

These agencies have obviously failed to adequately address homophobic violence and the resulting lack of trust within the GLBTI community.

Instead, there is a tendency to blame victims for not reporting violence, and to even treat victims of homophobic violence with disrespect - to the point of bullying in many cases.

This is also evident should men seek to initiate a complaint against officers for questionable conduct, and these agencies have failed to adequately address non-responsive officers, misconduct and homophobic attitudes within NSW Police – particularly in regional areas where homophobia, intolerance and violence are likely to be wilfully ignored.

Ill-conceived policies and responses based on the victim blaming concept of '**Well, you shouldn't have been there...**' continue to put the safety of men who visit beats at risk.

We maintain the importance of reminding officers they are required to adhere to [Standards of Professional Conduct and Ethics](#) at all times, as these standards direct officers how to better respond to prejudice motivated (homophobic) violence in a professional and sensitive manner.

We also acknowledge that men who visit beats have a responsibility to the general public, i.e. reminding men to always be discrete and ensure they keep these shared spaces tidy. We also believe that councils play an integral role in assisting with better litter disposal options.

## Reported Homophobic Violence

Since 2008, we have received a considerable number of reports indicating an increase in homophobic violence across NSW.

In the **Newcastle** area, homophobic youths have been reported verbally and physically assaulting men and have slashed tyres and smashed vehicle windows. At the time, police activity had increased in the area; however officers failed to adequately respond when these incidents were reported.

Signs were also installed at toilet blocks within **Wyong** and **Port Stephens** Councils, which have led to the presumably unintended result of encouraging homophobia and vigilante behaviour.



In the **Lake Macquarie** area, reports received between February to May 2011 indicated a group of up to ten (10) teenagers aged from 15 to 18 – which also included several females, were physically assaulting and throwing firecrackers at men, yelling homophobic and threatening comments, and causing damage to property.

One teenager yelled '*my father works for Newcastle police*' and '*we're going to get you... we're going to kill you*', and also stated: '*I'm only 15 so what can they do.*' when told police would be notified.

These incidents continued despite several men reporting to local police and providing registration details and descriptions of the teenagers.

The response from the teenagers to our intervention was to vandalise the toilet block.



From between February to May 2012, the teenagers were again physically assaulting men at the same location.

One teenager was known to carry a metal pole and hit a man on the head. They also spat at men and demanded their wallets/phones, yelled homophobic and threatening comments, and caused considerable damage to property.

In the **Sydney** area, we caught two (2) teenagers bashing several men and attempting to rob them of their belongings. These teenagers claimed to be police officers.

One man was severely bashed; he was clearly concussed and his clothes were torn and covered in blood. When we notified him that police and an ambulance were on the way, he exclaimed 'no police, no ambulance', and stumbled to his vehicle and drove away.

If any of these victims had died as a result of this homophobic violence, there is the possibility that Provocation could be used. This line of defence sends the wrong message when considering how to eliminate homophobic violence directed at men who visit beats.

It is clear that these men are particularly at risk when it comes to the malleability with which a "sexual advance" can be viewed. The shame and stigma attached to homosexuality and beat use means that homophobic violence will continue to be under-reported to police and other agencies. Overly zealous policing of beats undermines attempts to build trust with police and discourages men from reporting violence towards them.

Men who visit beats are cognisant that the potential for misuse of this defence exists. This discrimination also further entrenches their cynicism towards the justice system and police.

Amending this defence would send a clear signal to the broader community homophobia and sexism are unacceptable. It would also assist to facilitate a much greater trust in police and the NSW justice system by the men who visit beats and the people who care about them.

## **Petition – Abolish ‘Gay Panic’ in NSW**



New South Wales remains one of the last states in Australia where “Gay Panic” and “Homosexual Advance Defence” (HAD) principles associated with the ‘Homosexual Provocation’ defence continue to exist as a legal loophole that encourages homophobia, and acts to legitimise and reinforce a culture of violence and hatred towards homosexuals.

Hate-related violence against the GLBTIQ community continues to be a problem and most incidents will go un-reported, especially in regional areas where there are fewer social avenues for men to meet and greater opportunity of violence - with much of this violence being a result of homophobia and community prejudices – ‘moral panic’, and the shame and stigma often associated with being homosexual.

The “Homosexual Provocation’ defence allows people accused of hate-related violence and murder to successfully argue that they were acting in self-defence when ‘provoked’ by a gay man who makes a non-violent homosexual advance toward them - that is “comes onto” them, that results in ‘panic’ and a temporary and justified loss of self-control – this is generally enough to trigger a dismissal or the lesser charge of manslaughter.

Problems around ‘Provocation’ exist as the allocation of blame is directed at the actions of the victim - ‘blame the victim’, and the ease with which such claims can be fabricated as the onus is on the prosecution to prove beyond reasonable doubt that the actions causing death were not an act of ‘Provocation’ – which is often impossible in situations when there is no corroborating witnesses and/or the victim is dead.

In 1998, the NSW Attorney-General’s Department released its final review of HAD made many recommendations including legislative reform of section 23 ‘Provocation’... all of the recommendations have been implemented except the exclusion of a non-violent homosexual advance from forming the basis of the defence, and HAD remains an option for defendants in NSW.

Section 23 ‘Provocation’ - *NSW Crimes Act 1900*, continues to provide a legal loophole for people who commit these offences and has been used to successfully argue that the ‘panic’ they feel is partial justification for violence and murder and reduces the liability of the accused – if the actions causing death were ‘necessary and reasonable’.

The death of a gay man with a disability at a park in Narrabeen in 2007 saw 'Gay Panic' and HAD principles invoked to allow the lesser charge of manslaughter for what was essentially a violent and heinous hate-crime.

Concerns were raised about the sentencing decision and the former NSW Attorney-General John Hatzistergos was requested to appeal the decision, yet he declined and instead defended the law by stating the sentence wasn't downgraded because of a homosexual provocation defence – that is, it wasn't 'Gay Panic', and that the jury found the accused guilty of manslaughter rather than murder on the basis of 'excessive self-defence'.

Section 421 'Self-defence-excessive force that inflicts death' – *NSW Crimes Act 1900*, relates to the situation where the defendant believed that the conduct was necessary even though it was excessive, the defendant is not criminally responsible for murder but is guilty of manslaughter.

This demonstrates a crisis of faith in the fairness of the NSW criminal justice system and highlights its systemic failure to protect the GLBTIQ community, and we request:

- 1) Abolition of 'Gay panic' and 'Homosexual Advance defence' (HAD) Principles.
- 2) Amending Section 23 'Provocation' – *NSW Crimes Act 1900*, to exclude non-violent homosexual advance.
- 3) Amending Section 421 'Self-defence-excessive force that inflicts death' - *NSW Crimes Act 1900*, to exclude non-violent homosexual advance.
- 4) Mandating Jury Warnings for Hate-related Crimes, and Sentencing Enhancements.
- 5) Enhancing existing NSW Police resources to address hate-related crime toward the GLBTIQ community.

Please sign this petition to ensure that 'Gay Panic' and the use of non-violent homosexual advance (HAD) as a partial defence for murder is finally eradicated, and that discriminatory laws are abolished to ensure the safety of the GLBTIQ community.

The petition can be found at: <http://www.change.org/petitions/abolish-the-gay-panic-defence-from-nsw-law>

## Petition Comments

### Why am I signing?

- New South Wales is now the only state not to have taken any action on this issue. It's time it joined the rest of the nation.
- This highly discriminatory defence is an anachronism that should have been removed long ago.
- I actually thought this appalling law had been abolished and was outraged to discover it was still on the books. You would think we lived in Iran!
- How is being scared of a homosexual any better reason to hit someone than anything else. There's no rationale behind this legal loophole.
- Because I am the Mother of two gay children who wants to see them happy.
- To eliminate the homophobia and discrimination that is still enshrined in our law and hence legitimised in larger society
- Because any hate crime can be dismissed as gay panic, its 2012 seriously!
- Because this is no different than saying a woman is responsible for being raped by dressing pretty. It's reprehensible.
- Because I would hate to be harmed just because I have a certain colour hair that YOU don't feel is appropriate.
- Because it's blatant discrimination written in out-dated law.
- It is a disgusting law. If we start justifying murder based on sexual orientation, why not start justifying murder based on race, gender, etc.? It is never okay to blame the victim of violence, ever, and doing so tells people that violence is a reasonable reaction to any non-violent altercation. It justifies prejudice - it says, "No, you don't have to be tolerant of someone different to you." Would you say it's okay for a lesbian to beat up a man who hits on her based on "heterosexual provocation" - because she was afraid? Or for a gay man to beat up a woman? Furthermore, was it okay to lynch African-Americans due to fear, or for the Nazis to execute Jews for the same reason? Of course not. And yet in the case of homosexuality, a person's prejudice is actually seen as a justification for a hate crime, rather than a cause of it. Prejudice is prejudice, regardless of the words used to disguise it, and using it to justify violence is never okay.

- It is appalling that NSW is the only state in Australia to still have 'Gay Panic' and 'Homosexual Advance Defence' principles as legal loopholes. They act to legitimise homophobia.
- I've never heard of something so ridiculous in all my life. How embarrassing for all Australians that a law so stupid should even exist in the first place. A 100% straight person doesn't panic when they're hit on by someone gay. Only people in the closet would do that. If this law is allowed to exist it should be an "I panicked at my own feelings about being hit on by a gay person" law.
- In an age of reason and tolerance this law defends out-dated bigotry & hatred - and encourages people to actively and aggressively hate gay people by reducing the punishments involved. Imagine if the law applied equally to unwanted heterosexual advances.
- Human rights should be equal and absolute. This law is an embarrassment to every Australian of good conscience.
- We as a progressively burgeoning society, have to stop encouraging dehumanised hate, enforcing holistic extremism and dispel mythical assumptions of falsify guilt. Homosexual behaviourism doesn't border excuses in provoking somebody to senselessly, veraciously murder them because 'he/said tried to touch or grope me inappropriately!' So let us join together, jointly brandishing ludicrous discrimination and stop this 'faulted legal loophole' from hurting more innocent livelihoods!!
- If I go to Sydney and somebody takes something I say the wrong way... as innocent as it may be, they could assault me.... and get away with it. This is disgusting.
- If a man makes an unwelcome sexual advance to a woman, is it ok for her to kick him to death? No? I didn't think so. This law is archaic and should go.
- Because this is so primitive.
- This is hardly 'enlightened' behaviour. It is moronic, barbaric and embarrassing rubbish. By this logic, it should also then be excusable for gay people to murder a heterosexual in a 'hetero-panic'.
- How is someone finding you attractive justification for you hurting them? By these standards, I could kill every man who propositions me with the defence of being scared by their advances, when all they wanted to do was pay me a compliment and try their luck. Remove this out-dated and discriminatory defence NOW.
- Because there's no difference between an unwanted 'homosexual' advance and an unwanted 'heterosexual' advance. It's ridiculous that they're treated differently, when they both add up to the same thing - unwanted advances. The gender of the person(s) shouldn't come into play.

- This is pathetic. How can HAD be an excuse yet the millions of other reasons that are against the law are not? This doesn't make sense. You could then in theory claim anyone you hurt is gay and then claim HAD with no evidence to the contrary. Very pathetic.
- Because as a child, from the age of about 18 months or so, my mother taught me right from wrong. It's that simple.
- Because I believe that EVERYONE deserves the right to be treated EQUALLY!!!!
- I think that it is despicable that these loopholes have been allowed to occur in the first place.
- End legalised homophobia!
- Enough is enough.
- Ridiculous. Is there a "moral panic" clause for when straight women hit on gay men, or straight men hit on lesbians? If there is, then by all means keep this law in. If not, get rid of it.
- Blaming the victim is the sign of a sick and twisted society. Help NSW heal by ending the Gay Panic defence for good.
- There is no reason this law exists at all in this time
- I hate homophobia enshrined in law.
- Gay Panic? Budgie Panic? Liberal Panic? Krishna Panic? Cartoon Panic? Let's be real.
- Laws are initially created to create equality for all. Changing this law redresses an imbalance based on homophobia.
- It's an inhuman law, just so very wrong
- Murder is not acceptable in any case, let alone against homosexuals; and for such a silly reason! The legal system is out-dated and it is unfair that one particular group of people are targeted in this one legal loophole.
- I find this profoundly disturbing.
- There is no reason to murder, and gay panic is nothing more than a crutch for the criminal to not face justice
- I support gay rights and freedom
- This law validates the idea that homosexuality is something to be feared.
- Because I have a cousin who is gay and he is one of the kindest people I know and I wouldn't want anyone to kill him over the fact that he is gay and plus because they are humans and they have rights.

- The sexuality of a murder or assault victim should never be considered relevant to the culpability of the offender. The fact that the so-called 'gay panic' defence is still recognised under New South Wales law is simply shameful.
- So someone wearing a yellow t-shirt could be murdered as long as you say yellow scares you? Seriously? Oh, and when blacks and Jews and atheists scare you, then you just go ahead and kill them? Unbelievable that such a law still exist in a "civilized" country.
- Someone "coming on" to you is NOT a crime, regardless of whether they are gay or straight. Killing someone for being gay IS a crime. Period. Full stop. This legal defence is unjust, in any jurisdiction, and should be ended NOW.
- I think it's pretty sad that the law does not hold these bigots accountable for their actions to use such an excuse like the "gay panic" seriously? What an open invitation for gay bashing for any pathetic excuse for a man to kill another man because he is gay and how do you know if the gay man really hit on the straight man? I guess the dead can't defend themselves. It's time to grow up and maybe grow something else between their legs as well and be held accountable for killing someone because he can't deal with a gay man looking at him or looking in his direction. What kind of people are you? What kind of loser are you raising over there? What's next kill the black man because you thought he wanted to ask you out?
- Because this is the MOST RIDICULOUS defence I have EVER heard of!!
- This antiquated law legitimises homophobia, hate crime and murder. Abolish it now!
- I will use the panic attack if someone, black, white, middle Easton, Asian, at least this is what I assume the law means, not just gay, what the hell when I'm panicked I will just murder anyone.
- Imagine if people started accusing people of gay panic just to murder them and got away with it? What if people do it just to get away with murder? People should not kill someone out of panic. It's not like they are going to die if a gay person touches them or flirts with them, if they panic over something so little like that then they deserve to be locked up or put in a mental hospital. This is just disgusting and sad...
- If anything, perpetrators of hate crimes should receive a more severe sentence.
- Because it's time for a change and start treating people with equality.
- NSW are you STILL in THE DARK AGES Get rid of your so called "GAY PANIC" laws!!!!
- A wrong LAW as is being drunk or under influence of drug. Scrap Gay Panic LAW