

**Submission
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**INQUIRY INTO GAY AND TRANSGENDER HATE CRIMES
BETWEEN 1970 AND 2010**

Name: Professor Stephen Tomsen

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Inquiry into Gay and Transgender hate crimes between 1970 and 2010

I am a Professor of Criminology with decades of experience researching and publishing on crime-related issues including violence and homicide. My early knowledge of NSW crime patterns developed as a principal research assistant on projects studying public violence, police records and police decisions about how to record and prosecute assault cases. This work was conducted under Professor Ross Homel in 1989-1990 and done for the *Australian National Committee on Violence* (1990). While conducting this research and presenting at national crime conferences, I became interested in the gap between nationwide concerns about violence and the relative lack of focus with regard to targeted attacks on gay men, lesbians and transgender victims. In the 1980s and 1990s, Sydney gay and lesbian districts and a string of suburban and beachfront “beats” frequented by gay/homosexual men, experienced a wave of violence that appeared to increase in relation to the development of a more public gay and lesbian subculture.

The indifference from most police in these years was well known among victims and provided the backdrop to a major under-reporting (and therefore an under-recording) of attacks. By contrast, there were prominent regular reports of such violence in the gay and lesbian press. Harassment and attacks experienced by partners, friends and acquaintances became a regular feature of conversation in gay and lesbian socialising. New social movement awareness emerged about the need to combat this violence and it prompted path-breaking community victim surveys [*Streetwatch* (1990); *Off our Backs* (1992); *Count and Counter* (1994); and then *Out of the Blue* (1995) implemented by progressive elements of NSW Police]. From the early 1990s, I volunteered as a research advisor with the Sydney Anti-Violence Project (AVP) based on Oxford Street in inner-Sydney. Also, as part of this commitment I developed related research and secured external competitive funds (from the *Australian Criminology Research Council*) to study homicides with gay/homosexual victims, and patterns in the use of the homosexual advance defence (HAD) in NSW criminal trials.

This project reported to the *Criminology Research Council* in 1996 and its findings shaped selection of the key cases analysed by the NSW Attorney General’s Homosexual Advance Defence (HAD) committee. My research throughout the 1990s was conducted in close liaison with progressive NSW police employees (especially Sue Thompson) via analysis of police reports, as well as press reports, NSW Supreme Court trial records, NSW Coroner files and NSW DPP records. In 2002, the *Australian Institute of Criminology* reviewed and published the resulting examination of 74 possible “anti-gay” killings occurring between 1980-2000 (Tomsen, 2002) with the intention to open up the topic area in criminology and develop a new knowledge base. This specific number of cases was not intended as a definitive or exhaustive list. The research illustrated how the targeting of gay/homosexual men and a smaller number of transgender victims was both due to homophobia and vulnerability from crime: victims were objects of hostility but they were also perceived as “soft targets” for assaults and robbery given their history of adverse relations with police and the criminal justice system. Furthermore, a substantial number of severe assaults and homicides remained unsolved.

Community mobilisation against this violence in the late 1980s and 1990s ran in tandem with major changes in NSW policing. The development of new forms of policing for minority groups characterised the Avery (1984-1991) reform era in a way that different police admired, ignored or even resented. The development of gay and lesbian community liaison and related strategies peaked in the late 1990s and it was at that time described as a leading international model of better policing in this area. Yet the degree of liaison and the sense of innovation have dropped considerably since that time, possibly as part of a wider pattern of the NSW police “Force” distancing itself from the Avery reforms and the advent of other styles of policing without stress on direct community trust building. Since key staff departures from NSW Police in the early 2000s and the rise of new management styles, liaison has appeared to be less intense and displaced by focus on image-making public events. Even though the likely numbers of new anti-gay/transgender killings had dropped off this century, these crimes and related violence have not disappeared altogether. Yet in the last fifteen years, NSW Police have not seemed to have a designated employee clearly assigned with the basic task of monitoring such crimes and communicating on these to LGBTI community organisations and media. Similarly, there has also been no apparent central monitoring and communication in regard to complaints about police from LGBTI people.

NSW has a high total backlog of all homicides (500+) and this has meant a significant pressure to solve or re-classify these crimes. With anti-gay/transgender crimes this has become focused on classification, and whether or not the total estimated number of “gay hate” homicides (and the unsolved figure) ought to be reduced by adoption of a narrowed definition of hate/bias crimes. These unsolved homicides (particularly, the case of Scott Johnson) have become an ongoing source of contention between NSW Police and some of the LGBTI community. In 2017, I gave expert evidence to the third NSW Coroner’s Scott Johnson hearing with regard to the wide extent of anti-gay violence at beats in the Manly/Northern Beaches area of Sydney. At the end of these proceedings, the Coroner put aside police claims and denials about the existence of such anti-gay violence at the site of Scott Johnson’s death.

Between 2015-2016, I also participated in the meetings of an ACON Community Expert Working Group reviewing a possible 80+ anti-gay/transgender homicides occurring in NSW from the 1970s to 2010. This pooled and reviewed information from my CRC study records, those of Sue Thompson, designated ACON staff and community historians including Dr Garry Wotherspoon. The Expert Working Group concluded that 73 cases from 1970 to 2010 (including victims Fleming 2007 and Cawsey 2009) had a strong likelihood of relation to anti-gay/transgender sentiment, and that 21 of these were unsolved.

In 2015 NSW Police claimed that only 8 such cases remained unsolved (submission to Coroner’s 2015 Scott Johnson hearing). In 2015, NSW Police also announced they would begin their own “Strikeforce Parrabell” review of 88 deaths occurring between 1976 and 2000 and its major review activity appears to have taken place in late 2016 -2017. However, officers tasked with preparing for this appear to have relied on a draft list compiled in 2013 (although the Parrabell report confusingly refers to a “2002 AIC list”). Parrabell was conducted as a rival activity to the ACON Community Expert Working Group - police remained secretive about the overall victim list and did not discuss the selection or details of matters with the Working Group in 2015 and 2016.

The final 2018 Parrabell report drastically cut overall case numbers. Unfortunately, Parrabell is a poorly written and confusing “two in one” report. It is therefore hard to judge the reasoning in most cases, but this appears to have followed views that most victims were “paedophiles”, mixed motive/soft target incidents were merely just opportunistic crimes, and that perpetrators who engaged in same sex acts could not be seen as homophobic or holding anti-gay/transgender sentiments. As well as the overall cut in numbers, Parrabell (2018) shifted the NSW Police estimate of unsolved cases to an even lower figure of 0-5 killings. Significantly, Parrabell also appears to have reclassified a group of matters without regard to the detailed, well evidenced, and carefully weighed previous assessments of these cases by the NSW Coroner. As a result, NSW Police have moved into a stalemate that is blocking the development of justice and community trust about this violence and policing in NSW.

A more extended account of this and my overall understanding of the criminal justice response to these homicides is given in the attached draft paper “Victim’s Rights, Truth and Justice: denial of legitimate victimhood in anti-homosexual violence and killings in New South Wales” [co-authored with A/Prof Tyrone Kirchengast, University of Sydney]. In that paper, we suggest a formal strengthening of certain victim’s rights in relation to homicide matters, the possible established of an expert review team, and a general NSW Police apology as worthy steps in healing and achieving justice in relation to this violence.

Sincerely,

Stephen Tomsen

Professor of Criminology, Western Sydney University / Visiting Professor, University of Manchester

https://www.westernsydney.edu.au/thri/our_team/members

<http://westernsydney.academia.edu/StephenTomsen>

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