

**INQUIRY INTO GAY AND TRANSGENDER HATE CRIMES
BETWEEN 1970 AND 2010 - 57TH PARLIAMENT**

Organisation: NSW Beat Project

Date Received: 28 March 2020

Inquiry into Gay and Transgender hate crimes between 1970 and 2010

NSW BEAT PROJECT – 2nd Submission

Richard Capuano and Maurice Farrell

28 February 2020

We thank the Standing Committee on Social Issues for the opportunity to provide this submission to the Inquiry into Gay and Transgender Hate Crimes between 1970 and 2010.

We would greatly appreciate the opportunity to give evidence to the Inquiry.

The NSW Beat Project is a peer-based community network initiated in 2008 in response to numerous reported incidents of police harassment and intimidation, homophobic violence, and inappropriate behaviour by NSW Police at beats across NSW.

Further to our submission¹ to the Initial Inquiry into Gay and Transgender Hate Crimes between 1970 and 2010, we were disheartened to find the Interim Report ‘overlooked’ concerns raised about the “Beats Working Group”.

The Beats Working Group is a Government-led Interagency initiative formed in 2007 that comprises representatives from NSW Attorney General’s Department, NSW Police, NSW Health, Inner City Legal Centre, City of Sydney, ACON Anti-Violence Project, Gay & Lesbian Rights Lobby, and other Government agencies and local Councils.

Our initial submission details the lack of interest and systemic failure by the Beats Working Group and NSW Police to adequately address hate crimes particularly in regional areas... the shame and stigma surrounding beat use... and the direct correlation between increased police activity and homophobic violence perpetrated by gangs of youths - ‘vigilante empowerment’.

We say disheartened because there are numerous similarities between what was witnessed/reported to the NSW Beat Project and the submissions made by Alan Rosendale and others, they share a common theme - that men were being ‘hunted’ by police, and that this was authorised by the Government-led initiative... and may potentially explain what happened to Scott Johnson and the many men who have lost their lives.

¹ Please find attached copy of our submission to the initial Inquiry into Gay and Transgender Hate Crimes between 1970 and 2010

An awkward relationship

We are aware that representatives of the Beats Working Group were not happy about the existence of the NSW Beat Project – they resented their actions being questioned and scrutinised by the community, and that police activities were being monitored.

“The complaints made on this (NSW Beat Project) website – which the website organisers state are anonymously submitted because of the reluctance of many beat users to make ‘official’ complaints – suggest a different application of the law than the one proscribed by NSW Police policy. While many members of the Beats Working Project dismissed the claims made on this website – ostensibly as the unsubstantiated opinions of one man – some of the operational officers I spoke to did recognise them as legitimate.”²

They showed considerable animosity towards the NSW Beat Project - despite our efforts to engage with them and encourage better policing practices when patrolling beats, better reporting mechanisms, improved training outcomes for officers across NSW, better ways to address hate-related crimes, and to bring an end to police harassment.

This situation is advantageous but also problematic. The benefit of the NSW Beat Project resides in it monitoring beats and disseminating allegations of police misconduct and warning of the presence of gay bashers. Additionally, the Project helps raise awareness about policing initiatives (e.g. agent provocateur practices) that the public may disapprove of and lobby against. The NSW Beat Project is problematic in that its existence might exacerbate levels of police hostility to beats. Such a site could arguably be perceived as beat users thumbing their noses at the law. And, yet, an objective examination of the NSW Beat Project website reveals that it actually praises ethical police conduct and advocates that beat users cooperate with reasonable police requests at beats.

3

What was most disturbing was their animosity towards men who frequent beats - the beat users themselves, the very people they claimed to be keeping safe... and they expressed little compassion for victims of homophobic violence perpetrated by gangs of youths.

They were quick to dismiss concerns raised about police tactics used to harass and intimidate men, and denied they failed to address homophobic violence perpetrated by gangs of youths who were caught bashing and harassing men at several beat locations - where there was ongoing police activity, despite numerous reports provided by witnesses/victims of homophobic violence and police involvement as detailed in the attached ‘case study’ and our initial submission.⁴

² Johnson, P. (2010). The Enforcement of Morality: Law, Policing and Sexuality in New South Wales. *Australian & New Zealand Journal of Criminology*, p.417–418.

³ Dalton, D. (2012). Policing 'beats' in Australia. In *Policing Sex*. Routledge 2012, pp. 78-79.

⁴ Please find attached copy of the ‘case study’ of police activity and homophobic violence at ‘Braye Park’ ... and the ‘case study’ of police activity and homophobic violence at ‘Croudace Bay Park’ between 2011-2014 – including correspondence between the NSW Beat Project and NSW Police.

However, we were shocked by their insistence that they “have the right to” harass and intimidate men who frequent beats – it sounds all too familiar.

“However, those I interviewed did not view the use of such ‘tactics’ when policing beats as either ‘barbaric’ or ‘unlawful’. Rather, as the Superintendent tasked with running ‘beats training’ argued, such practices are the ‘inevitable’ outcome of policing in this area. ‘Police officers patrol parks with their torches off’, she told me, and ‘when they hear a noise they put their torches on’: ‘they see people, people run, and the police chase’. ‘Police also use their car headlights to blind suspects’ but this, she argued, is ‘a general policing tactic and not one confined to policing men at beats’. And, ‘yes’, she said, ‘we crawl around in the dark’ looking for people, ‘that’s what police officers do’. While individual beat users have the right to be treated ‘professionally’ and not to be called ‘filthy faggots’, she said, they ‘do not have the right not to be policed’.”⁵

The admission that police actively engage in tactics to effectively flush out and chase men – that they have the right to go ‘hunting’ men, to make them run and then chase them, are strikingly similar to reports by Alan Rosendale, and most likely what happened to Scott Johnson and others who lost their lives... yet these tactics are considered perfectly acceptable police practices.

An Inconvenient Truth

We were told there was no such thing as a ‘rogue’ officer, and that officers were tasked to patrol beats – clearly senior police and the Government agencies have sanctioned these practices, and aware that beats became the training ground for new recruits.

“I asked this officer what outcome this police activity produced: ‘nothing’, she said, ‘there are no statistics’ because the officers do not issue charges, and ‘there are no complaints’ from beats users because they are reluctant to report the activity. If questioned, officers say they are ‘just patrolling’ and, she says, ‘they have the right to’.”⁶

They were aware that men were reluctant to come forward – they used it as a weapon, yet refused to accept the UK model of Third Party Reporting as a way to encourage victims to report homophobic violence... they dismissed that Amsterdam decriminalised beat activity to ensure the safety and wellbeing of men who frequent beats – “that will never happen here”, they said.

We weren’t concerned about their personal criticisms or contempt for the NSW Beat Project – our priority has always been to ensure the safety and wellbeing of men who frequent beats, yet during a meeting with the Beats Working Group, the ACON Anti-Violence Project representative asked “what is your minimum requirement” – only to be laughed at when we responded ‘to end police harassment’.

They encouraged members of the public to go to media, and we understand the mother of a teen basher – who was personally known to police, expressed concerns that she was linked to homophobic violence, and was told to go to the media.

⁵ Johnson, P. (2010). The Enforcement of Morality: Law, Policing and Sexuality in New South Wales. *Australian & New Zealand Journal of Criminology*, p.418.

⁶ Johnson, P. (2010). The Enforcement of Morality: Law, Policing and Sexuality in New South Wales. *Australian & New Zealand Journal of Criminology*, p.417.

They encouraged vigilante empowerment while shaming the victims of gangs of youths caught bashing men - "they shouldn't be there in the first place"... they covered up for a Senior police officer after it was revealed they were related to the teen bashing men over several years at one beat location.

Yet they insisted we encourage men report homophobic violence directly to police and/or ACON Anti-Violence Project – despite the deep mistrust towards police, knowing that officers would intimidate victims of homophobic violence for simply being at the beat, and that victims were being ignored by the ACON Anti-Violence Project.

They just weren't very nice people - they were empowered, and they were out of control.

Yet not one of them has been held accountable for their actions – many of the representatives continue in their Government positions as if nothing happened, while men continue to be traumatised from their experiences and fearful of police.

Overcoming Deep Mistrust towards NSW Police

We refute claims made by NSW Police in their submission to the initial Inquiry that they "actively engaged with LGBTIQ communities to build trust and confidence and encourage the reporting of violence", and point out that they failed to mention their involvement in the Beats Working Group during the "2010-2018" period when police were actively engaged in harassing and intimidating men at beats.

We believe NSW Police Force will continue to suffer as long as they continue to fail to come to grips with its culture of homophobia, continue to impose moral values, hinder investigations, and continue to cover up the truth about their involvement and/or make excuses for their inaction regarding the numerous beat-related murders.

There already exists deep mistrust towards police within the community, and a culture in which victims are not empowered to report gay hate crimes – this is unfortunate, and our efforts to bridge this gap and work with the Beats Working Group particularly NSW Police and the ACON Anti-Violence Project proved futile.

However, we applaud the commitment by NSW Police to further continuing education around beats, and improve identification and recording of 'bias incidents and crimes' – and sincerely hope that this statement by The Hon. David Elliot MP is true:

That the NSW Police Force ensure that all officers have the skills and knowledge to engage with lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) people respectfully and equally.

The concern moving forward is that there is currently nothing to stop another Government-led initiative similar to the Beats Working Group from being established in the future that will again adversely impact upon the protection of men who frequent beats.

In Pursuit of Truth and Justice

It is unfortunate that the Standing Committee has failed to respond to this Government-led initiative, and overlooked the victims of police harassment and homophobic violence - yet without any accountability, we could potentially see police being tasked to harass and intimidate men at beats once again.

It has been suggested that participants of the Beats Working Group may have unduly influenced the Standing Committee into disregarding our submission – or there was political interference... we get it, they are unwilling to have their actions scrutinised by the Standing Committee and community, and would appear to be an inconvenient truth for ACON who Chaired the Beats Working Group and now guiding much of the discussion around this hate crime Inquiry.

The Interim Report also does little to empower victims to report homophobic violence, yet contributes to a sense of a 'social license' enabling perpetrators – both police and bashers, to continue to act on their prejudices and moral values, and emboldens them to escalate these acts.

More importantly, by overlooking the actions of the Beats Working Group and NSW Police, the Standing Committee has failed to acknowledge the experiences of beat users and victims of homophobic violence, and as a consequence, have excused any wrong-doing by police.

The trust to which our community can place in the response by the Standing Committee towards ongoing police harassment and failures to address hate-related crimes is eroded when there is no acknowledgment of the Government-led Beats Working Group initiative – and potentially undermine any credibility in the findings of the Standing Committee.

It also betrays the essence of this Inquiry - that is to leave no stone unturned, ask the hard questions, to provide answers and comfort to the many men who have been subjected to police harassment and homophobic violence, to find justice for those who have been murdered and achieve closure for their families.

Removing Existing Impediments within the criminal justice system

There is no denying impediments exist.

This Inquiry needs to effectively address current policy and practice handed down by the NSW Government – and the actions of the Beats Working Group, to avoid a repeat of the past, and overcome the prevailing acceptance of and indifference towards violence and hostility directed at men who frequent beats that ultimately impact on the protection of and delivery of justice to victims of hate-related crime.

Whilst our contribution may appear to the Beats Working Group to be 'obstructionist', we have never objected in principle to working with this group of 'stakeholders', but in practice the issue of beat usage is inherently problematic due to the intersection of shame, stigma, lack of understanding, and moral panic that beat users find themselves navigating.

We honestly do not hold out much hope of ensuring there is no repeat of the horrors of previous decades considering what men have experienced in recent years - there is no difference just many similarities.

Meanwhile the families of the many men who were murdered are no closer to finding out the truth – jumping over hurdles put in their way by NSW police, the excuses, the brick walls... we sincerely hope that this Inquiry can help these families find the answers and achieve the closure we all desperately seek.

Requests to the Standing Committee on Social Issues

We request the Standing Committee effectively addresses current policy and practice by the Government agencies – and the actions of the Beats Working Group, to avoid a repeat of the past, and overcome the prevailing acceptance of and indifference towards violence and hostility directed at men who frequent beats that ultimately impact on the protection of and delivery of justice to victims of hate crime.

We ask that the Standing Committee – in an effort for much greater transparency:

- Request the full records of Beat Working Group meetings and activities for scrutiny by the Standing Committee and community - including all relevant Government agencies involved, NSW Police, NSW Health, Inner City Legal Centre, City of Sydney, ACON Anti-Violence Project, Gay & Lesbian Rights Lobby.
- Request that the full cost to taxpayers of the Beats Working Group activities be known to the Standing Committee and community – including cost of policing, representative salaries, project costs, cost of Crime Prevention Through Environment Design (CPTED) initiatives, cost of funding to Councils across NSW, Flying Penguin, and any other associated costs.

Our expectation for greater transparency of the Beats Working Group activities will ultimately help to reduce the stigma around the issue - as uncomfortable as the conversations and debates may be.

Moving Forward!?

The semi-clandestine meetings of the Beats Working Group has unfortunately been the engine room of perpetuating beat stigma, and furthers the alienation of beat users being able to 'own' the behavior and participate in policy and policing issues that affect their 'communities' – especially when the outcome was 'nothing'.

There can be no doubt that NSW Police and the criminal justice system has failed the LGBTIQ community... yet to dispel the perception that police are involved in a cover up and/or hindering investigations - that their behaviour has enabled a vicarious responsibility for the beatings and deaths we have witnessed in those decades, it would be really useful to embrace transparency and a more concerted effort to engage with the community with respect and sincerity.

We sincerely hope that by bringing this matter to the attention of the Standing Committee, by documenting the numerous reports of police harassment and failures to address hate-related crimes, that we will finally overcome existing impediments within NSW Police and the criminal justice system that adversely impact the protection of LGBTIQ people - and finally deliver justice to victims of hate crimes and closure for their families.

We sincerely thank the members of the Standing Committee on Social Issues for taking the time to consider our submission, and hope members take on board our concerns, requests, and recommendations outlined in our initial submission.

Please ensure that this can never be allowed to happen again.

Thank you.