

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

The CHAIR: Welcome to the inquiry into gay and transgender hate crimes between 1970 and 2010 being conducted by the Standing Committee on Social Issues. The inquiry is seeking to understand whether there existed impediments within the New South Wales criminal justice system that impacted the protection of lesbian, gay, bisexual, transgender, intersex and questioning [LGBTIQ] people and whether they have been effectively addressed by current policy and practices. We will also examine the delivery of justice to victims of the LGBTIQ hate crimes and their families. Before we commence, I acknowledge the Gadigal people who are the traditional custodians of the land on which we meet in the New South Wales Parliament. I pay my respects to elders past and present of the Eora nation and extend that respect to other Aboriginal people who may be present or participating via the internet. I acknowledge people with the lived experience of hate crimes who are in attendance today or who are participating via the internet. Today is the first of several hearings we plan to hold for the inquiry.

We will hear today from the ACON, the NSW Police Force, the NSW Gay and Lesbian Rights Lobby, Dowson Turco Lawyers, Mr Alex Greenwich, MP, member for Sydney, Mr Larry Galbraith, and Mr Duncan McNab. Before we commence the inquiry I make some brief comments about the procedure for today's hearing. The hearing is open to the public and is being broadcast live via the Parliament's website. Today's hearing will contain information about violent crimes committed against LGBTIQ people that may be distressing for some. 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 these services can be found in the brochure available at the back of the room and on our inquiry website. Michael Atkinson from ACON is also available to offer support to anyone in the audience. A transcript of today's hearing will be placed on the Committee's website when it becomes available.

I give notice that in today's hearing, given the nature of the inquiry on hate crimes, there may be strong and offensive language used in evidence. In accordance with the broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public galley should not be the primary focus of any filming or photography. I remind media representatives that they must take responsibility for what they publish about the Committee's proceedings, and in every inquiry, particularly in this inquiry, it is important that there is accurate and sensitive portrayal of the difficult issues that are raised, such as violence, hate, mental illness and suicide.

It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of their evidence at this hearing. I urge witnesses to be careful about any comments they may make to the media or to others after they complete their evidence, as such comments would not be protected by parliamentary privilege if another person decided to take an action for defamation. The guidelines for the broadcast of proceedings are available from the secretariat. There may be some questions that witnesses could only answer if they had more time or with certain documents at hand. In these circumstances witnesses are advised that they can take a question on notice and provide an answer within 21 days.

I remind everyone here today that Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. I therefore request that witnesses avoid naming individuals unnecessarily. Witnesses are advised that any messages should be delivered to Committee members through the Committee staff. To aid audibility of this hearing I remind both Committee members and witnesses to speak into the microphones. In addition, several seats have been reserved near the loudspeakers for persons in the public galley who have hearing difficulties. Could everyone please turn their mobile phones to silent for the duration of this hearing. Before I welcome the witnesses I ask everyone to stand and observe a moment's silence in respect of the 88 murder victims that this inquiry is considering, and other victims of hate violence in our community.

Members and officers stood in their places as a mark of respect.

JUSTIN KOONIN, President, ACON, affirmed and examined

NICOLAS PARKHILL, Chief Executive Officer, ACON, affirmed and examined

MICHAEL ATKINSON, Program Manager, Safety, Inclusion and Historical Justice, ACON, affirmed and examined

The CHAIR: Would any of you like to make an opening statement?

Dr KOONIN: We appreciate you probably want to get on to questions, but given the occasion, and for the sake of record, I will make a few opening remarks. As you would all be aware, the AIDS Council of NSW [ACON] is New South Wales' leading and Australia's largest community-based organisation specialising in HIV and lesbian, gay, transgender, intersex and queer[LGBTIQ] health. We are nearly 35 years old, having been established by New South Wales community members in 1985. This is an important moment for our organisation and for the communities that we serve. We are here before this parliamentary inquiry to explore a very dark period in our community's history. ACON's emergence as an organisation in the 1980s occurred at a time when our lives were at risk. Many in our community were sick and dying from HIV/AIDS and preceding this time, and persisting through decades to come, there was a pervasive societal and institutional attitude that attacks on people because of their sexuality or gender identity were almost unremarkable—a fact of life. Indeed, many in our communities have not spoken of their experience of violence and hatred as for many of us it was a normal experience to be spat on, abused, punched, kicked and, as we are hearing in this inquiry, in some cases murdered.

The issues that this inquiry is considering are not consigned to history and they cannot be treated as a relic of the past. Particularly for many older LGBTIQ people who have lived through these times, these experiences form much of the reason for the health, wellbeing and welfare challenges that our communities face today. Many of the environmental and societal factors that led to the bashings and murders between 1970 and 2010, the fear of HIV, stigma and stereotypes about our relationships, a lack of understanding of the lived experience of people of diverse sexuality and gender are still with us. We look upon this inquiry as an opportunity to heal the past and, importantly, to help chart a future for our community which leaves LGBTIQ people in New South Wales feeling confident in our law enforcement and justice systems, living lives free from discrimination and, in doing so, taking their rightful place as equal and respected citizens of this State.

We commend the Parliament of New South Wales and the members of this Committee for your willingness to engage on these difficult issues. We commend New South Wales police for the steps they have taken to address the wrongs of the past and although our positions may not always agree, we commit to working constructively to build on the progress we have made together. Most of all, we salute the courage and the resilience of the thousands of gay men, transgender women and other members of LGBTIQ communities whose lives have been terribly affected by the events we are discussing today but who have refused to give up in their belief of a fairer tomorrow. To those we have lost, we cannot bring you back, but we can bring justice to your memory.

The CHAIR: First, I want to congratulate you on the report entitled "In Pursuit of Truth and Justice". This report serves your community well; it is one of the foundations of our inquiry. In your submission and in the report you said that the aim of the report was to prompt actions which would assist in the delivery of justice for victims and survivors. Do you want to expand on that for us?

Mr PARKHILL: Sure. I guess there were multiple aims to the report, but certainly one of the aims was to shine a spotlight on the wider community and also political decision-makers about, indeed, what has happened in the past and give some detail in a more structured way, in a more policy-oriented way than we had seen documented before. We were aware that Operation Parrabell was occurring, but I think what had not occurred was a spotlight had not been shone on these cases from a community perspective. We originally started the process of developing "In Pursuit of Truth and Justice" almost as a collection of dossiers about those cases that we believed needed examination and where injustice had occurred. What we have developed was a set of dossiers that accounted for each of the cases that were in Operation Parrabell and we believed had some sort of sense of outstanding justice to be delivered.

The ACON board deliberated greatly about the release of the dossiers. We have never released these because what we set out to do was honour these men's lives, if you like, and give them a voice where they have not had that voice before. What we found, though, in developing the dossiers is that they did not in fact do that. What they did was, in many cases, outlined brutal and horrifying deaths or bashings, and it was very disturbing material. So we decided to look at those dossiers, look at trends that we found throughout those cases and elevate it into a much more policy-structured document.

We would like to submit these dossiers to the Committee for consideration in confidence, and we will do that over the next 21 days. But we did not believe it was suitable to be releasing these publicly, because they did not honour these men's lives; they actually detail their deaths in horrifying and gruesome ways. The intent was to frame the truth and justice up into a much more policy-oriented document, making recommendations both for future justice and to improve systems to policy, so this could not happen again. The intent also was to look at what mechanisms could be brought forward to bring a sense of healing and justice to these cases.

The CHAIR: I think you have achieved that outcome with that report.

The Hon. GREG DONNELLY: Thank you for coming along today, it is much appreciated. Thank you also for the very comprehensive submission you have made. In terms of the dossier, if I understand what you have said, this was work being done by ACON and it predated the commencement of Parrabell; it was essentially research work being done by the organisation. Is that right?

Mr PARKHILL: Yes.

The Hon. GREG DONNELLY: I am trying to work out the overlap. When did the work started on the dossiers—many years ago? When it originally started, did someone make a suggestion and it evolved into a project writ large, which ultimately ended up in the complete document?

Mr PARKHILL: I will take the exact date on notice.

The Hon. GREG DONNELLY: Certainly.

Mr PARKHILL: It was approximately three or four years ago that we commenced this process.

Dr KOONIN: In 2015 the steering committee formed.

Mr PARKHILL: I would need to check the exact date when Parrabell started. As I said, the intent was to really honour these men's lives and, from a community perspective, to share their stories and their experience. We were grateful to the police to have undertaken Parrabell, even though we believe there are shortcomings to that process. It only looked at those case files and the paper files that the police had. What we did through the dossiers was to look at other source material including media reports, coroners reports and those sorts of things to give a more contextualised understanding of what may have happened in these cases, only rather than what existed in the police files.

The Hon. GREG DONNELLY: With respect to the dossier complete, how many lives are covered? How many individual case studies are there? Is it 88—I have seen 86 in some documents? If you could bring some clarity to that number, it would be great.

Mr ATKINSON: There are 88 names and cases on the list, two of which the NSW Police Force did not review either because they were out of New South Wales or their cases were still under investigation. ACON undertook a review of each of those 88 cases.

The Hon. GREG DONNELLY: Are those 88 in the dossier?

Mr ATKINSON: Yes.

The CHAIR: This is the 88 that are listed at the front of the Parrabell report?

Mr ATKINSON: Yes. We did not have some of information on a few of the cases, but we were able to gather information on most of the cases.

The Hon. GREG DONNELLY: The figure of 88 is accumulated through the community inviting individuals or organisations, family or friends, or people who may be aware of something to report that to the process of researching and gathering information. How do we know that 88 is the total number? It may not be the total; it may be greater. Was it a case of drawing a line to say you wanted to complete the research project and qualifying that by saying there could be some additional investigations, or do you believe that you have exhausted the number of cases? We are talking about human lives here.

Mr PARKHILL: Absolutely.

Mr ATKINSON: I will clarify that actually the list was commenced within the NSW Police Force by Sue Thompson. She was the second gay lesbian liaison officer coordinator of the program. In her capacity as a civilian working on the policy area, she had colleagues approaching her and saying, "I suspect that this homicide was either gay hate motivated or had an element of gay hate," and a range of other sources of information. As she went about her job, she kept hearing more and more cases, and so she literally started a list and started advocacy

within her role within the New South Wales Government, with the Attorney General's office raising concern about these lists. This resulted in some committees being established to look at the concerning issue of gay men being beaten at beats and in other public places. Then Professor Stephen Tomsen and Sue Thompson met and continued to perform and develop that list, which got to around about 80. There is some conjecture as to exactly how the list got finalised at 88, because Sue herself would say that the list actually got to 86 and that the NSW Police Force potentially added some cases to it.

The Hon. GREG DONNELLY: Thank you, that gives some clarity.

Mr PARKHILL: I can maybe add to that. While we did not determine the list or the number of 88, your point that there could be others is a very valid point. As we know, what existed at the time and what still exists is a concern at a community level about reporting to police. We would imagine that the amount of people who were being bashed within the time frame that the Committee is looking at would be much, much greater than 88, People may have a fear of reporting—not just to the police; what that triggers is some fears about how they will be treated by the police. Will they be outing themselves to the wider public, particularly in the earlier days—the 1970s, 1980s and 1990s? What will it do to their careers? How will it impact on them and their families? Indeed, some of them could have been married men at the time. There is a whole set of social issues that play out around fear of reporting. My anecdotal feedback would be it is probably significantly more than 88 at a community level who have been bashed or victims.

Ms CATE FAEHRMANN: Picking up on that line of questioning, is there a time line in relation to when Sue Thompson first started identifying the people on the list? Is that contained in your report, or would you like to tell the Committee roughly when she began to identify these crimes as gay hate crimes?

Mr ATKINSON: Yes, 1991 is when she started, we do not have a chronological list. Sue mentioned that she was submitting something like that.

Dr KOONIN: I believe Sue Thomson does have a chronological list.

Ms CATE FAEHRMANN: I am sure she would.

Mr ATKINSON: It is a very detailed list.

Ms CATE FAEHRMANN: Thanks for your excellent work in this space over many, many years. One of your key findings, key finding No. 9 in the report, says there is information to indicate homophobia was likely involved in approximately 50 per cent of the listed cases; however, the two cases involving transgender women do not appear to have been motivated by transphobia. I want to pick up on the 50 per cent figure and why some of the other cases are not deemed to have been homophobic. Could you expand on that for the Committee?

Mr PARKHILL: I can briefly and then Mr Atkinson might be able to add to that, given that he did a lot of the legwork around the report. Looking at the dossiers, we looked at trends from what we found in the sources that we put together and looking where we believed there was homophobic intent behind those crimes—very, very clearly around beats, the language that was being used, the media reports that were being made. That is what we determined. It would be fair to say that there were some cases within the 88 on the list where the motivation was not purely gay-hate crime or homophobia or transphobia. It may have involved drug use or other forms of crime such as robbery. They were not as black and white in terms of that determination around homophobia.

Mr ATKINSON: Of the 50 per cent there was at least some clear information—so whether the person identified as gay, they were having sex at a beat, they were murdered in a public place which was a well-known gay area, the sex had occurred prior or there was other evidence. We looked at the United States Federal Bureau of Investigation [FBI] model for determining hate crimes, which I understand the NSW Police Force also used, and we looked at the United Kingdom model to ensure that when we were looking at these cases we were doing it with some rigour.

When we say 50 per cent of the cases had some indication, there was just not enough information on the other 50 per cent. Had we investigated further or had availability of other information it is possible that those other cases we could have found some more information to clarify. As with the findings of the NSW Police Force about the cases, they had 22 cases upon which they said they just did not have enough information to confirm whether or not they were gay hate motivated crimes. There was a lack of information that we had access to but, yes, certainly we had enough information for those 50 per cent.

Ms CATE FAEHRMANN: Let me explain it a little more. I assume it will become a lot clearer when we have the dossier and can go through everything. The 50 per cent who were identified in some way as gay men died violently but there was not enough to suggest that it was purely motivated by gay hate at this stage?

Mr ATKINSON: Yes. In some cases to us it is very clear that they were indeed gay hate cases but we are not detectives, police or criminologists. We do not have the authority to state categorically whether it is a gay hate case.

The Hon. MARK PEARSON: Could I tease that out? What makes you and others think that they were gay hate when there might not be enough evidence to show that?

Mr ATKINSON: Whether it was the report from the Coroner, reported or unreported judgements, our in-depth research into each of the cases, we looked at academic peer reviewed journal articles in which these academics did extensive investigation and reviews of the cases. There was certainly clear information about the person's lifestyle, why they were where they were at the time of the murder, preceding information and the cultural context as to what happened. It does become very clear that there was hate involved in those cases.

The Hon. MARK PEARSON: Do you have an idea of the percentage of gay hate crimes that may have occurred not in public places—beats or venues, or streets behind venues, et cetera? Is it more difficult to get that information?

Mr ATKINSON: No, there was quite clear information. A large number, actually the majority of cases, did not happen at beats or in gay precincts. They were in individuals' homes or the home of an acquaintance whereby in some of the cases, in response to a sexual advance, the perpetrator became disgusted, angry, confused and reacted very strongly at that point. Again, the frenzied nature of the attacks. When you look at the evidence and the academic kind of information about hate motivated attacks, they are very frenzied and brutal attacks. In some of the cases there is quite a lot of clear information about some of those people knowing that the victim was homosexual.

Reverend the Hon. FRED NILE: Did the 88 cases all result in death?

Mr ATKINSON: All of these, yes. All of these are homicide cases.

Reverend the Hon. FRED NILE: So there could be other cases of serious violent injuries?

Dr KOONIN: There was a program called the Anti-Violence Project [AVP] running throughout this period and there would be hundreds and hundreds of reports of abuse, violence, physical, emotional, verbal—

The CHAIR: And you provided the Committee with copies of posters and advertisements?

Dr KOONIN: That is right.

Reverend the Hon. FRED NILE: Was there any attempt to try to work out the number? Is it 100, 200 or 1,000?

Mr ATKINSON: It is very difficult because there is no data system. Data collection systems in New South Wales and indeed across Australia are limited in terms of how we collect sexuality or gender indicators to be able to determine that type of information.

The CHAIR: People do not report it. I was bashed to the ground in Oxford Street and I did not report it.

Dr KOONIN: In terms of reports to the Anti-Violence Project over the period I would say it would be in the many, many hundreds.

Reverend the Hon. FRED NILE: I would like to have some rough idea rather than just a vague question mark.

Dr KOONIN: We can come back to you with some more precise numbers.

Mr ATKINSON: For example, we have one document from 2003 to 2009 in which 570 cases were reported to the AVP.

Dr KOONIN: Just one comment about the determination of these being hate crimes or not. The facts that we have about these cases are all contained in the dossier. So there will be the same facts presented to the Committee and we would certainly invite you to make your own determination on the basis of those facts.

The Hon. NATALIE WARD: On that information I accept that we are looking back to these times and that the lack of information is concerning. Is that still the case? What information gathering would assist or would have assisted if we had that in place? Looking forward, hopefully we never have to be in this place again. What would have assisted at the time? What can we put in place now to ensure that we are gathering that information and have specific systems in place? It might well be a question I address to the police also but from your perspective what would have helped?

Mr PARKHILL: I do not think we have accurate data still to this day. I think some of the recommendations that we speak to in our submission and also in the Pursuit of Truth and Justice report speak to improved data collection around this, particularly with systems within the NSW Police Force and how they collect data around bias crimes and more detail around that so that those cases can give a much clearer indication of what that looks like. I think there is room for improvement there but also there has not been any population level studies. I think too the computerised operational policing system [COPS] data would only tell us the picture of those people who have reported. They would not actually give us a broader population perspective on who may have been bashed or may have been a victim but not reported.

I think what we have probably seen will have been a decrease from where we are now back to the time that we are talking about. I think that is in large part due to the progress that has been made in society more generally. However, there are caveats around that because I think there would still be significant rates of violence directed towards trans and gender diverse populations. We might see more acute violence happening in rural or regional areas. So it would be quite contextual that data picture. But what we would be recommending is that a population level study be undertaken to actually ascertain what the current level of violence is towards our communities and then also asking questions such as, "What is your reporting behaviour and if you are not reporting what are some of the impediments?" So it would have changed. It is certainly not at the point where ACON and others like the Gay and Lesbian Rights Lobby were having to hand out whistles to people in bars so that they could whistle when they were walking home. It is not at that kind of epidemic level but it certainly still happens.

The Hon. NATALIE WARD: I am interested in the reporting framework. We have talked about the United States of America and United Kingdom examples. Will you comment on what they do for better or worse or if there are learnings from that?

Mr ATKINSON: The United Kingdom model is really worth looking at in depth. So certainly a different context and different situation that gave rise to them introducing hate crime legislation. They have formal data collection processes, whole-of-government, and they have a range of different reporting processes to the United Nations and the European Commission. It is worth having a look in-depth because their system is very sophisticated. We have drawn a lot of our recommendations from their successful examples.

Reverend the Hon. FRED NILE: From your investigations have you sensed whether all these crimes were by a single individual or was there any organised group—religious, ethnic or cultural—targeting homosexual men at this stage?

Mr ATKINSON: There certainly were one-off—and the majority are one-off—cases, like I was saying, in response to a sexual advance or a targeted attack, but certainly there were known groups. I do not want to name them because I understand that is not the thing to do, but an attack in Alexandria Park was orchestrated by eight men who got the phone number of a person off a toilet wall, called that person, waited for a number of hours for that person to arrive or hid, and then jumped on that person.

Reverend the Hon. FRED NILE: Without naming them, was it an ethnic group or a religious group or cultural group, or you do not know?

Mr ATKINSON: I do know. The majority of the evidence indicates that most of the perpetrators were whites. There are some cases where there is potentially either Islander or other groups, but that is absolutely in the minority, and there were other groups as well. Along the coastline of New South Wales there was a group of three who regularly perpetrated crimes in Bondi as well as in Manly and in other areas and there is a lot of information to suggest those groups knew each other.

The CHAIR: I recommend you watch a film *Deep Water* on YouTube.

Reverend the Hon. FRED NILE: There was some media speculation that there was also a group of police or individual police involved. Did you have any evidence supporting that?

Mr PARKHILL: There is certainly the Alan Rosendale case that speaks to his suggestions around that, that police may have been involved in that, and I think that he would probably speak to the inadequacy of the

response in determining whether that was indeed the case. That is certainly worth looking at, I think, in regard to the terms of reference within this Committee to see if that warrants further examination.

The CHAIR: I think one of the issues in terms of society's understanding and approach to this period of bashings and murders was why are men going to these remote locations? I note in your report Garry Wotherspoon, a leading gay historian, has outlined what beats are and why they are there, but I think for the completeness of the record for members, why did men go to such dangerous locations?

Mr PARKHILL: For a variety of reasons, I think. To name just one reason would be doing an injustice to the social utility of beats. Certainly the headline is for men to meet to have anonymous sex, and certainly that did play out. But for a lot of other people it was a way of social engagement and to meet other people. We are often talking about men who at that time were not open and out, and the idea of going to a gay pub or club at that time would have just been absolutely not possible for them due to either family issues, work issues or whatever. So beats also provided a space for people to meet other people and social engagement as well. It was not just a round sexual liaison.

But I think it is also important to note that while beats feature heavily in the pursuit of truth and justice and in the dossiers and also the work of Parrabell, which really focus on deaths and murders, we are talking about a 40-year time period where a lot of other people were bashed and did not report it, and they may have just been walking along the street in and around Darlinghurst or Surry Hills, they were not in beats—it might have been lesbian women who were holding hands walking home from the theatre. The level of hate crime that was happening at the time was not just concentrated in and around beats; it was much broader than that.

The CHAIR: You were an HIV/AIDS organisation originally.

Mr PARKHILL: Can I just also add to that? I think beats, though, provided a very safe environment for these crimes to be perpetrated because they were dark, they were often away from public congested areas, so crimes could be committed without a huge amount of, I guess, visibility, and people were pretty much cornered, if you like.

The CHAIR: The so-called sport of gay bashing, that was the location where you would find isolated gay men.

Mr PARKHILL: Yes, and then with the HIV/AIDS epidemic fuelling that as well.

The CHAIR: I want to explore that. Do you think that the reaction to HIV/AIDS in terms of the bashings of gays and murders is underestimated?

Mr PARKHILL: I think it is a fascinating question. I do not really have an answer to it, but it certainly would have played a role. We only have to look at the time with the grim reaper ad, with just recent decriminalisation of homosexuality in certain States, that it was not a safe time at all. That fear and stigma that surrounded HIV and the news reports that were playing out at that time, calls for people living with HIV to be quarantined, it was adding to a pre-existing homophobic or transphobic attitude that really created a greater divide and made it more difficult.

The Hon. MARK PEARSON: So is the evidence that the beat bashings or the hate crimes increased after the AIDS epidemic in the early eighties? Did that tend to occur?

Mr PARKHILL: We would not have the data to look at what it was before the mid-eighties.

The Hon. MARK PEARSON: Just on that, was there an organisation before ACON was established that was looking at this area of criminality in the community?

Dr KOONIN: Are you talking about the criminalisation of homosexuality?

The Hon. MARK PEARSON: No, of hate crimes.

Dr KOONIN: I am hesitating to answer. Not to my knowledge.

Mr PARKHILL: Not to my knowledge. There were certainly gay and lesbian groups emerging, but their agenda was more around legislative reform and equal rights rather than focused on gay bashings. But there would not have been any organisation of ACON or the gay and lesbian rights equivalency that was running programs or services for members of our community.

Mr ATKINSON: With regard to the number of cases and HIV, from 1976 to 2000, which is what Parrabell and our report covers, nearly 50 per cent of the cases were from 1986 to 1993, at the period when HIV was really taking off and hitting its peak. That is just an observation.

Reverend the Hon. FRED NILE: There were a number of deaths over which there is question mark: Was it a murder or was it an accident where the body was found at the bottom of a cliff in the northern beaches, Bondi, et cetera? Were you able to separate which ones were deliberate, where someone had been pushed over a cliff?

Mr ATKINSON: It depends on the case. For example, the Scott Johnson case, after, as we all probably know, three coronial inquests and a significant amount of investigative work went into that case, the Coroner made a ruling that that was, in fact, a gay hate crime. That took quite a lot of research and a process. Otherwise, we would rely on police reports and a range of other information; so, again, we could not conclusively say whether they were or not. But certainly being located at well-known beats, beats that were known to police—in just about every case the beats were known by police and police played some role in surveying, watching, monitoring, so they knew that they were beats. So there is some indication.

Reverend the Hon. FRED NILE: There were some murders through that means.

Mr ATKINSON: Absolutely, yes.

The CHAIR: That were categorised as suicide at the time.

Mr PARKHILL: That is right. They were categorised as suicide and not investigated, and indeed have not been solved or justice has not been delivered for some of those people.

The CHAIR: We will be hearing from Scott Johnson's brother in future in the inquiry, as indeed Sue Thompson as well. We will be gathering that information.

The Hon. GREG DONNELLY: With those ones there where the cause of death is really unsure, how is that currently recorded—as cause of death unknown? Forgive me for not knowing the legalities of this. If it is unclear or if, in fact, there was a suggestion in the first instance that it was suicide but then through further material that has come forward it appears there may well have been malfeasance involved, does that mean that it is left as an open question? Is that how we are left with it?

Mr ATKINSON: I think the cause of death is often known, in a sense that if they fell from a great height, or if there is a clear, blunt object, whether there was an autopsy done. They know how the person died in terms of the injury itself, but as to the motive and the actions that led to the death, that is not known. Certainly, with cases, there are absolutely gaps. I cannot remember off the top of my head exactly how many of the cases in here went to trial and were successfully prosecuted; there certainly is a reasonable number. But, yes, there certainly are a cases where had there been detailed investigation we may have had information about more cases.

The Hon. GREG DONNELLY: Clarity, yes. Thank you for that.

The CHAIR: In your submission you provide a photograph of a recent graffiti, "Bash a gay today". I think that was in Alexandria, which really disturbed me when it was reported in the news. What is the situation today in terms of violence against gay and transgender people in our community?

Dr KOONIN: It is certainly a lot better than it was in the 1980s and 1990s, and there is certainly a long way to go. We still regularly hear reports and some of them make the media and some of them do not, but there is still physical violence against LGBTI people in Australia today.

The CHAIR: We will ask the police that when they come in next but is anyone recording that information? I am particularly interested to know if we are recording it across the State, and if it is happening rural, remote and regional communities as well?

Mr PARKHILL: From my understanding that would be no, because of the limitations in the COPS system.

The CHAIR: Database.

Mr PARKHILL: Yes, database. Unless there is detailed recording, the challenge with the COPS database is you can tick bias crime but then it relies on people detailing and then entering that data rather than fields that can be put in. So I think there are limitations to it. That is why some of our recommendations speak to that increased surveillance, if you like. Once again, we tend to talk about LGBTI in a broad framing, but within the LGBTI these issues play out quite differently. While I think we would have seen decreases since this period,

particularly for gay and lesbian people—although they still occur and absolute violence is incited, as you can see from this image that we have included in our report—I would hypothesise once again that that perhaps is still quite acute for trans and gender diverse people who, I think, at this point in time are probably disproportionately affected by these crimes.

The CHAIR: Trans people are emerging more publicly now, I note, and more confidently. But there must have been significant underreporting of violence against them in the past.

Mr PARKHILL: Absolutely. I think, without a doubt, that would have been the case, the underreporting of trans and gender diverse bashings. I think it was challenging enough for gay men and lesbians; it would have been even more challenging at that time for trans and gender diverse people. I think it is still challenging.

The Hon. MARK PEARSON: Now.

Mr PARKHILL: Even though there is a lot more visibility around trans and gender diverse issues, you have only to look across a whole range of health and welfare indicators for trans and gender diverse people to recognise that the lives that they are living, while there is a huge amount of resilience, can also be incredibly challenging, whether that is dropping out of school, employment opportunities, other health indicators, mental health indicators around anxiety, depression and suicidal ideation. They are significantly higher than the general population and also significantly higher than the gay and lesbian population.

Mr ATKINSON: Can I jump in with regard to current trends? In my role as inclusion and safety coordinator, I coordinated an advisory group last financial year. We had 14 representatives from different LGBTIQ organisations. We talked about the key issues and trends. Every one of those representatives talked about a range of different types of prejudice related violence, physical and verbal, and raised concern about a lack of coordinated response in terms of how to, where to refer, when to refer, what for, and who to. That used to be much clearer when the Anti-Violence Project was in its peak.

But people also talked about a different kind of insidious violence that is happening today. So significantly, for example, violence that is happening in private and public housing. If a resident discovers that a tenant is gay, lesbian or trans, I receive probably a call a week, or a call a fortnight, from people who are experiencing harassment—it does not get recorded, unfortunately—as well as harassment and violence in other government services, in employment and in a range of settings. So, yes, it is much less on the street. Street-based violence does still occur. I do still take inquiries and people looking for help for street-based violence but it has changed in shape and form.

The CHAIR: I want to touch on Parrabell. In your submission to us, you say on page 3 that Parrabell did not fulfil its stated aim. I am aware of community criticism and disappointment in Parrabell. I would not mind opening it up a bit for discussion. What do you feel the shortcomings are with Parrabell?

Mr PARKHILL: As we have said in the past, we commend the NSW Police Force for undertaking operation and task force Parrabell, particularly the leadership of Assistant Commissioner Tony Crandell in having a focus on issues of the past and putting in place processes to try to right those wrongs and have a better understanding of what did occur—if you like, to move the dial in the right direction. I think that intent was great and for his leadership we are really grateful. What I think Parrabell did though—and there were limitations with Parrabell and we understand the limitations perhaps being derived from resource constraints—is that it was really only looking at those case files, the paper files that the police had, reviewing those to try to determine if bias was involved in those crimes. It did not look at broader contextual issues or other sources and it did not actually go back and reinvestigate those cases.

There are limitations in the process itself in terms of delivering, if you like, justice for some of those people. Further steps need to be taken to do that. We believe some of the recommendations that could have been coming out of Parrabell could have been a lot stronger than what they were. Certainly, as I have said before, I think the police have shown great leadership over the past few years. Their investment in programs like Pride in Diversity, their gay and lesbian liaison officers [GLLO] program, are all steps in the right direction but we would have hoped that there could have been strengthened recommendations through Parrabell about what else police could have been doing in this space as well.

The Hon. PENNY SHARPE: What you think those were? What are the other things that they could be doing that are not in Parrabell?

Mr PARKHILL: They are things like improved data collection, and not just police, other government agencies as well, but certainly improvements to the COPS database system and increased training—we understand

that police do do increased training but police training for all officers, including officers at all levels of the force—looking at investing in third party reporting systems and having partnerships around that. We believe that there are limitations to the bias crimes unit, that it is not resourced enough and it is not adequate in terms of resourcing.

The Hon. PENNY SHARPE: Is it resourcing? Is the framework right in identifying bias crimes? There has been a lot of criticism of Parrabell and that method.

Mr PARKHILL: I certainly think looking at the bias crimes unit is something that we could do and certainly resourcing is an issue. I think the intent of what it could do is great but a question of resourcing of that unit is certainly something that should be looked at.

The Hon. PENNY SHARPE: Your recommendation No. 1 is that the NSW Police Force commit to investigating all outstanding cases and prosecuting where appropriate. Do you believe that there are perpetrators who could be brought to justice? Can you talk us through that recommendation, please?

Mr ATKINSON: Based on my interaction with survivors of violence, who have named their perpetrator to police, yes.

Mr PARKHILL: I would also just agree with Mr Atkinson on that. I also think that the third coronial inquest into Scott Johnson revealed evidence that had not been revealed before. I would absolutely say that that would be the case with other cases as well. Some fresh eyes and increased rigour around investigating some of these cases could lead to better justice outcomes.

The CHAIR: How many? Is that 30 cases?

Mr ATKINSON: Survivors?

The CHAIR: Unsolved murders.

Mr ATKINSON: I understand it is 22. It depends. If you look at Parrabell, I think they report 22 unsolved cases.

The Hon. NATALIE WARD: Earlier we heard about the alleged groups that were alleged to have perpetrated these crimes. Would your recommendation extend to those in that we heard that there was some identification of some. They were not named. I can see that you are nodding. Could you speak to that, and whether that investigation should be reopened and applied to those groups we heard about earlier?

Mr PARKHILL: Absolutely. I think further investigation into those groups and what occurred with those cases, particularly in and around Bondi, is definitely warranted.

Reverend the Hon. FRED NILE: I think you mentioned earlier justice for survivors. Obviously we have just been involved in the royal commission into child sexual abuse, et cetera, and compensation. Do you envisage something parallel to that?

Mr ATKINSON: Yes. I think victims support is a recommendation that we have made, so absolutely. In the process of wanting to further understand the extent of historical violence, inviting people to come forward so that we can record their cases in a similar fashion to the royal commission, people need to be supported to do that in terms of counselling, and to consider exactly the extent and what support they need—whether that is financial support to access further services. But then there is a variety of other support that they might need as well, and the community more broadly as well. We are building the monument out in Bondi as a way to give people the opportunity to put the past in the past or to reflect. Those scars never really heal, but there is a variety of ways in which to move forward.

The CHAIR: I did want you to tell us about that memorial, perhaps in conclusion. It is that one of your recommendations. I saw that the Waverley Municipal Council has now approved it. Would you like to tell us what you are doing in that regard?

Mr PARKHILL: Sure. We have been working with Waverley council for about three or four years—since we started the process with the dossiers. We recognised absolutely that the work around the dossiers is important, but also is creating a space where the community can heal and having some sort of symbolism around that. We have been working with Waverley council and two weeks ago they approved a space in Marks Park where these murders were happening, which was a known gay beat at the time, for a memorial. We now have a space approved. They have also committed \$100,000 towards the building of the monument. We are also fundraising to supplement that.

When we started this process I did not realise how expensive public art actually is and how complicated it is, but that is a partnership with Waverley council. We will go through a process of calling out for designs, if you like, and we are hopeful that that will be a place of reflection and a place for those people who are loved ones of the victims but also a place to symbolise to not forget what happened here, but also to recognise that Waverley, if you like, at Bondi is now a place that is much more inclusive, diverse and welcoming for all. It would be great, I think, to see the New South Wales Government come along as part of the partnership for that project.

The CHAIR: I am going to propose a voluntary site inspection for the Committee of Marks Park and the location of those murders as well as the memorial site. Would you be prepared to escort us on that?

Mr PARKHILL: Yes.

Mr ATKINSON: We also have a history walk. We have developed a history walk, detailing some of the cases in that area. I would be happy to organise that history walk.

Mr PARKHILL: Duncan McNab, who I think you are hearing from—

The Hon. PENNY SHARPE: Yes, we are.

The CHAIR: This afternoon.

Mr PARKHILL: —is part of that process. We do history tours around, and he can detail the cases.

Mr ATKINSON: It is actually Greg Callaghan.

Mr PARKHILL: Greg Callaghan, sorry, who wrote *Bondi badlands: the definitive story of Sydney's gay hate murders*. There are two books, and Greg Callaghan wrote *Bondi badlands*, and he does the tour. So we can absolutely involve him in that.

The CHAIR: We will advise you. We will circulate and find a date when members would like to do that and report back.

Dr KOONIN: On the point of the artwork as part of the healing process, symbolism is important. The fact that there is a public monument, the fact that the New South Wales Parliament may be able to express some form of acknowledgement, and the police could do the same, that is a big part of the healing that we are looking for.

The CHAIR: You are proposing that the monument will be a place for people to grieve and to lay flowers—that type of emotional commitment?

Mr ATKINSON: Ceremonies, but also celebrations. Potentially it is a site for weddings, not necessarily on the monument but in the park.

The CHAIR: To celebrate the lives.

Mr ATKINSON: Yes.

The Hon. MARK PEARSON: Do we have any idea of missing people, how many missing people, where there is some evidence but not enough that could be related to a hate crime?

Mr ATKINSON: Yes. In the list of 88, Gilles Pierre Mattaini and Ross Warren are two of the cases I remember off the top of my head of people who are missing, but the Coroner deemed them both dead. But outside of that 88, I have heard of some conjecture about cases, but that would need proper investigation.

Mr PARKHILL: We do not have data or anything anecdotal.

The CHAIR: We have Ross Warren as one of our terms of reference, and that was initially viewed as a suicide, was it not?

Mr ATKINSON: Yes.

The CHAIR: It was one of those mis-analysed cases.

Mr ATKINSON: I do not know exactly whether the police or anyone gave a—I do not know exactly.

The CHAIR: As there are no further questions, I thank you for coming in, thank you for this report, thank you for the work you have done for 30 or 40 years and thank you for being leaders in your community. We really do appreciate what you do. We have more questions and you have taken some questions on notice. You

have 21 days in which to respond to those. You are going to provide us with that dossier but you want us to keep that confidential, so we have to make that decision.

Mr PARKHILL: We will email that through this afternoon, but could be kept confidential because—

The CHAIR: I think that probably will not be a problem for the Committee. We have to resolve that way, but I think I can give you that commitment. Is that all right with members of the Committee?

The Hon. PENNY SHARPE: Yes.

The Hon. GREG DONNELLY: Yes.

The CHAIR: We give you that commitment—that we will keep it confidential—given the sensitive nature of what you are giving to us.

Mr PARKHILL: Great.

The CHAIR: We appreciate the work you have done in that regard. Thank you very much for coming in today.

(The witnesses withdrew)

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)

NATHAN JOHNSTONE, Committee Member, NSW Gay and Lesbian Rights Lobby, affirmed and examined

LAUREN FOY, Co-convenor, NSW Gay and Lesbian Rights Lobby, affirmed and examined

The CHAIR: Good afternoon, and welcome to the first hearing of the Standing Committee on Social Issues inquiry into gay and transgender hate crimes between 1970 and 2010. I welcome our witnesses from the NSW Gay and Lesbian Rights Lobby and thank them for coming in. I remind everyone watching—those present and those watching on the internet—that today's 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 parliamentary inquiry website. Would either of you, or both of you, like to make an opening statement? We have your submission, so thank you for that.

Ms FOY: Yes, you have. The lobby acknowledges the long-running advocacy of Shayne Mallard and Penny Sharpe among many parliamentarians who supported establishing this inquiry as well as the vital importance of the report by ACON, "In Pursuit of Truth and Justice", released earlier this year. Mr Johnstone and I would like to thank the Committee for the opportunity to speak to our submission at today's hearing. The NSW Gay and Lesbian Rights Lobby [GLRL] obviously welcomes the opportunity to comment as part of the inquiry by the Legislative Council Standing Committee on Social Issues into gay and transgender hate crimes between 1970 and 2010.

The GLRL has a proud history of advocating on behalf of gay men and lesbians and their families. Indeed, this year the GLRL celebrates 30 years of being an advocate for our community. In those 30 years the GLRL has established strong ties in the community, consulting with our members and hearing their stories—many of them describing incidences of violence, discrimination and hatred. In the past 30 years the GLRL has comprised volunteers who have lived experiences too. We draw on our history of bearing witness to the stories in making this submission. We are overtly aware of the police resources invested in Operation Parrabell—resources of our tax-paying community members, including LGBTI people. We are encouraged that the NSW Police Force and Strike Force Parrabell was originally proposed with an overriding objective to bring the LGBTI community and the NSW Police closer together, given historical fractures.

We are ever mindful of the risk that such a report would upset a significant proportion of people, as it should, given the heinous crimes committed, and welcome Assistant Commissioner Tony Crandell's want to be transparent and learn from past experiences. We do not doubt the sincerity at all. The New South Wales GLRL do note the clear difference in position and culture of government bodies in the community organisations operating in the space at the time of the decriminalisation of homosexuality, the time frame of these deaths, and the subsequent effect this may have had—much like the current vilification inflicted on LGBTI communities as a result of state-sanctioned public debates on the work of same-sex and gender diverse families during the postal survey. The law does not necessarily protect those at risk of harm.

It is of the utmost importance that a review of the effectiveness and appropriateness of the Law Enforcement Conduct Commission be evaluated in order to provide better regulation and independent oversight of the NSW Police Force going forward. The intricate nature of co-collaboration and community relationship fostering can only be strengthened where we are able to fully contribute to substantive legislative and social justice for the purposes of social cohesion. Beyond an apology from the commissioner for those affected by historical, bias-based crimes in New South Wales, we ask for a commitment from government to ensure the efficacy and appropriate oversight as highlighted in recent requirements of vilification legislation for the ongoing safety of our LGBTI communities. Attorney General Mark Speakman said in June of this year:

People who incite violence are a threat to community safety.

...

The new laws will send a very clear message to offenders that we will not tolerate behaviour which risks people's safety simply because they belong to a particular group.

In 1989 the New South Wales Liberal-Nationals Government was the first in Australia to introduce legislation to help protect historically targeted communities from harm. Today we are acting again to strengthen the law and support people to go about living their lives without fear, fearing for safety just because of who they are or what they believe.

Be that the case the NSW Police Force must continue to focus on improving its culture and conduct towards LGBTI individuals, both within the force—as seen by the recent concerns from Newtown police officers—and the public, which the police are employed to serve by taxpayers. For the heartbroken friends and family members of individuals who were targeted and murdered, it has been a decades-long journey for justice and redress, and that journey is sadly not over. This inquiry is overdue. After years of goodwill, the final release of the Operation Parrabell report was deeply disheartening. The NSW Police Force devotes pages and pages of its Parrabell report trying to frame these violent murders as somehow part of the times. It also ducked any obligation it had to assess the role of police bias in an often woeful response to these crimes due to widespread social prejudice against LGBTI people. Murder has been, and always will be, considered a crime in New South Wales. Social prejudice has never been an excuse for murder. It shows just how far is left to go for the NSW Police Force in 2018.

We also believe there is mounting evidence that the NSW Police Force has failed to properly address its internal culture relating to LGBTI people and crimes affecting them. In the past year we have seen shocking revelations about an allegation of cultural and institutional homophobia within the force, including bullying of employees at Newtown Local Area Command, and a failure to take these cases of domestic violence seriously when reported by LGBTI people. Unfortunately, this goes to the highest levels of the NSW Police Force with the current commissioner involved in attempts to internally resolve the Newtown homophobia case. If it was not for the bravery of these individuals and the work of Dowson Turco Lawyers, the NSW Police Force would still be turning a blind eye to homophobia within its ranks.

While we welcome this inquiry, we highlight that there are practical steps that the NSW Police Force can take to improve the situation if it has an appetite for real change. The NSW Police Force or any other forward facing civil institution and community service does not have to wait for an outcome from this inquiry to take action. We want to see ongoing education models relating to LGBTI people as standard for employment for every employee of the force from the commissioner down. It is no longer good enough to have a handful of trained gay and lesbian liaison officers. Any individual in any corner of this State should be able to deal with any New South Wales police officer, or indeed any other public service employee, with confidence knowing that they will be treated equally and respectfully. Until that becomes a reality, the NSW Police Force and any other public service, ranging from hospitals, schools and homelessness services, have not done enough to earn the community's confidence, and New South Wales Parliament, sadly, must make that a reality for LGBTI people.

The CHAIR: You are not making an opening statement?

Mr JOHNSTONE: No.

The CHAIR: Thank you for your comprehensive opening statement and your submission. Congratulations on 30 years of working for the community. It is a worthy thing to note.

The Hon. GREG DONNELLY: Thank you for your submission and the attachments. I ask you to elucidate on a comment you made in your opening statement. If I heard you correctly towards the end of your statement, you made a criticism about people not receiving respect from the NSW Police Force, which I gather is in the present tense now. If that was not said explicitly, I think it is clear that is the point you were making. Can you provide today, and if not on notice, some contemporary examples of where this is happening to give the Committee an idea of how this is manifested in November 2018?

Ms FOY: Sure. I first might start with an historical example, and then I will give a personal example, if that is okay.

The Hon. GREG DONNELLY: Yes. I do not have the words in front of me, but towards the end of your opening statement, about respect. I think we would all be interested to hear examples of disrespect that is currently occurring, because it juxtaposes quite interestingly against a very different position which was put to us by the NSW Police Force this morning.

Ms FOY: I received a death threat during the marriage campaign. It was anonymous and it was in my letterbox at home. So somebody had researched where I lived. I took that to the Ashfield Local Area Command and I showed them. And they said it is anonymous and we cannot do anything about it. You have to get over it.

The Hon. MARK PEARSON: Is that quote, unquote?

Ms FOY: That is what they said.

The Hon. GREG DONNELLY: Who said that to you?

Ms FOY: I do not remember the name of the officer; it was just the person at the desk.

The Hon. GREG DONNELLY: You presented at the Ashfield police station with what, a note, or an envelope or something, and said—

Ms FOY: It was a letter, yes. It was an anonymous letter. Had my name on the front.

The Hon. GREG DONNELLY: Did the person at reception seek any guidance further up the line at that time about what to do, or they simply almost gave you a verbatim response, "Get over it"?

Ms FOY: They took some notes that I had come in and had reported it.

The Hon. GREG DONNELLY: They sat down and interviewed you?

Ms FOY: No. Just across the desk at the front desk. They took some notes within the black book, and then said to me, "Because it is anonymous, there is no way to be able to trace this. Thanks for coming in."

The Hon. GREG DONNELLY: It was an envelope, was it?

Ms FOY: It was a letter which was typed out.

The CHAIR: Did they take that off you? They left it with you?

Ms FOY: Yes.

Ms CATE FAEHRMANN: Most death threats actually are anonymous. Many of them are investigated, regardless.

The Hon. MARK PEARSON: We do not know if there were any fingerprints or anything?

The CHAIR: Did you take that any further?

Ms FOY: I decided at the time, because it was during the middle of the marriage equality debate, that it was safer for me to not speak publicly. I did not want to end up on the front of the newspaper, and also I did not want to do any damage to the campaign.

Ms CATE FAEHRMANN: The lobby did not convey that to the police, for example, that that had happened to you in any formal way? No?

Ms FOY: No.

The Hon. GREG DONNELLY: Was that followed up by any further correspondence to you in respect of threats, or it was something that happened over the course of the campaign? Were there further threats?

Ms FOY: Yes. We received a significant amount of vitriol and vilification during the campaign, which was also submitted to the Senate inquiry into the marriage survey, and can I provide you with that document that was given to the Senate.

The CHAIR: Provide that to us, if you could. I am sorry you have gone through that. I can see it is affecting you.

The Hon. GREG DONNELLY: As others were. Many people from a range of different backgrounds were vilified throughout that campaign.

The CHAIR: Was that the historical reference?

Ms FOY: That was my personal experience. We conducted a survey and asked community members for experiences that had happened to them, obviously within the terms of reference, between 1970 and 2010. I am going to read one in particular:

It happened in the late 80s early 90s when it was time to be a Transgender Person in NSW. Police kicked me to the ground and punched and kicked me numerous times. Assaulted by police officers on the way to Central Police Station in the city and was flogged by a group of officers in a cell, which was done [with] batons and stuff in such a way that no marks [sic] were able to be seen as well, as other things over the years which is too many to add here.

There is another one:

In 1993 I asked for an apology of a family member's pastor and his church members who repeatedly stated that AIDS was made up by the World Health Organization. My brother Dr Brett Tindall was the AIDS researcher who founded the T-cell connection and HIV transmission and earned his PhD on the topic. He was dying from AIDS at the time. He was also Australia's representative to WHO. I was held down by two church members while other members—Mark Bellan—repeatedly hit me in the face. My face was extremely bruised. The family members and church members—my mother-in-law, Joyce Brown—said that I bruise easily and

backed the assault. The assailant, Mark Bellan, was charged with assault but no-one else was. This incident contributed to my long-term PTSD. At the time I was offered no counselling or support. My brother and his partner were also the subject of an assault at Burwood New South Wales in 1990. They were attacked by a gang of six people and suffered extensive bruising. They did not report the assault.

The CHAIR: Was that particular one in your submission? I do not recall reading that one.

Ms FOY: No.

The CHAIR: It is not. The first one was, though?

Ms FOY: Yes.

The CHAIR: The 1980s, 1990s incident that you have outlined on page 5—which is the allegation of the police bashing—was dreadful but it is historical. You are not getting evidence that this type of stuff is going on today involving police?

Mr JOHNSTONE: We did not receive it, no, through this survey. Whether or not it is still going on—there is a selection bias obviously in the survey.

The CHAIR: You would know about it. This is historical.

Mr JOHNSTONE: Certainly. Lest it be considered that these are individual officers, the incident in the letter is only a frontline issue. I mean, we were talking about police disrespecting the community. The point is made in our submission, but I highlight it again that the opening pages of the Parrabell report, which we could anticipate is quite a large milestone in the relationship between our community and the police, we found utterly disrespectful. The reasons are detailed in the submission. I will not go into them but this is not just a frontline issue. The author from the NSW Police Force is charged with being the person who faces our community and this is the sort of thing they have chosen to lead with in quite a significant report. If we are talking about disrespect and failures, it is happening at both ends.

The Hon. GREG DONNELLY: Draw to our attention what is the disrespectful part of the introduction of Parrabell?

Ms FOY: That it was the nature of the time.

The Hon. GREG DONNELLY: I am trying to understand what you are taking offence at.

Ms FOY: Murder is murder, irrespective of what time of the day it is.

The CHAIR: You make the point that murder has always been a criminal offence, regardless of the times.

Mr JOHNSTONE: If that Parrabell report were to detail only why that violence occurred at that time, that would be one thing, but that was not the remit of the report. It was to look at how complete were the investigations at that time as well. To open with that and it sort of continues:

Thirty to forty years ago the NSW Police Force was a vastly different organisation, as were many others at that time ... Homosexual activity was contrary to NSW legislation until 1984 however police culture and societal values took far longer to change.

That has been tied back into those opening remarks that it was a different time, the Catholic Church invented waterboarding. They are trying to tie into these very extreme historical examples and that is the way that that report opens when part of its remit was to look at the investigative failures. That is principally what we found disrespectful about it.

The Hon. MARK PEARSON: Are you saying it is to be implied that it was accepted that gay people were legitimate objects of violence at that time because homosexuality was illegal? Is that the spirit of what you think is at the beginning of the report?

Mr JOHNSTONE: That is certainly one thing. It also says that it was, if not legitimate, understandable that there were police failings in that time, because, hey, that is what society thought. The idea that the police did not have a duty to thoroughly investigate those crimes at the time because there was some sort of societal bias comes through in that. It is certainly not explicit; I would not make that submission. But it certainly comes through.

The Hon. MARK PEARSON: It is implied.

Reverend the Hon. FRED NILE: Thank you for coming in. Everybody regrets the pain that many of your people have been through. In your submission, you start the second line on page 4 by saying that you have collected data and personal stories of hate crimes through an anonymous survey. You conducted the survey.

I would have thought people you were asking to give information to you would trust you to give you their names. If it was done by the Government or some other church body they could be suspicious and not want to reveal their details. Why do you think they want to be anonymous talking to you?

Ms FOY: There is the option to provide your identity, should you choose to, but the reality is that there are people still working for organisations from which they can be fired for outing themselves. That has become very clear in the last few weeks in the context of exemptions within the Sex Discrimination Act and New South Wales Anti-Discrimination Act. When the possibility of your livelihood and what is going to pay your bills on a day-to-day basis is threatened, you need to balance the pros and cons. Irrespective of whether or not they trust us as an organisation is indifferent. It is about protecting themselves and their families from the possibility that holistically their world could be interfered with as a result.

Reverend the Hon. FRED NILE: Did you give them an opportunity to say, "I will provide you with information but it must be confidential", as we do in our inquiries? We allow in camera evidence and no information is made public.

Mr JOHNSTONE: For expediency, knowing that it was for the purposes of providing a submission to this group, in particular—

Reverend the Hon. FRED NILE: It would still be made public.

Mr JOHNSTONE: —we thought it would be best to give a complete assurance, because the longer your explanation of the survey and its uses, the less likely it is to be picked up.

The CHAIR: We have seen your submission and you are very unhappy with Parrabell. Was the expectation too high in the community for what was going to be achieved by what was effectively a review, not an investigation as we have heard today?

Ms FOY: I do not know that the expectation for truth and justice is too high a reaching. In fact, when people are charged with the responsibility to investigate for truth and justice then they should be able to uphold their role. If we are to trust in the police force, the expectation is, as with any person employed to do a particular job, that you do that to the best of your ability within the scope of your role. What we identify is that because it was the nature of the time, it does not suffice as doing the best you possibly can in an objective way to do your job.

Mr JOHNSTONE: To take one further example, Parrabell itself said we cannot really determine if any police officer bias contributed to perhaps lacking investigation.

The CHAIR: I think what they are saying is documented evidence of it.

Mr JOHNSTONE: Yes. I think that no attempt was made to find an approximation or to consider the issue with an acceptance that perhaps it would not be concrete findings of bias on behalf of certain officers or in certain investigations. It felt that that was somewhat lacking. We thought that would be a key part of Parrabell really.

The CHAIR: Will you explain that a bit more? What do you mean by that?

Mr JOHNSTONE: Given that the mission statement was to bring the two committees closer together and in that there is this implicit acknowledgement that perhaps that relationship is not as good as it could be, it was not enough simply to say, "We can't work out whether individual police officers or individual investigations were affected by bias. We are not going to do it", which is effectively what Parrabell does. There were means by which they could have come towards an understanding of whether perhaps people at least felt or perceived that certain investigations were affected by bias. There are a lot of witnesses, or family members for these people, who were engaged with the police during the initial investigations and that they were not consulted as part of this final report, with a view towards that question about investigative bias, I thought that fell quite short of our expectations.

The Hon. GREG DONNELLY: I am not casting a view one way or the other about how these would fit into the terms of reference, but to meet the demand that you have suggested would have involved a re-investigation, would it not, to open up the investigation in each one of these matters.

Mr JOHNSTONE: Sorry, perhaps I misspoke. I certainly do not mean to convey that and I would not suggest that the police would perhaps do this themselves. Perhaps the Flinders University team could have done this and they have asked if people were willing to engage. I suggest that probably many family members would have been willing to engage: "How did you feel that investigation went? Did you feel it was affected by bias? Why?" et cetera.

The CHAIR: I think there is a bit too much flourish in the opening statement but I interpreted it as an acknowledgement at the beginning of the report that there was in-built bias in society and the police reflected that. That is how I read that. Would you not see it that way? It is acknowledgement that there was dreadful bias in society back then and the police reflected that.

Mr JOHNSTONE: I think there is acknowledgement of the possibility that police reflected that and that it was perceived by our community that there was bias in the police force. I think those two things are fairly said. I do not know that they confront the bias squarely to look to see how it affected people.

The Hon. MARK PEARSON: The assistant police commissioner gave evidence today and basically conceded that the police reflected equally the attitude of society at that time. That was well and truly entrenched in the police service as well, not different. He conceded that and said that that was not acceptable. Maybe there has been a bit of learning since the report with a bit of feedback from people like you. I wanted to point out to you that that was conceded much more strongly by the assistant police commissioner in his evidence this morning.

Mr JOHNSTONE: We are grateful for that definitely. The problem with any apology is when you try to equivocate. Unequivocal apologies are always going to be received better than those that are prefaced with a sign of the times.

Ms CATE FAEHRMANN: I spoke to the assistant commissioner and raised some of the matters in your submission, particularly your disappointment with the report and also the recommendation around the training educational modules for every officer. The assistant commissioner acknowledged now as well as historically that the police reflect the broader society. I said that they probably needed to have higher standards than that because they are supposed to be protecting everybody in some way from the poor standards that some people hold. I pushed that a little and he said he would look at it. He seemed to think it was a good idea. Of course I am very aware that this is put to the police a lot, and it has been for many years. I recall seven or eight years ago having the same conversations with the police about every officer having gay and lesbian training and undertaking the same kind of training as gay and lesbian liaison officers do and even that is only for three days. What communication or discussions have you had with police over the years? I apologise as I am not too sure how long both of you have been in your relevant positions. What types of discussions have you had with the police about this? What has been their reception to those requests from the gay and lesbian community, the LGBTIQ community?

Ms FOY: I attend a community stakeholders meeting when I can. They are often hosted during the day when I am at my full-time paid job. But when I can attend I do bring up training and I have brought that up for the nine years that I have been at the GLRL.

Ms CATE FAEHRMANN: What is the meeting to which you are referring?

Ms FOY: It is an LGBTIQ stakeholders meeting with the NSW Police Force.

The Hon. GREG DONNELLY: Are they regular?

Ms FOY: They are monthly. In fact, I am going this afternoon to the graduation of the GLLOs after this.

Ms CATE FAEHRMANN: Yes, it has been talked about this morning.

Ms FOY: Yes, that is right. If we are going to have a look at changing the culture of an organisation it needs to come from the top down. Two hours of training on LGBTIQ issues for any new recruit is not enough. We could talk about one single issue helping somebody to understand what domestic violence in a same-sex relationship looks like, and that is just one facet and one nuance. That does not even cover the historical context of what homophobia and transphobia look like and what we can do as a community to be mindful of that and to be aware of that.

The relationship in terms of training over the years has dwindled. The last time I looked on the website in reference to gay and lesbian liaison officers, it has not been updated for quite a while. Although I acknowledge that internally a lot of work is being done to recruit allies, there needs to be an update as to who is a current GLLO and who people can get in contact with. I think it also needs to be representative or reflective of the whole of New South Wales, just not city-centric because we have LGBTIQ people existing in all corners of New South Wales, not just in Darlinghurst, Potts Point or Newtown. A GLLO from Newtown will not be able to support a person who is living in, say, Cowra. As much as we would like them to, people cannot stretch that far.

I would like to acknowledge though that my experience with Assistant Commissioner Tony Crandell has been quite positive. In the event that something has happened or we have had a question he has been quite

responsive. At an event we had called Rainbow Run two years ago in Sydney Park we had some of our equipment tampered with. We had graffiti over some of our collateral. I contacted him via email and he responded to me within two minutes and sent somebody from the Newtown Local Area Command to come and help us keep the community safe at the time. In terms of our direct relationship it has been good. But in saying that there are obviously instances of homophobia internally which is obviously reflected by the complaints put forward by some of the officers at the Newtown Local Area Command that are currently being investigated at the moment.

Ms CATE FAEHRMANN: And from your personal experience at Ashfield it seems almost always the issue is not with the gay and lesbian liaison officers and the officers who are appointed to liaise with the community and be champions for the community within the force. It is everyone else.

Ms FOY: Yes. I do wonder whether or not if I had introduced myself as Lauren from the Gay and Lesbian Rights Lobby I would have been taken more seriously at that time. But I did not. I introduced myself as a person who has had this experience.

The Hon. MARK PEARSON: Fair enough.

Reverend the Hon. FRED NILE: In your submission on page 5 you state, "A formal apology is overdue to victims and families." The Prime Minister recently made an apology in regard to the sexual abuse of children in churches and so on. Is that something you are envisaging from the Premier?

Ms FOY: I am sure that families and victims would welcome that. They would welcome more so substantive cultural change. If that is to begin by an apology and a recognition that there were wrongs were done and truth and justice was not found at the time we would absolutely welcome that.

Reverend the Hon. FRED NILE: It would help if you negotiated with the Premier, the Prime Minister or whoever it is, on the wording of that apology so there is no misunderstanding as there may have been on these other documents you are referring to.

The CHAIR: Part of our terms of reference is to look at the so-called gay panic defence. You have given, I think, the most comprehensive outline of the history of it on pages 9 and 10 and I thank you for that, but for the record and for the purpose of our inquiry can you go over the history of it? I would be interested to know the legacy of it. Are there historic injustices out there still because of the use of that defence in the past? Maybe outline what you have done in your submission, just briefly, and then go to the point of this: is there a legacy issue?

Mr JOHNSTONE: I certainly think that it feeds into the level of distrust or the damage to the relationship between perhaps our community and not just police but perhaps the whole criminal justice system. You have got at least, I think it was, 13 people in about a three- or five-year period—I could not be more specific than that—who successfully used this before it was abolished. That is remarkable. I accept that it was a creature of the common law and it no longer exists, but—

The CHAIR: It went all the way to the High Court.

Mr JOHNSTONE: Yes, and obviously it existed before then. That will still breed that culture and fuel that culture of distrust, and that is part of what we are talking about in terms of establishing that much better relationship and the need for not equivocating on apologies et cetera. I think that is probably where I would see its legacy predominantly.

Ms FOY: I can speak to the specifics; I have got quite comprehensive notes here. In the nineties, the use of the homosexual advance defence strategy in New South Wales in the case of *Green v R* reached all the way to the most senior judges in Australia. A majority ruling by the Australian High Court favourably viewed the accused killer's appeal against the murder conviction and paved the way for his eventual securing of a much lighter sentence for manslaughter. The Green case was subject to much criticism because the court allowed claims of a homosexual advance to substantiate a claim of provocation. In reaching its decision the majority of these judges did not take the opportunity to rule that no ordinary person could be provoked to kill by a non-violent sexual pass. In fact, several comments were made which suggested that such extreme violence may often be expected.

The High Court resulted in Green mobilising gay and lesbian lobbyists nationwide, and here we are; it spurred an official Attorney General's working party inquiry in New South Wales, which in 1988 recommended that a non-violent sexual advance should be barred from forming the basis of a provocation defence, and nothing came of those recommendations. It took 16 years before this would change, and it took the murder of a heterosexual woman to spur action. We fast-forward to 2012 and in the years since the Attorney General's working

party recommended changes to law successive governments reneged on their promises to reform, and ignored the issue.

The inquiry into the State's provocation laws commenced again after a 24-year-old Sydney man was found guilty in 2012 of manslaughter rather than the murder of his Indian-born wife following her death in 2009. He successfully argued during his trial that cultural factors and his belief that his wife was cheating on him had forced him into a triangle of desperation. A select committee was established by the Attorney General's department to inquire into provocation in New South Wales, which the Gay and Lesbian Rights Lobby provided a submission for. When a draft of the Crimes Amendment (Provocation) Bill was released, Premier Barry O'Farrell said defendants would have to prove extreme provocation in order to be entitled to use the partial defence. The amendment to the Crimes Act followed years of campaigning and a recommendation by the Legislative Council select committee in 2012 that provisions allowing for the use of the gay panic defence be removed. The bill was introduced by Christian Democrats upper House MP Fred Nile, who also led the committee and is here with us today.

We observe social and political connections between LGTBIQ communities and policing are so infrequently considered central to LGTBI politics, which is all the more striking when one considers that in one form or another strains of LGTBI political work have always addressed police violence, there is, in significant respects, nothing new about making police violence central to the LGTBI agenda and, indeed, it is perhaps only relatively recently that police violence has been seen as anything other than one of the most flagrantly apparent manifestations of LGTBI oppression in New South Wales, and I think that is reflected by the fact that we are sitting here having this inquiry today.

The CHAIR: You said 13 cases?

Mr JOHNSTONE: If I could get back to you properly.

The CHAIR: How many of those were so-called gay panic offences, because it obviously was taken up in that area but also, as you said, there was a heterosexual—

Mr JOHNSTONE: As I understand, those 13 were gay panic, not the larger provocation defence.

The CHAIR: Could you take on notice and give us information on how many of those were acquitted or had reduced sentences rather than being acquitted?

Ms FOY: We can provide you with the submission that we wrote for the inquiry, which outlines that.

The CHAIR: I want to go to judicial prejudice. Obviously, you pick that up and we see in ACON's report their report about some of the historic comments of some of the judiciary. I assume you are both lawyers or you are certainly involved in the courts. Is the judiciary, in the lobby's view, more enlightened and more aware and sensitive to LGTBIQ community issues?

Ms FOY: We would be answering that subjectively, I think.

Mr JOHNSTONE: Perhaps if we could take that question on notice.

The CHAIR: Yes, because justice is part of the remit of this inquiry, because if we are going to try to increase training for police, do we need to make awareness for the judiciary, because the judiciary could be there for a long time?

Ms FOY: I think I referenced in our opening statement about there being a whole-of-government response to being able to make sure that any forward-facing service that is dealing with community is aware or at least trained to be aware of LGBTI issues within its historical context, and that should include law courts.

The CHAIR: Who could we talk to to get more? Would inner city legal aid be able to talk to us about perceptions of prejudice in the judiciary at all?

Mr JOHNSTONE: I think the ICLC would be very well poised.

The CHAIR: ICLC?

Mr JOHNSTONE: That is the Inner City Legal Centre. I think you would probably also want to examine the bench books. There is a specific bench book on effectively marginalised groups, and obviously that is provided by the Judicial Commission. That would be quite a handy resource to examine.

The CHAIR: You are a lawyer, I am not. What is a bench book?

Mr JOHNSTONE: That is effectively information supplied to judges.

The Hon. NATALIE WARD: A judges' guide. It is not legislation but it is a guide how to approach practices.

Ms CATE FAEHRMANN: Obviously, this Committee is looking at historical crimes but also looking at practices in place now and processes in place now. You mentioned earlier some of the increased homophobia and transphobia that the communities were experiencing during the postal survey. I am wondering whether there is other data or surveys or evidence that you can provide us of homophobia, transphobia, currently, outside of the period of the postal survey, even though I recognise that that intensified everything. Is there something you can provide the Committee that demonstrates that the LGBTIQ community is still experiencing homophobia and transphobia?

Ms FOY: We included within our submission survey reporting from 2013 and 2015, which covers discrimination in the context of New South Wales and also within the broader Australian context. Examples are shown within those two documents. We have not done any recent surveying post survey, but what I would refer to you is possibly some of the research studies that are being done by mental health organisations that saw a spike in access to mental health services during and post the postal survey, and I would also have a look at possibly a spike in access to mental health services following recent statements from Australia's Prime Minister on gender whisperers and also the current conversations that are happening around dismissing teachers from schools and kids being kicked out. There is anecdotal evidence at the moment to suggest that it is having an impact on community.

Mr JOHNSTONE: By way of comparison perhaps—and we apologise for not referring to this in the submission, but it only came to our attention today—this month an English empirical study has been released, quite comprehensive, entitled "Hate crime and the 'justice gap': the case for law reform". It looks at the very comprehensive hate crime legislation in that jurisdiction and it reports that there is approximately a 96 per cent justice gap, meaning that between those cases that are expected to be hate crimes to the point of convicted and the hate crime being recognised as an aggravating factor in sentencing, 96 cases do not make it through that whole journey—only 4 per cent of hate crimes do. I should point out that the definition of "hate crimes" in that study obviously incorporates racial, religious, disabled, et cetera, but I think that is a very comprehensive study. For that to be conducted here would be fantastic. Obviously, that would require quite a bit of resourcing.

The CHAIR: Can you provide that reference to us on notice?

Mr JOHNSTONE: Certainly.

Ms CATE FAEHRMANN: Down a similar path, are there surveys in relation to the community's experiences with the police, say, in the last decade, because we are looking up to the past eight years or whatever, since 2010?

Ms FOY: We have not done any surveying.

The Hon. MARK PEARSON: During those surveys, did anybody identify themselves as a police officer?

Ms FOY: No.

The Hon. GREG DONNELLY: You referred in your statement to the 2013 survey, which is this document here.

Ms FOY: Yes.

The Hon. GREG DONNELLY: Is this the 2015 one or is that another one?

Ms FOY: That was produced by the Victorian Gay and Lesbian Rights Lobby.

The Hon. GREG DONNELLY: So is the 2015 one that you referred to in your comments somewhere else? That is referred to in your submission, is it?

Ms FOY: It should be titled "Ending homophobia and transphobia".

The Hon. GREG DONNELLY: That is fine. I just wanted to get the reference.

Reverend the Hon. FRED NILE: In your submission on page 7, you refer to a leading investigator DCI Young who made public comments on national television disparaging of Scott's family. Was there any action taken against that? I assume it is a police officer—DCI.

Ms FOY: Sorry, I did not—

Reverend the Hon. FRED NILE: Have you followed up that case—the Scott Johnson case?

The CHAIR: On page 7.

Mr JOHNSTONE: I understand the question. Can we take it on notice? There is just a slight difficulty with answering that today.

The CHAIR: Okay, we accept that.

Reverend the Hon. FRED NILE: Could you take it on notice?

Mr JOHNSTONE: Yes.

Ms FOY: Yes.

Reverend the Hon. FRED NILE: I am just implying that something should have happened to that officer.

Ms FOY: I would just like to correct: the ending discrimination document is actually from 2014.

The Hon. GREG DONNELLY: Thank you, that is fine.

The CHAIR: On that gay panic defence, I would be interested if there is any historic injustice that needs to be looked at or whether that has moved on from there in terms of our work? It says 13, so when you come back to us with the 13, whether there are any aggrieved parties that we should be looking at since it was expunged?

Mr JOHNSTONE: A number of these things that we are talking about, including the legacy of that, the point I made earlier about looking into the bias in investigations, or at least the perceptions thereof—Reverend the Hon. Fred Nile made a comparison earlier to the Royal Commission into Institutional Responses to Child Sexual Abuse. It does raise a number of issues that would be apt for a special commission. I would certainly encourage the Committee to consider that.

The CHAIR: You are talking about the recommendations that the ACON has also recommended similarly.

Ms FOY: Yes, that is right. Should any redress be considered or special measures be considered, it is paramount that community is consulted around that. I do not think it would be appropriate for us right now to recommend specifically what that might look like until community is consulted.

The CHAIR: Absolutely, yes.

Reverend the Hon. FRED NILE: I think it would keep the apology separate from that issue, I think.

Ms FOY: Yes.

The CHAIR: I thank you for coming in this afternoon. Thank you for the historical work you do and the detailed submission, which has been very helpful. You took some questions on notice. You have 21 days to get those back to us and we may have some other supplementary questions to give to you after we hear more evidence over the inquiry. Thank you very much.

Ms FOY: Thank you.

Mr JOHNSTONE: Thank you.

(The witnesses withdrew)

(Luncheon adjournment)

NICHOLAS STEWART, Partner, Dowson Turco Lawyers, Newtown, and National LGBTI Co-Chair, Australian Lawyers for Human Rights, and Director, Rainbow Families New South Wales, affirmed and examined

The CHAIR: Welcome to the inquiry into gay and transgender hate crimes between 1970 and 2010 conducted by the Standing Committee on Social Issues. I remind everyone who is watching that today's hearing will contain information about violent crimes committed against the lesbian, gay, bisexual, transgender, intersex, and 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, the ACON and Lifeline. The contact numbers for the services can be found in brochures available at the back of the hearing room or on our inquiry website. I welcome Mr Stewart. Would you like to make a brief opening statement?

Mr STEWART: Yes. In case I could not be heard before, I am a partner at LGBTI law firm Dowson Turco Lawyers, which was incorporated in 2008. That firm is an LGBTI law firm so far as we are owned and operated by people who are members of the LGBTI community but we also service the LGBTI community across Australia in areas that include criminal law, immigration law, property law, family law, estate law, and commercial law. We also take on a lot of pro bono cases for the LGBTI community and have advocated for progressive legal change in this State and across Australia. That has included representing people who have been victims of hate crimes.

I am also the national LGBTI Co-Chair at Australian Lawyers for Human Rights. In that capacity I work with the committee in relation to making submissions and advocating for progressive legal change and ensuring that domestic law stands up to international standards so far as international human rights are concerned. I am the director of legal and governance at Rainbow Families. I incorporated that organisation a few years back to ensure that it could represent members of the LGBTI community who are parents of young children and ensure that they were empowered with information relating to the law but also where to get help when they need it.

The statement I would probably like to say is an opening statement to this Committee is that I came to be very interested in hate crimes and historical hate crimes and getting justice for the community because my firm, Dowson Turco Lawyers, was retained by Alan Rosendale, who is named in the terms of reference as a hate crimes victim from 1989. Alan came to Dowson Turco because he wanted assistance after discovering that he was the subject of an article written by Rick Feneley in the *Sydney Morning Herald* and identified himself as a victim of a bashing which he had long forgotten about. Rick Feneley had written in such a detailed way about Alan's bashing and had interviewed a witness to that bashing, Mr Paul Simes, that Alan was so certain that it was he who was a victim of that crime, and contacted Rick Feneley.

Rick Feneley and Paul Simes, who was the witness to Alan's bashing, then went to the site of the bashing where various facts of the bashing were confirmed between Alan and Paul Simes. I subsequently wrote to the NSW Police Force and asked some questions about Alan Rosendale's bashing and the investigation that took place not long after it, which also led to a reinvestigation of his bashing. I also subsequently made a complaint to the NSW Ombudsman in relation to the NSW Police Force's response to Mr Rosendale.

The CHAIR: Thank you for that. Let us talk about the Alan Rosendale case. We had Assistant Commissioner Tony Crandell in earlier today. He took some of the questions I asked on notice, and he did explain—you might like to check *Hansard*—the investigation that one of his officers did into that, not connecting the two scenarios. He is coming back to us regarding the access to the confidential diaries, which you have probably seen in Duncan McNab's submission to us. I would like to ask you about the Ombudsman's review of that investigation because I know it did not reinforce the police.

Mr STEWART: I think the Ombudsman was never established and never had the power to reinvestigate. It had a review capacity in relation to police investigations and could really only review an investigation with the consent of the commissioner. So far as Alan Rosendale was concerned, I engaged the Ombudsman because it was difficult for Mr Rosendale to extract from the NSW Police Force to what extent the NSW Police Force had reconsidered his file and his complaint. Mr Crandell and I had some correspondence about that matter. Mr Rosendale's view was that he sought the assistance of the Ombudsman to provide a check and balance as to that reinvestigation.

The outcome of that was that Mr Crandell was asked by the Ombudsman to give some answers to some of my questions. I am not satisfied with the answers to those questions, but I appreciate that Mr Crandell is somewhat limited in how far he can go. He was not the investigating officer in 1989 and I suspect the investigating officer is no longer in the employ of the NSW Police Force. Mr Rosendale has instructed me that the reinvestigation and the officer who asked him questions in current times about his bashing was not very thorough

and did not seek to identify who may have been in the car and who bashed him. While it might be open to the NSW Police Force to say that Mr Rosendale's bashing is a different bashing to another bashing on South Dowling Street, I would say that that is more remarkable than it is the case that simply Alan was bashed; in other words, there were two bashings we are now talking about, not just one.

From Alan's perspective, until the NSW Police Force can confirm who was in that car and what they were doing on the night, we cannot really identify what the circumstances were. He alleges that he was bashed and he spent a week in hospital and suffered injuries as a result of men jumping out of a car, a station wagon, and pulling out of the boot batons, and was chased into a gutter and then assaulted. As far as my investigations reveal, I am of the view that the article that Rick Feneley wrote and the matter that Paul Simes witnessed is the same matter involving Mr Rosendale, simply because both Paul Simes and Mr Rosendale do not know each other, had not known each other until now and have both independently verified where Mr Rosendale was bashed and on what night. And in my mind that is sufficient.

The CHAIR: The Committee heard that ACON was taking 20 bashing reports a week at that time. Mr Crandell confirmed that there were many bashings of that nature at that time, so is the police conclusion that they are two separate issues not unfeasible?

Mr STEWART: Yes, I would agree. I do not think we can say with certainty that they are one and the same. But at the same time, I think there are still a lot of questions that need to be answered, and I would like to put the police force to task so far as identifying who was in the car.

The CHAIR: Regardless of Alan Rosendale, someone else—if you accept Mr Simes evidence, the witness—allegedly from a police vehicle, off duty is bashing somebody. That is still the principle there?

Mr STEWART: That is right, because Mr Simes evidence is that not only did he witness the incident but—

The CHAIR: He took the registration.

Mr STEWART: He took the registration down, and he had a meeting with senior police officers who confirmed the same.

The CHAIR: In College Street.

Mr STEWART: In College Street, that is right. And Mr Simes wishes that he still had that registration number available to him, but he does have the date of the bashing and he can with specificity detail what he saw.

Ms CATE FAEHRMANN: You were saying that the questions that you posed to Assistant Commissioner Tony Crandell, you did not receive satisfactory responses to. Did you cover all of that in your statement just then? What were you seeking from the police in your questions that they did not provide, that led you to think that they were unsatisfactorily responded to?

Mr STEWART: I do not have my correspondence before me, but I would be happy to provide it to the Committee. Questions related to who was in the car, what are the records you have as to the meeting with Mr Simes, seeking to go back to, not what is the alternative that could have happened, but what do we know, what is on the record now. I appreciate from the police force's perspective an outside lawyer like myself asking questions sometimes can be met—they see themselves as having a job to do, they do not see my job as investigating. I appreciate that, but at the same time I think the questions we were asking were reasonable and historical and were only in the interests of justice and identifying who assaulted Mr Rosendale.

The CHAIR: Could you provide that correspondence and the reply?

Mr STEWART: Yes, I can.

The CHAIR: You have 21 days.

Mr STEWART: I can do that.

Ms CATE FAEHRMANN: The Committee's main term of reference is between 1970 to 2010 to inquire into the hate crimes that we have been talking about. The terms of reference also state to the extent that past impediments are identified, how effectively these have been addressed by current policy and practice. In your role as a lawyer can you comment on the current policies and practices of the NSW Police Force and whether they have addressed some of these past impediments that we are hearing about today?

Mr STEWART: I think the NSW Police Force has somewhat demonstrated an interest in rectifying errors of the past, and I think that can be seen in the Parrabell report, even though I do not generally accept that we can limit the number of hate crimes to 88. And while I also dispute that the Parrabell report can sufficiently identify bias in circumstances where it was a review and not a reinvestigation of hate crimes, I think the police force can also be commended for embracing Wear it Purple Day, and celebrating diversity inclusion by marching in the Mardi Gras. The gay and lesbian liaison officer program I think is a beautiful program, and probably needs more resources, if anything.

But at the same time, in my capacity as a lawyer I am representing four gay police officers who are suing the NSW Police Force for homophobic discrimination. In the course of those proceedings I have to say I have been somewhat disappointed by what I have discovered, including a commander who alleged that the men were using drugs and seemed to have formed that decision or that basis because of their sexuality. What transpired was an investigation of them by a professional standards command, an established investigative team which seemed to conduct their investigation purely based on a commander's complaint that they were drug users, and the only connection he could make to them using drugs was their sexuality. I think in the course of those proceedings I have been somewhat cynical around whether the police force is really up to current times in dealing with our community, because if they are going to do that to their own, what could they do to the general community? I am talking about four gay police officers who were honourable men, who had effectively clean records and long service in the NSW Police Force and should be serving out their time in the police force, who were targeted for drug use because of their sexuality. That has really concerned me.

Reverend the Hon. FRED NILE: Were they dismissed from the police force? What happened to them?

Mr STEWART: One of them resigned from the police force, because he said he was being bullied. He put on a legal challenge as to that employment and he has not returned to the police force. One of them is on long service leave, but moved to a different local area command and was really enjoying himself under the management of a different commander. And two of them are on workers compensation because of what has happened. I might say that those two are domestic life partners and were not working at the same station, despite being the subject of the complaint. In other words, the complaint of their drug use seemed to be just connected because of their relationship. In the course of that—and I realise that the terms of reference for this inquiry are hate crimes—but in terms of the institutional response and where the police force is going, I think I would love to see more representation at the assistant and commissioner level of members of the LGBTI community.

The Hon. MARK PEARSON: Going back to the bashings, the fact that there is a chance that two men could have been bashed on the same day or night in the same way and from an instrument, a baton or whatever, taken from a similar vehicle, does that indicate that there could have been in the police service a culture of systemic bashings or gay hate crime inflicted by police officers themselves in a semi-organised or organised way?

Mr STEWART: On my instruction from Mr Rosendale, and from my inquiries, and if it is to be believed that Mr Simes witnessed a police car and in that car were police officers on duty, because to be on duty they would have had to have had a police vehicle—

The Hon. GREG DONNELLY: Was that a marked police vehicle, or unmarked?

Mr STEWART: Unmarked.

The Hon. MARK PEARSON: They were plain dressed?

Mr STEWART: They were plain dressed. I think it is fair to say that that is really concerning. But I do not think from that we can say that there was an institutional, systemic view of the community from the police force at large from that incident. But also, if that was just one occurrence, and I am conscious of what I have heard and what my inquiries have found, that I do not want to simply say that it was rife. At the same time, from what Mr Rosendale tells me and what we have discovered in his case, it seems like there was a squad who were roaming the streets looking for gay men to beat up. And that beat that Mr Rosendale was at, the only illegal behaviour there was potentially public sexual activity. I am not sure that warranted storming it and chasing gays into the street where they fell over on the road into the gutter.

The CHAIR: What year was this?

Mr STEWART: 1989.

The CHAIR: That is after decriminalisation.

Mr STEWART: It is.

The CHAIR: This is the so-called hoodlum squad. I do not know if that is an official term.

Mr STEWART: I have heard that term.

The CHAIR: Dealing broadly with antisocial behaviour on the streets.

The Hon. GREG DONNELLY: Did the anti-hoodlum squad have a broader remit, if I can describe it that way?

Mr STEWART: I do not know. In Mr Rosendale's case it seems quite targeted.

Ms CATE FAEHRMANN: Your clients were all LGBTIQ people. I am wondering if you can tell the Committee whether over the years with other complaints or cases there was a general sense that you were dealing with them against the police or police behaviour? Is there anything you can tell us without revealing specifics? Or reveal specifics, if it is okay.

Mr STEWART: The only one that comes to mind is—yes, I should probably be careful as to what I say.

Ms CATE FAEHRMANN: Fair enough.

Mr STEWART: Generally speaking, the community is building back its relationship with the police force, which is why I think this inquiry is so important. There is so much healing that needs to be done between the NSW Police Force and the LGBTIQ community. There is a certain lack of trust and good faith which I think could be resolved by looking into the past and looking at the institutional response and identifying those areas so that those crimes are never committed again.

The CHAIR: In your work, are you aware of gay bashings and/or broader community gay violence occurring today?

Mr STEWART: Yes, I am.

The CHAIR: Do you want to give us a bit more information about that? Is it just a casual assault in a back lane, or is it a persecution?

Mr STEWART: We have had clients over the years bashed to a point of being unconscious or to them being in hospital. We have had members of the drag queen community assaulted because of how they dress and I am talking in local areas. I have been walking to the new theatre at night in my suit and wearing a pink tie and being called a faggot from people driving on the road. Generally speaking, we still do not feel safe in Sydney or in the city. I am constantly looking over my shoulder. I am a trained kickboxer. I feel quite comfortable defending myself, but I still look over my shoulder and my partner stops holding my hand when someone approaches us.

The CHAIR: Do you have any experience in rural and regional areas?

Mr STEWART: No, I do not.

Reverend the Hon. FRED NILE: Following up the earlier question about those police officers, the Police Association of NSW, the union, is very active on behalf of its members. Were they asked to be supportive? Did they respond?

Mr STEWART: We did not put any questions to the Police Association in relation to Mr Rosendale.

Reverend the Hon. FRED NILE: I am referring to those four police officers that were discriminated against, as a union case.

Mr STEWART: That is right. The association knew about it and was reluctant to fund them in their legal proceedings. There are connected proceedings related to access to documents, which I know that the Police Association is funding in relation to an appeal because the four men applied for investigation files from the police force. The NSW Civil and Administrative Tribunal [NCAT] member who heard that hearing made a determination that it was not in the public interest that those documents be revealed and an appeal is now on foot. I understand the Police Association is funding that appeal.

Reverend the Hon. FRED NILE: What is your opinion of the Police Association's response? Was it satisfactory?

Mr STEWART: I think it was unsatisfactory so far as four of their members seeking legal funding assistance to identify why they were the subject of a drug investigation based on their sexuality, but, at the same time, the Police Association might not have known, like we did not know, the extent to which they were targeted. In other words, when we went into what we thought we knew, it was only through the slow revelation—three

summonses of documents—that we actually discovered there was something more sinister going on. At the start when they approached the Police Association, perhaps the Police Association did not realise—random drug testing is done all the time in the police force. This was not random.

Reverend the Hon. FRED NILE: They did not think it was serious.

The Hon. NATALIE WARD: You mentioned the NCAT. I did not hear what you said about the status of the appeal. The NCAT decision is being appealed by you on behalf of your clients. Did you say the Police Association is—

Mr STEWART: There are two separate proceedings. One set of proceedings is Government Information (Public Access) Act proceedings for investigation files. We lost at the initial hearing in relation to getting those documents and that matter is now on appeal to the full panel of the Civil and Administrative Tribunal and the Police Association is funding that appeal.

The Hon. NATALIE WARD: They are funding it?

Mr STEWART: They are. I am not on the Police Association's panel. Another law firm is and they are running the appeal. In the discrimination proceedings, we are awaiting judgement. We wrapped up a six-day hearing earlier this year.

The Hon. GREG DONNELLY: This might provide a newer stance or you might want to take it on notice. We heard evidence this morning from ACON. We subsequently heard evidence later this morning from the NSW Gay and Lesbian Rights Lobby. They are two separate organisations. Other members may have drawn their own conclusions, but the representatives from ACON put a point of view forward with respect to the final report of Strike Force Parrabell. They thought—using my words, not theirs—that it was a positive response. They looked at and dealt with a number of matters, but, in their opinion, it fell short in particular aspects. They are obviously a lobby group. One is well known and has a high profile. We heard from the NSW Gay and Lesbian Rights Lobby. It is fair to characterise that their view of this report and particular aspects of it, or deficiencies, as they see it, was a more critical one. By coincidence, in between the two of them the NSW Police Force Assistant Commissioner gave evidence.

I preface that to ask you this question: In respect of the NSW Police Force continuing to work in a cooperative way and act as we would want the NSW Police Force to in dealing with issues involving members of the LGBTIQ community and, indeed, the public at large, do you think there is a problem of what can be seen as a particular lobby group or some lobby groups being too critical of what the NSW Police Force is currently doing versus perhaps what has happened in the past? With respect to the past, on my reading of the document—and I have not read it completely—but looking at aspects of it there is a recognition, as we heard today from Mr Tony Crandell, who is known for the work he has been doing.

As we move ahead, I am wondering how we deal with this dynamic of trying to keep the NSW Police Force moving forward with the way in which it is engaging on the matters and keeping that on track and it not feeling too defensive. You might say at the end of the day it is the NSW Police Force; it is big and ugly enough to look after itself. But at the end of the day, dealing with an institution which ultimately does react—whether said or unsaid—to criticisms about the way it behaves, not only on these issues but also other issues, how do you think we can keep it on track? Obviously that is not to deny anyone the right to express criticisms publicly or otherwise. I invite your thoughts.

Mr STEWART: It is really a matter of political relationships. When you think of a rights lobby like the Gay and Lesbian Rights Lobby will not be relying on funding and probably feels that it can be more vocal about criticising a report such as the Parrabell report.

The Hon. GREG DONNELLY: I pass no judgement about the way in which they represented their report. I am just contrasting it and looking at the police in the middle, so to speak.

Mr STEWART: Yes. If I take my four gay police officers as an example, three years of litigation could have been avoided if the commissioner picked up the telephone and called me and said, "Hey, I want to sit in a room and have a chat to your clients." They expressed that wish. Through me they wrote to the commissioner and asked for a meeting. That was refused effectively. I guess I am saying that any institution is protective of its policies and its culture. I would love a better dialogue with the police force, as a private lawyer, as a private citizen and as a member of the LGBTI community. I think something has to be done so that the police force is more transparent about how it polices this State and relates to its community and citizens.

The Hon. GREG DONNELLY: That is a much bigger critique than specifically the remit of dealing with matters from a particular community, is it not?

Mr STEWART: It is. But I often think of the LGBTI community and its relationship with the police force as analogous to that of the Aboriginal community in that, I think, over time the Aboriginal community was thought of as not deserving justice and equal treatment. That is why we have so many unresolved cold cases of young Aboriginal men and women who seem to have been murdered without any justice. I think to some extent that has happened with the gay community or the LGBTI community in the 1980s and 1990s. We were thought of maybe as not deserving of equal justice and treatment. We were thought of as sexual deviants who just simply were not worth investigating when we came to harm.

I think times have changed and slowly we are getting somewhere in terms of the NSW Police Force and its care for diversity and inclusion and seeing us all as equal. I am also conscious of the enormous caseload of the police force. There are a lot of cold cases. The LGBTI community comprises probably a large swathe of those but I am conscious of resources and I would like to see more of a dialogue. I would like to see an LGBTI task force set up to get to the bottom of this. I would like to see the police force accept that it is not just 88, it is probably hundreds. Coroner Michael Barnes in the Scott Johnson case referred to hundreds. Sue Thompson, who is giving evidence to this inquiry, has mentioned hundreds. We know that this goes a lot deeper than the Parrabell report purports to reflect. I would like to see more dialogue and more honesty about that and the state of facts.

The Hon. MARK PEARSON: Do you think it has any similarities to the way the police used to deal with domestic violence? It was seen as that is the home of the man and he has a right to do what he does in his home, like a fortress and a castle. That was a very strong view amongst the police service.

Mr STEWART: I am conscious of that but, no, I do not. In relation to the gay community I see it as homophobia. During a time in the 1970s our relationships and our sexual behaviour was illegal. In 1984 in New South Wales we were decriminalised and through that we became more colourful and more liberated. We went into the dance clubs and the streets and we showed our sexual liberation. I am not sure society was ready for us at that time. At the same time the AIDS crisis swept through and started killing all these men. At the time I do not think the gay community knew what was going on, let alone society.

The grim reaper campaign on television, together with the recent decriminalisation following the recent criminalisation meant that society was hostile to our community—really hostile. The result was vigilante groups of young men who hunted us down and murdered us. That is why I am so grateful for this inquiry because it has come to a time when we need to address it and call it and say that is what happened.

The CHAIR: Are you representing any other cases in the Parrabell matter?

Mr STEWART: No, not in Parrabell. A friend of the firm is David McMahon who escaped a bashing in Bondi. He was almost thrown off the cliff but managed to run away. He featured in the *Deep Water* series. He has spoken to me about giving evidence to this inquiry and he sees it as a moment when he can tell his story.

The CHAIR: His story is very dramatic. Will he give evidence in the inquiry?

Mr STEWART: Yes, he will. I believe he will. But from my conversations with David and I think to some extent those conversations have haunted me as well, he thinks he knows who the perpetrator was. That person has been named in the press as potentially being involved in other hate crimes, including murders. I know that that person is still around and is on social media. I know that David's nightmares have been haunted by his face.

The CHAIR: Are the police aware of that?

Mr STEWART: I believe they are.

The CHAIR: What is your view of the report on Operation Parrabell?

Mr STEWART: Look, I welcomed it so far as a step in the right direction. I do not think it represents the facts so far as I think there are a lot more than 88 hate crimes that should have been identified. I think there are hundreds. I also dispute that it can identify bias when all it did was really review papers. I think unless you go back to investigations and ask investigators, "Why didn't you keep this evidence? Why was it lost? Why didn't you interview this person? What questions did you ask? What questions didn't you ask at the time?" It is only then that you can identify bias. Looking at documents from years ago and forming a view is really difficult. Even Tony Crandell and Michael Fuller have both said sorry to the community. The process of releasing that report I think was pretty much welcome. It showed the police force is looking back at what happened, but it is not correct; it is

not an accurate reflection of what went on. I do not think it can be held up to be the final say. I think the police force could probably go back and reinvestigate rather than just review.

The CHAIR: I think that is the pivotal point. It is review versus investigate. I think we were told a team of 10 worked on the review for 18 months. The investigation, I would suggest, would still be going on.

Ms CATE FAEHRMANN: Do you have a view why the figure of 88 was reached when you are talking about potentially hundreds of people? Why did it stop at 88?

Mr STEWART: I think I have got a view but I would prefer to leave that to Sue Thompson, who is giving evidence to this inquiry. She has got the numbers down pat and I think she has probably got a really good explanation for that.

Ms CATE FAEHRMANN: In the criminal justice system more broadly and the LGBTI people with experience within that criminal justice system, do you have any recommendations for the Committee about how to improve their experiences of it?

Mr STEWART: I think in my capacity as a lawyer in that community, I come across a lot of members of the community who are facing issues with drugs and alcohol, family and relationships, loved ones who are ill or family violence. I think in relation to the justice issues I often ring the NSW Police Force hoping to get a gay and lesbian liaison officer on the line and try to set up an appointment where a member of the community can go in and seek assistance. It is just not that kind of service. A general response is, "They can go into any police station. We don't have a GLLO available right now."

Because particularly in Sydney our community is so large I think it justifies some financial spending to build more resources into that GLLO program so that it is more accessible. There is a general fear in the community I think of going to the police generally and if there is an officer who is trained in our lifestyles, how we live and where we go for entertainment and how we have families and live our lives, I think that would make it a lot easier to report crimes or seek the assistance of the police force.

The Hon. GREG DONNELLY: But surely if all the police were trained to a decent standard, if I could use that phrase without it being pejorative, there should be faith in the police to be able to deal with that as opposed to having specialists who at the end of the day with a State as large as New South Wales it would struggle to be able to literally have specialists, as we know in the issue of domestic violence liaison officers, and in another inquiry we were speculating about whether or not there should be elder abuse liaison officers. So the issue of having specific liaison officers, surely there will always be the question of probably never being able to have a number of officers to cover the whole State. Is not really the primary target getting the base-level training of the police up to a standard where a person can come in and literally over the counter make a complaint and be treated with dignity and respect and that complaint taken and examined and fully followed up? I do not wish to be naive about it; I am simply saying whether it is from your own community or any other community coming in and being able to do that, you would hope that that would be the standard.

Mr STEWART: Ideally, but I think the LGBTI community is so vulnerable. What we are talking about here and the crimes committed against us, they did not happen that long ago. We are still hurting; it is still very raw and real, and in that respect our relationship with the police force is a bit damaged. I think the police force could do with more resources to target and help our community. I realise that the ideal standard is that members of the police force should be able to deal with all communities—the Aboriginal community, the Chinese community, you name it—but at the moment because of our vulnerability—

The Hon. GREG DONNELLY: In fact, all citizens. At the end of the day we are all citizens of the State of New South Wales. There should be no other remit other than to provide a professional service to anyone who needs it.

Mr STEWART: Absolutely. I deal with police officers daily and my general relationship with the police force is actually quite good. There are some amazing police officers out there who fight tooth and nail for justice and ask the right questions, but then there are also some shocking ones.

The CHAIR: You would have some exposure to the judiciary. Is there a sense that the judiciary is up to speed on the issues of prejudice and bias being crime?

Mr STEWART: Yes, but I probably speak from a skewed view and I am mostly in the Local Court. Local Court magistrates are generally pretty fantastic when it comes to dealing with the members of the community. I often represent members of the community in criminal matters and many of my clients are not your typical criminal offenders, they are middle-class people who have made mistakes, and when you dig a bit deeper

you discover that through their indoctrination into a heterosexual society, on being a kid in some rural community identifying as a member of the gay community and then being bullied in school or having a very Christian family who excluded them because of their sexuality, unfortunately those wounds do not always heal and sometimes that manifests in criminal behaviour such as drug taking or domestic violence or more serious offending. But I often, in representing those people, look back at their lives and obtain reports in relation to their mental state and relate that back to the court as to how they have come to be where they are now and I find that the courts are sympathetic and they realise that our community is somewhat bruised from our experiences as children, as teenagers, and sometimes that causes us to suffer from mental illnesses and sometimes commit crimes.

The Hon. NATALIE WARD: Thank you for your time today. I would like to take you back to the GLLO officers. I take the Hon. Greg Donnelly's point that ideally everyone would be well trained and that would be great, but if I could take you back to the GLLO officers that we do have? Could you expand on that and what might assist? I couch it in these terms because early intervention and a good experience with a good empathetic officer may assist early on and prevent difficulties down the track and have a better experience for all involved, if there can be such a thing. Would you care to comment on that and what ideally that situation might be? Would it be allocated officers or a person that you could be in touch with for referral purposes or through one of the bodies?

Mr STEWART: Accepting that I do not have intimate knowledge of police resourcing, in my experience dealing with the community I think a team that is available within the inner city local area commands—Newtown, Surry Hills, Day Street police station—if there was a floating team of trained gay and lesbian liaison officers that community representatives such as myself or the community themselves could contact through a number to make an appointment for the purposes of reporting a crime or seeking police assistance, I think that would really improve the dialogue between the community and the police force and probably avoid crimes.

The Hon. NATALIE WARD: Much like perhaps an analogy—it is sad that we have them—in some rural or regional communities there are certain task forces or liaison officers available for particular issues-based groups, it could be a similar thing, do you think, in those areas?

Mr STEWART: I agree. Even the other day I had a man who is a victim of domestic violence—he is in a very controlling relationship and was seeking to report a breach of an apprehended violence order by his partner and wanted a gay and lesbian liaison officer who was sympathetic to his circumstances as a victim of domestic violence as well as being an older gay man. I think it would have been really beneficial if I could have accessed a GLLO, and I was unable to.

The CHAIR: That surprises me. Is that because they were not rostered on? They have got other duties as well, have they not; they are not just there for the gay and lesbian community, they are there for all the usual duties as well? So they are rostered off or they are on leave or they are—

Mr STEWART: My experience is there is not enough of them.

The Hon. NATALIE WARD: But similarly, if I can follow on from that, if it is the case that they have specialist skills or expertise in that area, somewhat like if you needed a Vietnamese police officer or someone who could speak Vietnamese in the Manly LGA or somewhere, you would call on that person if possible and if available. Would that be a recommendation that you would care to make to this Committee?

Mr STEWART: Yes.

The Hon. NATALIE WARD: That where possible that should be made available within reasonable resourcing constraints?

Mr STEWART: That is right, yes.

The Hon. NATALIE WARD: Equally, could I take you back to your earlier interactions with police in litigation and your prescient comment that a meeting early on might have avoided that litigation. As a war-weary lawyer of many years of litigation, I understand that concept very well and can see that many years of litigation can be avoided by early mediation. In some cases there is court-ordered mediation before you can get a hearing date, as I am sure you well know. Without commenting on those specific cases, would that be a recommendation of yours, that early mediation or some formalised process, or not even formalised but some early intervention process, to be able to sit down and meet with police to discuss those issues could assist?

Mr STEWART: I think so. In relation to the police force generally I think if there is a dispute, particularly between employees of the police force, police officers who have a grievance with their employer, which goes to whether they were targeted for drug use, it would be appropriate for them to go to meet—an assistant commissioner did meet with them, the matter was adjourned and the assistant commissioner did not come back

and there was a relatively junior officer sent in his place. The representation from my firm was could the commissioner at the time, Scipione, make some time to meet with us? I realise the police commissioner is a very busy person but we are talking about four serving police officers and now what has effectively been three years of litigation and close to \$200,000 in legal fees on their part.

The Hon. NATALIE WARD: Indeed. Could it perhaps be more formalised? While it is well and good to have a meeting, the benefit of mediation is that there is an independent third party there to force the parties to, for want of a better word, behave and work towards a good outcome early and perhaps incentivise them to do so with costs orders and other things. Is that something that you would be supportive of?

Mr STEWART: Yes, it is.

The CHAIR: I did not want to overemphasise that but has that drawn out other police officers, LGBTQI police officers, in the service to contact you about problems?

Mr STEWART: Yes, it has.

The CHAIR: I thought it might. Do you want to tell us a bit about that, without detailing individuals? Are we are talking homophobia and treatment in stations or something like that?

Mr STEWART: Yes, I have been contacted by many officers.

The CHAIR: I would have thought so.

Mr STEWART: I hate to say it but my experience of that case has meant that I have generally advised those officers to try to resolve their differences and avoid litigation, mainly because of the prohibitive cost of suing your employer, particularly when your employer is the NSW Police Force and it has unlimited resources.

The CHAIR: But how would you generally categorise those complaints that come to you from other officers? Are they discrimination or—

Mr STEWART: Yes, they are about bullying based on homosexuality, comments in the station about how someone might talk or act, whether someone was seen at a particular gay bar on the weekend.

The CHAIR: Gay and lesbian officers?

Mr STEWART: Yes.

The CHAIR: Mr Crandell talked about how they have recruited transgender officers, which is a great sign.

Mr STEWART: I agree.

Reverend the Hon. FRED NILE: I have a general question. Was there any parallel for the period that we are looking at—1970 to 2010—with similar events occurring in other countries like the United States or the United Kingdom, or is it something that is Australian?

Mr STEWART: Thank you for your question. I think it is a really good question. From what I understand, this is unique to Australia and, from what I understand, South Australia has had similar problems. I cannot put my finger on it—I am not a sociologist—but there is something about young white men hunting vulnerable, effeminate gay men in the 1970s, 1980s, 1990s and 2000s.

The Hon. GREG DONNELLY: I think you should express it by saying "some young white men". I think that is a very unfair statement to say "young white men".

Mr STEWART: Well, I am a young white man myself but at the same time I take that on board.

The Hon. GREG DONNELLY: I just invite you to do so. A statement like that—

The Hon. NATALIE WARD: That is his evidence.

The Hon. GREG DONNELLY: It may well be his evidence. If that is your evidence are you saying the whole cohort of young white men?

Mr STEWART: No, I am not saying that. I am saying—

Reverend the Hon. FRED NILE: It is an observation. He is just making an observation.

The Hon. GREG DONNELLY: That is fine.

Mr STEWART: I am talking about the men who were involved in these crimes.

The CHAIR: We get the point.

Reverend the Hon. FRED NILE: You would have to check our history whether there is any connect with our convict beginnings.

The CHAIR: That is a good question because I had not thought of international.

The Hon. MARK PEARSON: Has there been an analysis as to why the majority seems to be young Caucasians?

Mr STEWART: As far as I know, there has not been but I will tell you something. I was on a panel at the Sydney Crime Writers Festival at the police museum earlier this year and a gentleman came up to me at the end of the panel when we were talking about this stuff and he said that when he was a student in high school in the Australian Capital Territory, his teacher put on a video depicting disadvantaged youth. The topic must have been something about poor people in Australia. In the video shown to his whole classroom was an interview with a group of youths in Sydney, who were strapping on steel-capped boots. When asked by the video journalist, "Why are you putting those boots on?" they said, "Well, I am going to go hunt some faggots." That was shown to the classroom.

Ms CATE FAEHRMANN: What year did you say, roughly?

Mr STEWART: That was in the 1980s.

Reverend the Hon. FRED NILE: We did have groups of gangs. I have worked in the city in Pitt Street in the mission of what they called skinheads. They would prowl around Pitt Street and so on, bashing who they regarded as homosexual men—

Mr STEWART: I think the video depicted them.

Reverend the Hon. FRED NILE: —or anybody with long hair. Surfies, they called them.

The Hon. GREG DONNELLY: I think there is certainly some evidence that there are certain cohorts who were ascribed to or associated with particular groups like the skinheads or bogans. There are all sorts of different names that they used. Those might be attached to the surf culture where there appears, prima facie, to be some linkage.

Ms CATE FAEHRMANN: Surf culture is very different to skinheads.

The Hon. GREG DONNELLY: I know it is very different, but I am simply referring to connections. If you look at it all on paper you can observe things. Whether or not it all links up remains to be seen, but certainly there are—

The Hon. NATALIE WARD: I have one further question. I accept it is anecdotal, but would you care to comment on some evidence about bashings and that they are often not reported—assaults that are just not reported? Do you care to comment on why that is? What is your observation, your experience in your field? Why is that still occurring today?

Mr STEWART: Yes. It is purely anecdotal but I feel like members of our community somewhat feel like we have always been bashed and targeted, so it is just another incident in our lives and it is just best to move on and get on with it. Alan Rosendale pushed his bashing so far deep into his mind that he actually forgot about it and discovered it again only when Rick Feneley wrote about it.

The Hon. NATALIE WARD: Which is often a trauma response.

Mr STEWART: Yes, it is true. I think we are a resilient group because of what we have been through and generally it is just like a fact of life that sometimes we are targeted and it is time to move on. But maybe it is also because so many crimes have gone uninvestigated or are not investigated properly. There is probably a reluctance because, "What use would it do? Are they going to find the perpetrators? What do I have to go through to prove that I was bashed" and, "to what extent do I need to show that I did not provoke the bashing."

The Hon. MARK PEARSON: "Did I deserve it?"

Mr STEWART: That is right.

The CHAIR: And then there is all this red tape.

Reverend the Hon. FRED NILE: So they suppress the memories. They want to suppress the memories of those bashings.

Mr STEWART: I think so.

The CHAIR: And the severity too.

Mr STEWART: Yes.

The CHAIR: I was bashed. I waved down a police car. They put me in a police car, drove me around the streets looking for the bashers—two guys. We never found them but I was really appreciative. There was no report of that bashing because I did not report it. But the police drove me around looking on both sides of the streets trying to find them. That would have been in the mid-1990s.

The Hon. NATALIE WARD: But it is that further step of not reporting. It is probably the last thing you feel like doing after—

The Hon. MARK PEARSON: It is interesting because after being on this inquiry I suddenly remembered that I was bashed in a gay bar.

The CHAIR: Repressed memory, yes. I just wanted to point out to you that we heard from Inspector Crandell that only 2 per cent of same-sex domestic violence is being reported which is very low.

Ms CATE FAEHRMANN: I have another question to explore the prevalence or otherwise of homophobia and transphobia within the existing police force. I am thinking as we are hearing evidence that some of the police who are still in the force were around during the 1980s and 1990s who were complicit to whatever extent. They are still in the force now. Would that be a fair statement to make?

Mr STEWART: That is my understanding. It is my understanding that a lot of the officers are no longer in the force, but the nature of the police force and those who are successful is that they rise through the ranks and have long careers in the police force.

Ms CATE FAEHRMANN: We are talking about 20 years ago—the late 1990s. It is only 20 years ago. So the male police officers, largely, who were 25, 45, or whatever are still in relative positions of seniority.

Mr STEWART: Inspectors, superintendents.

Ms CATE FAEHRMANN: Do you have any comment to make about that? What could the Committee do in regard to existing homophobic and transphobic attitudes in the force? We are talking about GLLO officers and new training coming in, but is there this kind of stench of existing attitudes that somehow we could have some recommendations to deal with?

Mr STEWART: I think Operation Parrabell was an attempt to address that and I think it failed. I think the only way to do that is to go back and look at those LGBTI hate crimes and not just look at the crimes themselves but look at who investigated those crimes. Are they still in the police force? If they are, probably do a bit of a review as to what their attitudes are. They may have different attitudes now. It does not have to be a star chamber, but go back and look at, "What we are thinking at that time? Why did you not ask that question?" Particularly with John Russell and Ross Warren. When I think of Ross Warren's mother writing time and again to the police force, pleading for someone to investigate her son's disappearance and how that has been ignored, I would really like to know who in the police force received those letters and why did they just ignore them?

Not with a view to punishing those people, I would like to know why because it was so evident that this was a young gay man whose car has gone missing and his bank accounts have been touched. His body has never been found—lost to the sea. It is atrocious. And John Russell—why was the sample of hair, that probably would have led to the conviction of the person who murdered him, lost? How is that possible? If it is not through homophobic bias, it is through incompetence, and that should be addressed too.

The CHAIR: Parrabell does point out that out. It is hard to pick between the two. As there are no other questions to wrap up, let me say, Mr Stewart, that you have been very helpful for us today.

The Hon. NATALIE WARD: Thank you.

Mr STEWART: Thank you. Thank you for your work—everyone.

The Hon. GREG DONNELLY: Thank you.

The CHAIR: You took some questions on notice and offered to provide some documents.

Mr STEWART: I undertake to give them within 21 days.

The CHAIR: That is appreciated.

Reverend the Hon. FRED NILE: As you did not make a submission, if you have any thoughts now, you could send us something in writing.

Mr STEWART: Yes. I plan to do that.

The CHAIR: Thank you very much. Thank you also for assisting this inquiry by talking to the community to get them involved as well. I know you have done that.

(The witness withdrew)

(Short adjournment)

ALEXANDER HART GREENWICH, Member for Sydney, Legislative Assembly, on former oath

LARRY GALBRAITH, Former Editor, Sydney *Star Observer*, affirmed and examined

The CHAIR: Good afternoon and welcome to the inquiry into gay and transgender hate crimes between 1970 and 2010 being held by the Standing Committee on Social Issues of the New South Wales Parliament. I welcome our witnesses before us, Mr Greenwich and Mr Galbraith. I remind everyone watching on the internet or in the hearing room that today's hearing will contain information about violent crimes committed against the lesbian, gay, bisexual, transgender, intersex and 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 in the hearing room and on the inquiry's website. I presume both of you separately would like to make a short opening statement, so we will hear from Mr Galbraith first.

Mr GALBRAITH: I held the position of editor of the Sydney *Star Observer* twice. I appear before the Committee as someone who worked in the gay press throughout the 1980s and 1990s. I am also currently a senior adviser to the Lord Mayor of Sydney, but I am appearing today in a personal capacity. I add that the Lord Mayor fully supports this inquiry and is happy to answer any questions on notice that might help the inquiry.

The CHAIR: Thank you.

Mr GALBRAITH: Firstly, I provided the clerk with two magazine articles, which might help the inquiry. One is by Martyn Goddard, who was my successor as the editor of the *Star Observer* written for the *Good Weekend* in the early 1990s, which captures what was happening around anti-gay crime and bashings in Sydney, and what the police response was then. You have a contemporaneous article. The other is an article that I wrote in the mid-1990s for *Outrage* about the gay panic defence. This was the time when the community was just starting to come to terms with the fact that this "defence" existed. That may also help the Committee, seeing that is the subject of one of your terms of reference.

The terms of reference ask whether there were impediments within the criminal justice system that impacted upon the protection of LGBTIQ people in New South Wales. I believe that one of the most significant impediments was a strongly ingrained anti-gay culture within the NSW Police Force which continued into the 1980s and 1990s—and even beyond. While this culture reflected now largely rejected social attitudes, it was formally and publicly endorsed from the top. In June 1958 the then Commissioner of Police, Colin Delaney, told a Rotary Club luncheon that homosexuality was Australia's greatest menace. He had previously told the Vice Squad that homosexuals were a cancer in the community that threatened to damage society's moral welfare. Mr Delaney's comments were published on the front page of the *Sydney Morning Herald*.

Delaney's concern extended to consensual acts committed behind closed doors. This was at a time when more enlightened people were asking whether such acts should be criminal offences. As several researchers and historians have noted, Delaney's pronouncements were matched by a rapid intensification of police action against homosexual men, including the use of young attractive cops in entrapment exercises. Many of these young cops, along with others who joined as young men in the late 1950s and early 1960s, were still police officers 30 or 40 years later. Several of them would have risen through the ranks to positions where they were influencing the attitudes of the next police generation. This in turn influenced the way police acted on crimes against gay men—from responding to gay men who reported assaults against them to being willing to investigate potentially suspicious deaths of gay men. This was in spite of genuine and constructive efforts to improve relationships between the police and the LGBTIQ community, which included strong efforts to encourage gay men to report crimes to the police by the police, the LGBTIQ community organisations and the gay media. I was part of that work.

As a gay journalist, I observed these efforts and wrote about them. Sadly, those efforts were often undermined by the police themselves. I can provide examples if the Committee is interested. This impacted on the willingness of gay men to report crimes to the police. As a friend said to me recently, going to the police was like a lucky dip—except it was a lucky dip that too many gay men were not prepared to risk. For many gay men, it was sheer luck if the cop you saw took your matter seriously and was willing to do something about it. I recognise that an examination of police culture is challenging. I suspect it may be particularly confronting for some people who may have contributed, even inadvertently, to shaping this culture. Nonetheless, this is something that this inquiry needs to consider.

The CHAIR: We will have your statement photocopied so members can refer to it.

Mr GREENWICH: I commence by thanking the inquiry for inviting me to appear. I acknowledge the members of this Parliament and many advocates who worked for a very long time to establish such an inquiry. As the member for Sydney, I represent one of the largest LGBTI communities in the State. So for me it is critical that the LGBTI community and the police have a trusting relationship. This has greatly improved in recent years, but as I am sure you have heard, this has not always been the case. The violent hate crimes and deaths of the eighties and nineties received much media attention recently, but at the time they did not receive the police attention that they should have. I thank ACON, Dowson Turco Lawyers and the New South Wales police for their recent investigations and reports into this time. They have identified a number of unsolved crimes and homicides. The reports differ in the number of cases and the cases, but the reports acknowledge that more work needs to be done.

Since being elected in 2012 I have requested an Ombudsman investigation into this time. I was advised at the time that there were not funds available for that. I am happy to provide the inquiry with the correspondence between myself, the then Premiers and the Ombudsman. The Scott Johnson case has been for many years the most high profile case that we have dealt with. This is largely because of the focus of Scott's family to seek justice that eventually saw a third coronial inquest. This took decades to achieve. Representations were made by the former member for Sydney, Clover Moore, the former Premier, Mike Baird, and myself to seek investigations. But it took the focus of the Johnson family and their dogged determination to see justice that eventually saw the third coronial inquest which did deliver justice.

It concerns me that other families may not have had either the means or desire to seek justice for family members who could have had a very similar experience to Scott Johnson. It could be quite possible that either individuals were not out to their family, their family did not want to identify them as being gay, and as such a similar level of justice was not served. It may be that a judicial inquiry or a properly funded Law Enforcement Conduct Commission inquiry be the next step with full investigative powers to help a number of those people identified in the unsolved cases from both the police and the ACON report, to see them have justice served.

Soon after I was elected, in 2013 there was an incident of violence around the Mardi Gras which sharpened a lot of people's focus and attention on the relationship between the police and the LGBTI community when an individual who was participating in the Mardi Gras was picked up and body slammed by a police officer. That saw a very strong and swift reaction from the LGBTI community. It also saw a strong and swift reaction from the police to seek to build a stronger relationship with the LGBTI community. I remember the then Minister for Police, Mike Gallacher, and Superintendent Tony Crandell working with me and members of this Parliament to build that bridge. What was borne out of that was the Mardi Gras accord, which the member for Coogee, Bruce Notley-Smith, also played a key role in.

Since then the policing around Mardi Gras has certainly improved and it is good to see the police marching every year. Indeed, as this inquiry is proceeding, there is a graduation ceremony for the gay and lesbian police officers within the police force. They have definitely come a long way. The apology from Commissioner of Police Mick Fuller also went a long way to help repair some of the wounds that the police had caused. Of course, the police were not the sole group responsible. As Mr Galbraith has pointed out, it is also important to acknowledge that the *Sydney Morning Herald* only recently apologised for naming and seeking to shame gay men and lesbians and their supporters who were arrested at the first Mardi Gras.

I acknowledge also the work of the police during the postal survey. While I understand that differing experiences have been put forward to the inquiry, my experience and the experience of people involved in the YES Campaign was that the police were a good support to us. They would appear regularly at rallies to support and protect the LGBTI community from those seeking to bring hostility to us. Everyone admits and can see that more work needs to be done, but the good news is that I think the intention is there on all sides to see that work done.

The CHAIR: One of the reasons I was very keen to have the Lord Mayor here—I acknowledge Mr Galbraith is here in his personal capacity—and Mr Greenwich, is to get the historical perspective and the contemporary update. Mr Galbraith, I think you fill that space very well for us with the combination of your media background but also you were a staffer in the Blich electorate office during some of that time.

Mr GALBRAITH: I was during a good part of 1988, then on and off throughout the nineties I kept contact with the office and I was to some extent aware of what the office was doing, particularly around LGBTI issues and often would advise Clover Moore around LGBTI issues.

The CHAIR: If you cast your mind back to that time, I imagine that Clover Moore's office must have been the front line for a lot of the concern around the bashings and the violence going on in the eastern suburbs and in the city. Do you want to reflect upon that time?

Mr GALBRAITH: There were certainly people who came to speak to Clover who had been discriminated against, not just in respect of dealing with the police but in other areas as well, who felt that they were not getting service from the New South Wales government agencies, and Clover was—as a lot of MPs are, they are seen as the complaint handler of last resort, so certainly there were a number of instances. I can remember sitting in on interviews with Clover. One case, and this might seem a somewhat trivial case, was a gay man at a Mardi Gras party had been arrested because of the adult toy he was carrying. Clover was able to speak to Ken Moroney about that—Ken Moroney subsequently became commissioner of police—and other matters. There were both formal and informal ways of dealing with those.

Certainly there were complaints. Probably the most significant that Clover became involved in was in 1990—and Reverend Nile may remember this—when Reverend Nile held a rally in Kings Cross and there was a large protest in Kings Cross and the police reacted or overreacted by arresting a large number of people and holding them in crowded police cells. Clover attended court the following Monday when a number of those people were charged. There were subsequent complaints to the Ombudsman. There were serving police officers at the time. I can remember there was a meeting at Surry Hills police involving the gay community, Sue Thompson and one of the serving police officers at the time. In a closed room that serving police officer, who subsequently went on to distinguish herself in other areas, admitted that the police had overreacted at that demonstration. That is probably a very good example of where—

The CHAIR: The historic relationship.

Mr GALBRAITH: Yes. As I said in my opening statement, there were tremendous efforts, which Mr Greenwich has talked about, to improve police gay relations throughout the 1980s and 1990s. But incidents like an overreaction at a demonstration can undermine all that good work.

The CHAIR: You put your hat on then as a journalist and editor. I want to get a sense of what the community was going through at that time. Was there panic? I thought the member for Bligh would have been receiving that sort of feedback. Was there a sense of panic in the community about the bashings?

Mr GALBRAITH: There was, and there were various ways of dealing with it. For example, in the 1980s there was the whistle campaign where people were encouraged to carry whistles with them and to blow whistles whenever they were threatened with violence. There was an attempt by some gay men in the early 1980s to organise a pink patrol, basically to provide some sort of visual presence on the streets to help gay men feel safer when they were going out to nightclubs. When Martin Gotthard, my successor as editor, became editor of the *Star Observer*—and I spoke to him last night—he certainly provided a focus on gay bashings and anti-gay violence in the community. Throughout the 1980s, as I said, there were constant campaigns, constant reminders, constant attempts to encourage people to report, but because of these other things, people were reluctant to do so because they were never sure of what kind of reaction they were going to get.

I can remember in the early 1980s, for example, one of the first initiatives of Fred Miller when he was appointed as the first police gay liaison officer was to establish a temporary police hotline one Saturday night where people could ring up and report instances of gay violence they may be experiencing or historic instances of anti-gay violence. There were these attempts and there were attempts by the community to respond in various ways, sometimes without relying on the police, because there was always an uncertainty about how the police would respond.

The Hon. MARK PEARSON: Do you think there are better ways now that the police could turn their mind to dealing with their history, how they dealt with hate crime in the past, and could they give more than what is contained in the Parrabell report? Could they deliver more to the community as a response as to how they have behaved and how they have reacted in the past to these situations?

Mr GALBRAITH: I would say the best way the police could respond to the community—and this may seem like a very facile answer, but I am very sincere when I give it—is to do their jobs the way they are expected to do them, which is to provide service and investigate crimes committed against members of the community regardless of who they are, what their background is, whatever their orientation is. I think the problem in the past is some police have not done that. There are other instances where there have been very good police. I will give you one example—Steve McCann. Steve McCann was the police officer who investigated the Richard Johnson murder and successfully brought the perpetrators of that horrendous crime to justice. Steve McCann was known amongst his colleagues as the gay avenger, and it was not a particularly complimentary nickname. It was

somewhat derogatory of his willingness to investigate those crimes. If those police officers had been willing to take those crimes seriously as he was we would all be in a better place. I think that is the very first thing, is expecting police officers to do their jobs.

The Hon. MARK PEARSON: It is interesting you raise that. One of the issues that we will be turning our minds to to an extent is can it be a problem to have designated officers who are to address the issues of gay hate crime or issues in the gay community as opposed to all officers should be responding the same way to a human being, a person needing help or needing assistance or needing an investigation? Is there a problem with having designated officers or should we be doing it in a different way?

Mr GALBRAITH: I think, ideally, every police officer should be capable of investigating a gay hate crime and making a serious effort to solve it. However, until we reach that point we may need people with particular expertise, particular background, but they need to be supported by their colleagues, and this is the thing. The other thing is, as I mentioned, the problems with people reporting crimes to the police. One of the great things that occurred in the 1990s was the establishment of the GLLO program, which was largely led by Sue Thompson. That meant that within every police station, or most police stations, there was an officer who had been appropriately trained, who members of the gay community could be confident they could go and talk to about a crime against them. That was a very big advance because I think people need someone in the police station who they can generally trust and not rely upon it being a lucky dip.

The challenge is, if the GLLO then has to take that complaint or crime further to be investigated, whether they are supported within the police station, whether the senior command supports them, or whether they are seen as a token. They are the things we need to look at. I think there is a place for specialist officers, officers with a particular understanding of the gay community in the same way as I suspect there is a place for officers with an understanding of the Aboriginal community, the Vietnamese community.

The Hon. MARK PEARSON: Should they be a resource rather than always be deferred to?

Mr GALBRAITH: Yes, but I think sometimes they might be the primary resource. But they need to be supported by their colleagues, and that is the challenge. Steve McCann I do not think was always supported by his colleagues.

Mr GREENWICH: I think there is also a metropolitan versus outer metropolitan and rural and regional difference here. I would say that in Surry Hills and the King Cross local area commands a member of the LGBTI community would feel very comfortable going into those commands and reporting a crime, knowing that whether it was a GLLO or not who was dealing with it that it would be dealt with appropriately. They are also living in cities and places where the community is largely supported. In other parts of the State that is not the case. In other parts of the State people may not be out to their friends or family members, they may feel a great deal of stigma and discrimination, and may be more comfortable knowing that there is a GLLO who can deal with them and understands their life experience a bit better. Ideally every police officer should be able to do that but I think people would feel a greater sense of comfort and certainty knowing that as an LGBTI person they are reporting a crime to someone who is specially trained to support them.

Mr GALBRAITH: If I could add one thing on this. When Ms Moore was a State member of Parliament—one of the things about inner city commands is that the young cops who come to the inner city commands often will come from all over the place. They will come from rural areas and outer metropolitan Sydney and so they may not necessarily be familiar with the culture of the inner city or the needs of policing in the city. With each new intake of officers Ms Moore would go and address them and talk to them about her community, the community she was representing in order to at least give them some understanding of the community they would be policing. Those kinds of things can help.

The Hon. MARK PEARSON: She would do the beat sometimes herself, would she not?

Mr GREENWICH: Yes.

Ms CATE FAEHRMANN: We have spoken today about the training that GLLO officers receive versus the training on the LGBTI community that ordinary officers receive, which I think is two hours versus three days. Have you had communications with Assistant Commissioner Tony Crandell or whoever in the force about increasing the LGBTIQ training time for the general force? What has the feedback from the police been to you? I know this has been going on for a number of years that the general force should have access to more anti-homophobia training.

Mr GREENWICH: I think the experience of the police would be that they would welcome that increased training. It would also come with the need for increased resources. Following from the last question, all police officers should be trained in this space and how to deal with these types of complaints and concerns and it would go a long way to build that trust to know that all police officers have received full and thorough training in this space. I do know that around Mardi Gras particularly we have seen the need for officers to get that proper training. Only officers that have received full training are now allocated to Mardi Gras. Obviously when you are particularly focused on the LGBTI community for one night that is the case that they have received that full and thorough training. I think any resources and training which support and empower police officers to be able to deal with a very diverse community, whether it is in relation to the LGBTI community or other communities, is vitally important.

Ms CATE FAEHRMANN: The issue is when a lot of these crimes took place, let us say in the mid-1990s, some of the police who may have potentially obstructed the course of something may be still in the force. The Committee is also dealing with the fact that while we are hearing about GLLOs and being in a much better space than we were 10, 15 or 20 years ago, there are still some of the same individuals.

Mr GREENWICH: Indeed, a new cop may not understand why a member of the gay community does not trust the police. That context, they may not be aware of it. They may think this person is just anti-police when there is actually a legacy and history of poor relations between the police and the LGBTI community. I think it is also critical that all police are given that historical setting as well and the impact that that has. For me in my job I do spend a lot of time trying to build trust between the community I represent and the police. I want to know that LGBTI victims of domestic violence and crime know that they can go to the police and report it and feel that it will be handled appropriately. The number one reason why people do not feel comfortable doing that is as a result of the historical handling of the LGBTI community by the police.

Reverend the Hon. FRED NILE: I note in Martin Goddard's article he described some of the young men who were bashing homosexuals in Taylor Square. He said they were often made up of privileged school boys, barely in their teens. He describes them as tall, male, one blonde who were bashing homosexual men in Taylor Square. Is that suggesting they were from private schools and there is more prejudice in that environment than in State schools?

Mr GALBRAITH: I think he was giving an example of a particular incident and the people responsible perpetrating that incident. As we know from other cases, gay bashers come from different backgrounds. The young men who murdered Richard Johnson after luring him to a park in Alexandria were not from a privileged background. They had gone to, I think, parochial Catholic schools in some cases. I think that shows that homophobic anti-gay attitudes are not necessarily exclusive to a particular section of society. They are attitudes that sort of permeate various sections of society. The way people may act upon those attitudes may vary. But I do not think you can say because of one instance that gay bashers are necessarily privileged private school boys when clearly the evidence from other cases is they are not.

The CHAIR: Mr Greenwich, my interest in having you here is contemporary. I acknowledge the work you have been doing to build strong relationships with the police. Today we have received some negative feedback from the rights lobby, particularly, and heard about the contemporary relationship with the police force and how pragmatic things that have occurred in the past few years are improving it. Is it only in the inner city or is it broader? I know you represent the inner city.

Mr GREENWICH: I think things really came to a head in 2013 during that Mardi Gras and the instance of police violence against the Mardi Gras parade goer brought back a lot of bad memories. My office was flooded with reports of poor treatment from police in relation to that and prior Mardi Gras, and that is 2013, so I am only talking five years ago.

The CHAIR: Was that because they bussed in police from across the metropolitan area without any cultural awareness?

Mr GREENWICH: Correct, they bussed police in without any cultural awareness. That Mardi Gras certainly proved the point made by Ms Faehrmann around the need to make sure that everybody does have this training because it proved that without it there are significant problems. It was not just the one incident of violence. There was the way in which sniffer dogs were used. Regardless of what you think of sniffer dogs, it was the approach that was taken to searches, and strip searches, and very much of a guilty before proven innocent approach which largely gay men attending parties were treated with by the police. However, that was acknowledged and, as I said, with the support of ACON, the Gay and Lesbian Rights Lobby, the NSW Police Force, and members of

this Parliament, people worked together towards that Mardi Gras Accord. Now largely the various non-government organisations and government agencies work really well together when it comes to Mardi Gras.

But indeed it was quite clear that people did not feel safe reporting. So I think what the police have done, which has been effective, is that they have really increased their presence at major LGBTI events and they have increased their presence in terms of "We're not here to police you; we're here to work with you". So whether that is at events like Fear Day, whether that is at City of Sydney community barbeques and areas with large gay populations. I myself have done patrols with the police—not really patrols, but more like "These are the police, these are the GLLOs. You can trust them if you've got an issue", outreach into karaoke night at Stonewall or other evenings, and that has gone a long way.

The police in Surry Hills command host regular LGBTI roundtables that all major LGBTI advocacy groups are invited to attend. My office goes and representatives from the City of Sydney go and those are held quarterly, I believe, where people have that direct forum where they can bring any issues with the police or other agencies. The police often have me speak at their upcoming leaders' training sessions where I shared that experience of 2013 with them directly so new police coming through can understand the dynamics that happened at that time.

Obviously, Mick Fuller's approach to the apology was one that was certainly welcomed by the 78ers and the wider LGBTI community. So I think what has happened is there has been increased outreach, increased acknowledgement and, as a result, I am sure we have seen an increase in the LGBTI people trusting and reporting crimes to police. Police have also worked very closely with ACON, particularly in the domestic violence space, in providing resources and support to police officers around domestic violence within the LGBTI community as well.

The CHAIR: Commissioner Fuller's apology is related to the 78ers, the Mardi Gras, not the gay hate murders or any of those areas—just the Mardi Gras. I just clarify that.

Ms CATE FAEHRMANN: Another area that this Committee is tasked to look into is the gay panic defence. Mr Galbraith, you may well be well placed to respond to this but, Mr Greenwich, feel free to jump in as well, particularly how the so-called gay panic defence impacted the delivery of justice and the treatment of gay men during this whole episode. Do you have any comments on that?

Mr GALBRAITH: This was something that people within the community were starting to identify happening in our courts in the 1990s. I spent some time talking to lawyers and to people in the community about this, trying to get an understanding, and clearly even the lawyers I was talking to were still at that time grappling with it and grappling with how to deal with it and what the response should be. I know subsequently the Attorney General set up a task force and subsequently there was a parliamentary inquiry and the law was passed and repealed.

The title of the article was not mine, it was the editor outrage. Certainly the headline "He touched me" gave the impression that if a person committed a violent crime and he could use the defence of "He touched me", that might be sufficient for him to get off, and there were cases where that defence was used. In some cases it was far more complex. I remember sitting in Virginia Bell's chambers late one afternoon when she took me through the defence that was mounted in the Maurice McCarty case—the man who was stabbed and left to die in an horrendous fashion in Newtown.

The CHAIR: The subject of this article.

Mr GALBRAITH: Yes. In that case what was mounted there was not so much a simple panic defence, it was an argument of self-defence and that the assailant argued that Maurice McCarty had attacked him first. But I think the notion that people could get off with this defence helped perpetuate the idea that the victims of these horrendous crimes, somehow the crime was lesser and therefore the crime should not be treated as seriously, and I think that may have helped feed it into a culture where other crimes against gay men should not be treated as seriously. So I think the fact that this defence was around and being used possibly influenced the way some police regarded other crimes where this defence was not even mentioned.

The Hon. MARK PEARSON: I think a term was used by the assistant police commissioner and it sticks in my mind, "legitimate objects of violence". That seems to capture this.

Mr GALBRAITH: Yes. I went through a lot of the case studies of Operation Parrabell and in too many of them I think evidence of bias crime could not be detected. I think often these attacks we are talking about occurred because the victims of the attacks or the survivors of the attacks were seen as being soft targets and, as

you say, legitimate targets, and I think the police culture within some sections of the police force, which I think is a residual culture going back to Colin Delaney's statements in 1958, is that in some way the crimes against these men were legitimate crimes and therefore we should not commit the kinds of resources we would commit to investigating other crimes to investigating and solving these. I think when you have a police force that needs to allocate the scarce resources, often these considerations may—and this is something the Committee should inquire into, the extent to which these considerations determine how police resources were allocated.

Ms CATE FAEHRMANN: The gay panic defence almost created State sanctioned homophobia really. You have got that defence in place and it helped create that whole climate at the time, which was before 1984 of course, but while that existed—

The CHAIR: It was never legislated; it was common law.

Ms CATE FAEHRMANN: Yes, that is right.

Mr GALBRAITH: And it was never used. It was only ever used in the case where men were killing or violently attacking other men who were perceived to be homosexual.

The CHAIR: I think the lobby told us 13 cases.

Reverend the Hon. FRED NILE: With the liaison you have had in the city area, which has been very successful, have you been involved with the Police Academy at Goulburn? They were talking earlier when we had the police giving evidence that they are trying to develop some sort of unit, subject material to train the police officers coming through the academy. Have you been involved in that or do you know of anyone who could help progress that?

Mr GREENWICH: I had been invited down to Goulburn but was unable to go. I do know that representatives from Mardi Gras do go every year down there to participate in events there and I think individuals from the lobby and ACON as well have had participation in some of the training that does occur in Goulburn as well, but I personally have not.

The CHAIR: I think we heard it is two hours.

Reverend the Hon. FRED NILE: It was only a small segment. They are still trying to develop it as part of the course—not just random visits but actually in the course itself, subject material.

The CHAIR: You could barely have an informed training session on transgender in two hours, let alone the whole broad issue. I think it is something to look at regarding commitment.

The Hon. MARK PEARSON: We have just heard evidence not long ago that the Parrabell report did not go far enough and that it would have been very helpful if the officers, whether they are retired or whether they are still working, who turned a blind eye to it, did not follow through, lost evidence in the gay hate crime investigations, which fell over many times because of not being followed through with rigour and through to finality, that those officers were asked some questions as to what happened and why did they not see it through. I am wondering what your thoughts are on that. It is quite a strong point made by two sets of witnesses.

Mr GREENWICH: I think when we have a look at the Parrabell report and the report that ACON also did, which looked at a similar cohort of cases, we have a couple of issues. When police are investigating police, there will always be a concern about how thorough that investigation has been. Then you have the ACON report, which did not have the same access that the police report had. What we are missing here is a full and thorough investigation that can compel witnesses, that can have full investigative powers. If there was any other cohort of our society, which had been victims of murders and crimes that have remained unsolved, there would have been an independent process set up to look into that, investigate it thoroughly and seek justice. That is why I had previously asked for a full Ombudsman's report and now that would be handled by the Law Enforcement Conduct Commission [LECC] or potentially a full judicial inquiry, where you have those powers to call those people as witnesses and to seek that evidence, which is something that is the missing gap between Parrabell, ACON and potentially also this inquiry. I know that this inquiry is doing a lot of great work but this gap of powers of investigation is the missing thing here.

Reverend the Hon. FRED NILE: Are you suggesting that the Ombudsman should fill that gap?

Mr GREENWICH: Obviously, the way in which the Ombudsman has worked has now changed. Indeed, a lot of those responsibilities are absorbed by the LECC. Potentially, that is something that the LECC could be properly funded and resourced to do or another form of full and thorough investigation.

Mr GALBRAITH: I also respond to Mr Pearson's question. I actually think, if you can get police officers who were involved in those investigations to appear, I think that would be a really good thing. In terms of asking them questions and going back to my point about police culture, it would be worthwhile exploring what the culture was in those commands at the time, testing some of the assertions I have made today to see whether they are just speculation on my part or they actually have weight. I think there may be concerns by some police or retired police about the implications for them of being asked questions about these matters in terms of formal complaints and the like. One other point I would like to make in regard to that, there may be ways in which you can give police reassurances that if they do appear and they provide evidence that there will not be.

The Hon. MARK PEARSON: The other part, which could be fruitful out of this is to try to get the police service to understand how there is a culture—

Mr GALBRAITH: I think that would be extremely valuable. The other thing, if I may, is I think the way police handle complaints against them. Mr Greenwich made the point about police investigating police. The way police handle complaints against them, I think, goes a long way towards building trust with the community. If complaints are made with the police that appear to be quite serious and they are swept aside or they are not properly investigated, I think that contributes to a lack of trust. I can give you one instance, one case I am quite familiar with where a serious complaint was made against the police. It was resisted for some time but it was followed through to the ultimate conclusion.

It also is a case I wrote about quite extensively in the *Star Observer*. This case occurred in the mid-1980s. A male nurse was having a drink and dinner with his sister and some friends in the Taxi Club, which used to be on Flinders Street. Some of you may remember it. He was harassed by a couple of men. He ended up being chased out of the Taxi Club by these two men. He ran into Darlinghurst Police Station, thinking that Darlinghurst Police Station was a safe place. The two men who chased him came into the Darlinghurst Police Station and threw him into the police cells because they were both police detectives. He was then subsequently released after quite a traumatic night and he sought to pursue a formal complaint. Pursuing that formal complaint took quite a long time. Darlinghurst Police Station had been the centre of the Mardi Gras arrests only a few years before.

It really did not want to know. There was a bit of collegiate clamming up around that incident but eventually, in 1987, those two police officers were put before the Police Tribunal and everything that happened that night was aired in the Police Tribunal. The District Court judge who was sitting at the Police Tribunal recommended that they be dismissed from the force and they were dismissed from the force. That is an instance where a complaint is taken seriously and it is followed through to the ultimate conclusion, but there are a couple of lessons to learn from that. One is the kind of police culture that existed in Darlinghurst police station at the time to allow what happened to have happened: The fact that two detectives could actually harass somebody, chase them and then get away with throwing them, or think they could get away with throwing them, into police cells. That is the first thing. The second thing is the attitude within Darlinghurst police station at the time.

The other thing was even though he was prepared to pursue that complaint, it took quite an emotional, psychological toll on him in doing that, in terms of the length of time it took to bring that case to the Police Tribunal. He had to give evidence to the Police Tribunal and had to have witnesses and bring that case to conclusion. That was reported. No doubt, in reporting that case, I may have contributed to gay men feeling a bit distrustful of the police and certainly of Darlinghurst police station, but the alternative is to cover these things up and not throw them open to scrutiny. Ultimately, I believe throwing these things open to scrutiny is one of the drivers of reform. I think that is the other issue—how police deal with complaints.

The CHAIR: We have to conclude there. I thank you both for coming in today. I thank you for your extensive historical background. It has really been helpful. Convey our thank you to the Lord Mayor for offering to answer questions on notice. We appreciate that and her support for the inquiry. Mr Greenwich, the work you are doing with the police is very important. We see from the evidence that there is more work to do in that regard, but it is very good. I do not think you took any questions on notice but if you did you have 21 days to come back to us. We may give you supplementary questions to help our inquiry. You will get those from the secretariat. Thank you for coming.

Mr GREENWICH: Thank you.

Mr GALBRAITH: Thank you.

(The witnesses withdrew)

DUNCAN McNAB, Author, Former NSW Police Force Detective, affirmed and examined

The CHAIR: The Committee has received your submission, which is submission No. 4, and we thank you for it. I also thank you for its brevity, which is helpful. Would you like to make an opening statement?

Mr McNAB: I think I will just keep it as brief as that. There are a couple of cases that resonated with me particularly because they shed a light on the broader problem that we are looking at now. The three cases—I mentioned only two in my submission but I will add one quickly to it—include the Scott Johnson case, of which you will hear quite a lot or probably have heard quite a lot. What strikes me about that is that even though it is now coming up to just on 30 years since Scott died, there is still a notable resistance in the NSW Police Force to accept what the Coroner ruled in December of last year was in fact probably a murder. There is still—and it is anecdotal, I know—a resistance to saying, "It probably was a murder and we mucked it up back in 1988. We declared it a suicide." They are clinging to that.

The amount of money spent on external legal counsel by the NSW Police Force over the various hearings and investigations and reviews and so on and so forth in trying to say, "We probably got it right the first time", could have been better spent jumping into cold case investigations where detectives actually go out and investigate—not review, investigate. It is a whole different ball game. It is tapping on doors. It is speaking to people. It is shaking things up to try to get some evidence. I think that money is better spent on that than on a rather expensive body from Phillip Street standing in front of a tribunal saying, "Hey, I think we got it right." Fortunately the Coroner last year found that they did not, and that pleases me endlessly. But it is money better spent and police resources better spent being active. Coppers do not get results running through piles of paper and reviewing cases. They do their research and then they get off their bums and go and talk to people. That is what policing is about.

My view on the Johnson case is probably a bit surly, but anyway. The other two cases that strike me and still trouble me are the Alan Rosendale, of which you will hear quite a bit, and the resistance to properly investigate Alan's case rather than to try and dismiss it as being maybe you got the wrong bloke; maybe the witnesses were wrong. How many people are chased across South Dowling Street in the depth of a May night and have the living bejesus kicked out of them by a group of young men, who then get into a car which may be a police car? It is not a nightly occurrence. I have some problems when it is being dismissed by both the police and rubberstamped by the NSW Ombudsman as the case that Alan Rosendale, which was witnessed by a guy called Paul Simes, probably are not interrelated. I prefer the assumption that they are interrelated and then prove they are not, rather than go the other way round it.

There is an allegation that the whole thing was contrived. The suggestion that police were involved I think is still something that can be investigated. The police reporting more contemporary and the Ombudsman's reports say that there are no records left. There is only, I think, one flimsy piece of information. In my view there are other records the police can find which may or may not help, but let us run through that. I took it to the police a couple of years back. I spoke to a couple of senior coppers. I spoke to the detective in charge of the case when it was recently done in about 2015. What I am not seeing is them actually trying to find those documents to go through it and eliminate it. The documents to which I refer are in my submission: It is a charge book. Alan Rosendale was assaulted on a night when apparently there may have been a hoodlum patrol, which is what we used to call them in those days: Three or four young coppers—uniform coppers in plain clothes for the night—running around the streets of the inner city or crime hotspots literally cruising to see if they can prevent crimes. Their job in life was to arrest people. That is what they were there for.

You get the charge book for that weekend that Alan was assaulted. You have a look in the charge book and see if you have a hoodlum patrol arresting people. There will be the names of each of the coppers who were involved in the arrest. Grab that, have a look, find them and go out and interview them. That is how you might either say, one, we have exhausted all opportunities in Alan's case or, two, we have got three or four suspects so let's go and talk to them. Some may still be serving police. It is 30 years ago, but they are presumably quite young at that stage so let's go and find them. Let's find out who was working that night and you tell us what you were up to that night.

The other case that intrigues me is one I wrote about called Bill Rooney. Bill was found dead in the central business district of Wollongong in February 1986. More recent investigations into the cold cases had trouble turning up Mr Rooney. They got a bit of dud information on the way through. What disappointed me was that the might of the NSW Police Force looking into these could not actually identify Bill Rooney's death. They

had no clue. It was a case that they were scratching their heads about. They were doing so quite honestly, too, I must say.

I got a bit of information. I went scratching one afternoon within a couple of days. I actually had the Coroner's inquest into Rooney's death sent to me courtesy of the Attorney General's media office as part of book research. I zipped down to Wollongong, tracked down the copper who had been involved in the case very early on—a terrific detective who had said to his superiors, "This is a murder." The Wollongong powers at that stage said, "No it's not. It's an accidental death. Go away. Don't touch it." Within a couple of weeks similar crimes in which people did not die but in which young men were attacked in a similar area at night, sexually abused and kidnapped—in one case violently assaulted—started happening. I always think, and I do not think I am too far off the mark, that Bill Rooney's death that night was one of the early attacks. The crime scene stuff was destroyed very quickly—not by the coppers but by a diligent bloke out hosing. It was pure misfortune. But the old detective that I tracked down eventually had his complete brief of evidence because he locked this bloke up later for a multiple sexual offence, kidnapping and sexual assaults, and put him away for a long time.

The Hon. GREG DONNELLY: I am sorry, which bloke are we talking about?

Mr McNAB: Bill Rooney. When Rooney died, the initial detectives on the scene thought it might have been misadventure or it might have been murder. They eventually played it down to just that it was an accident: The guy has fallen down drunk and had fallen over this ledge. The old copper that I found said to me, "That was not the case. I always said it was murder. It should have been treated as murder." Lo and behold, a couple of weeks later all these assaults start happening. He is targeted to investigate those. He does a great job—it was a copybook investigation. He eventually puts this evil human being behind bars.

The Hon. GREG DONNELLY: Right, okay.

The CHAIR: The perpetrator of the assaults?

Mr McNAB: Yes. I am of the view and he agrees—we both agree with each other, which is always fortunate—that it is highly likely that the death of William Rooney was probably back to this bloke. He told me about the climate down there at the time being denial. It disappointed me that more recent investigations in the last couple of years could not identify Bill Rooney. It is not unlike Alan Rosendale's case. How many suspicious deaths do you have in Wollongong in the space of a couple of months? It is not rocket science. More annoyingly—and I suppose it is a bit of black humour—the crime manager in Wollongong when I made the initial inquiry and started digging through, his dad was a great detective who was actually responsible for the arrest. No-one had thought to go and ask him, either. This young bloke would have remembered what his father had gone through in those days because when the old chap finally arrested this sex offender, the offender's mates started picketing the police station and the detective's house.

So I am just thinking, "How good are these investigations? How thorough are we?" Rather than just review cases, go out and start asking these questions; talk to the Coroner; talk to the detectives who may have handled it from day one; get than information. That is a slightly longer opening statement than I had intended to make.

The CHAIR: No, but we can see that you are an author because we are enthralled in the story, as tragic as the story is. Clearly your recommendation is investigation: Reinvestigate, not just desktop review.

Mr McNAB: Absolutely.

The CHAIR: We had Assistant Commissioner Tony Crandell in this morning and we did discuss with him Mr Rosendale's case. When we publish the *Hansard*, it might be worth looking at that.

Mr McNAB: You bet.

The CHAIR: He indicated to us that he had directed one of his senior officers below in his command to investigate the contemporary witness coming forward after the media article.

Mr McNAB: Paul Simes.

The CHAIR: They concluded it was two separate events.

Mr McNAB: Yes.

The CHAIR: But you do not accept that.

Mr McNAB: Not even close.

The CHAIR: But we could accept that, whilst that is relevant to the actual crime, nonetheless if Mr Simes is accepted for his evidence, he allegedly witnessed police in a police car assaulting somebody.

Mr McNAB: Yes, that is correct.

The CHAIR: That goes to the climate as well, even if it was not Mr Rosendale.

Mr McNAB: Yes.

The CHAIR: You have given us this extract.

Mr McNAB: I mentioned when we were opening, when reading through what Alan had been given by the coppers, and reading through subsequently the extensive Ombudsman's review of their case—which I thought was probably one of the most dismal moments in the Ombudsman's office in living memory—the Ombudsman's office agrees with the police. And they go into some detail as to why they agree with the police. But they have not been thorough. They say—I think, and I may be slightly wobbly on this—that the documentation is not available to actually properly investigate the case.

The CHAIR: Have you tracked down this charge book?

Mr McNAB: I thought, being around so long, I know where to go and look—and just as a point too, I contacted the police with that exact same information, both at a very senior level and a very junior level, and I did not get very far.

The CHAIR: Mr Crandell has taken on notice to inquire with his investigating officer whether they did get that.

Mr McNAB: It would be very helpful if they did. I actually suggested it to one of his superiors about three years ago.

The CHAIR: We will hear back about that.

Mr McNAB: Good. If everything else has gone, that may be the last remaining skerrick. It may help, it may be completely useless, but unless you turn it over you will not know.

The Hon. GREG DONNELLY: Where would that be likely to be found or deposited? In an archive?

The Hon. NATALIE WARD: It is at Kingswood.

Mr McNAB: I went digging on State Archives, on their excellent registry site.

The Hon. GREG DONNELLY: They are still there.

The CHAIR: Kingswood.

Mr McNAB: Yes. The only reason I have not laid my hands on it is there is a 100 year embargo for privacy reasons, so the NSW Police Force actually has to do it. Otherwise I would have been out there very quickly.

The CHAIR: You talk about the December 2017 Coroner's ruling, and say that the police are still resisting that ruling, which says that the Scott Johnson case is probably a murder. Give us evidence of that resistance?

Mr McNAB: One anecdotal, one factual. I was in the Coroner's Court that day and I was adjacent to and just within hearing of a guy called Steve Page, a detective sergeant who did such remarkable work on these cases back in the early 2000s. Steve and a fellow called Peter Rolfe—who you may have spoken to or will speak to from the support for homicide victims—thought it appropriate, now that the decision had been made, to try to break some of the barriers down by introducing Steve Johnson to the very senior detective those days running unsolved cases. Rather than have a civil discussion—I thought in my brief hearing and what I have had confirmed by both Page and Rolfe immediately after—he was very dismissive. The detective was still clinging to the notion that Scott's case was probably a suicide, not a murder, and my impression of him, looking at the look on his face, I got the impression he just did not want to be here.

The CHAIR: We have Ian Johnson giving evidence, so we will be able to test that out.

Mr McNAB: I think Steve was quite surprised at being rebuffed, but he is getting used to it. Anecdotally—and talking to a couple of police who I still know quite well—there is still this thought that Scott's death was just accidental and/or a suicide, certainly was not a murder: We got it right in 88, why do we need to

change our minds? I find that disturbing, and they add to it a layer of something I find quite offensive—and in their case it is not because they are being unpleasant, they are just repeating what they have been told—that the Johnson case has got as far as it has, and got the decision perhaps that it got, because of a big, rich American throwing his weight around.

To clarify that too, Steve Johnson is certainly a big, rich American these days. He is a very clever bloke. He worked out how to send images through email. That made him a lot of money. Back in 1988 when his brother died, he was a student at Harvard, he did not have a bean to his name. He came from a family that was so poor it was embarrassing. He had a young wife, and he had a very young baby. Steve did not have a brass razoo. He came out to Australia on what remained of his life savings to look after his brother after he died. He went back to Harvard, where he was studying. My recollection was he was working, studying with a United Kingdom copper, who looked at the case for him and said, "This doesn't make sense. This doesn't look like a suicide. I have been around a few years." So he contacted through a couple of mates his local senator, who happened to be Ted Kennedy, the Senator for Massachusetts for a long time. And Kennedy did what any of you guys would probably do, represented a constituent by writing a letter. That has been extrapolated into this American with his political influence throwing his weight around. That is completely wrong.

The Hon. PENNY SHARPE: I want to get some more information about the way the State Archives works in relation to the police charge books. I did look and I notice some of them are available. There is a 100 year embargo on them?

Mr McNAB: Yes. I set up an application thinking we have got it at last. And the very nice people came back and said: No, sorry these sort of things have some sort of privacy issues with them. So there is a 100 year embargo. Me being me, I went back and said, "I would be happy if you block all the pages of who has been arrested. I do not really want to know. But I would like to see the arresting officers. I don't want to know who the people are that were charged, not interested. But if you give me the arresting officers for that weekend, I would be delighted." They cannot do that for privacy reasons.

The Hon. PENNY SHARPE: I am assuming that police often go back, if they are looking at old cases. What you are asking to happen is not an unusual request?

Mr McNAB: It is a bit unusual, because it is so long ago and I am asking for a very specific document. The reason I am interested in those is it is the only document I could find from the period. All the normal police records at the time seem to have disappeared. This one last document stands. That would be things like rosters or occurrence pad entries, all that sort of jazz. They seem to have been disappeared, or gone, or whatever, which is not unusual.

The CHAIR: There should be a log on the vehicle usage.

Mr McNAB: He has been listening to me. Yes, it is quite right. But a lot of those documents disappear after seven or eight years. It is normal government record keeping. That is a car diary. Police back in those days were quite meticulous in their records. You had your own duty book. You then had a car diary which said X time left police station. You would always come back and scribble it up dutifully. That would exist. Then there were occurrence pad entries if you arrested somebody. All these records go through your day. You get to a crime and then you go back to the station, you fill out a report. That also goes off. But ultimately if you arrest somebody, then you get a charge book entry, which in those days, I think, was probably handwritten. Behind a big desk there is a big book. The names go in, all that sort of stuff. On the other side, on the right hand side, is the arresting police and who is going to sign the charge. And that is the part that interests me. Because if you are running a hoodlum patrol around the city on a Saturday night, odds on you are going to arrest somebody, and if you did not arrest somebody you will probably find a police boot in your own backside.

The Hon. PENNY SHARPE: Police may go back to that. Who are the other gatekeepers, are you aware? Perhaps I need to look up the State Records Act.

Mr McNAB: I assume they are in a box way out west, which is where the archives are.

The CHAIR: Kingswood.

Mr McNAB: Yes. The impression I got, and it is purely that, is when I rang the coppers and eventually got through to the young detective who was handing it—and I think I may be giving a lesson in ancient history, because all of that sort of sector has long since gone—but I suggested to them at that stage that if they were really looking for possibly the last remaining piece of potential evidence, then that is what it was. And I suspect I was probably speaking Swahili at that stage. Archives is not something coppers do terribly as part of their daily routine.

The Hon. PENNY SHARPE: Even unsolved crimes would be going back to some of those on occasion?

Mr McNAB: No. I was suggesting a fairly arcane record. They would go back to things like crime scene photographs, DNA, crime records, all that sort of stuff. This sort of strange administrative end is something they are probably not familiar with.

The Hon. PENNY SHARPE: It is a bit of a lateral connection?

Mr McNAB: Yes. If you are a detective you think: Should I go and look up the charge book? Maybe not. They are going for the obvious things, crime scene, reports of crime, all that sort of jazz. What I am thinking is they should go back and have a look at something in the backroom. It is not a common thing as part of a criminal investigation, no.

The Hon. PENNY SHARPE: Your main recommendation is that the only way to get to the bottom of much of this is a proper judicial inquiry?

Mr McNAB: Yes.

The Hon. PENNY SHARPE: Could you explain why that is?

Mr McNAB: A couple of reasons. One: a lot of the evidence should still be available; this is physical evidence from the crime scene; witnesses who are still alive; witnesses who can help; contemporary technology can re-examine it. DNA and all the stuff that goes with it is not necessarily a magic bullet every time, but it is extraordinarily helpful. And yes, it can be expensive, but if you have got some good evidence behind it, it is money well spent. You pick your cases. The other point that still concerns me is if you are looking at the incidents of, say mid-eighties through the early nineties, the people responsible for them are still upright. They are probably younger than some of us in this room. Why should they get it easy?

This is why I think it is so important to get make a noise about this and to get out there and start knocking on doors. Just maybe one of them will finally think, "I was in a gang of 12." Just one of them will say, "Here are the other 11. This is what happened that night." From that, we might get some suspects. We might also find that the New South Wales police have preserved some of the crime scene exhibits, which can then kick in contemporary forensics. Just methodically go through the cases, but you have to decide to start investigating. That is where the trick comes in.

A commission of inquiry, one that also has the power to compel witnesses, would be extremely helpful. Fresh sets of eyes on the cases, target the cases that you have the best opportunities to score victories in, and then bring people in. Use the media, of course, and everything to create that climate of interest in the case to make it resurface. An underlying reminder is that everyone involved in these cases is somewhere between 45 and 60. Not everyone is dead. Witnesses are still alive. Shake it up and then you bring in basic police work to put people in those places so that it is feasible. Use contemporary forensics to review what remains and let us see if we can get somewhere. Testimony of an eyewitness would be great, someone who turns up and says, "I can tell you what happened that night."

The CHAIR: The assistant commissioner told us this morning that 22 unsolved cases in Parrabell are sitting in the unsolved cases unit and they rotate for review every six months or something like that. Do you have faith in that type of—

Mr McNAB: No. The problem with all this, and the figure that came up in the Johnson inquest, there is something like 770 unsolved homicides. I think in the Coroner's findings he mentioned that. I may be slightly away on the number, but it was fairly hefty. Factor into that also the suicides wrongly classified as suicides when they were not and also the people who disappeared. There are quite a number of disappearances around that period. The number might be significantly up. I do not know. I looked at a couple recently to give the families a hand whose sons had disappeared. They have not ended up as anything. As a murder statistic, as a cold case, they may be way down the bottom of the pile, if in fact they made it to the pile. The 22, these are police figures and you will probably take figures from other people to suggest the figure is higher than 22. I think cold cases need more resourcing than anything else.

The Hon. MARK PEARSON: Can you explain a cold case, please?

Mr McNAB: It is the hardest case to investigate, to start with. They are complicated but, at the same time—I do them these days for television. A cold case is basically one that has been around for a while, it has got no result. The police may have run through every possible option they can think of and it is exhausted. So it sits there and it grows dustier and dustier and dustier. A couple of years back there was a lot of enthusiasm put into

digging up cold cases, but there are so many of them. They will circulate round. Any commission of inquiry should be targeting—short list them, basically, and then go hard at them. Bring in people and give evidence about these cases and see what happens that way. Some cases will never be able to be solved, I am quite convinced of that. You will never be able to get a result. But there are some cold cases that I have had a look at and I think there is a reasonably good chance with them. This is the random nature of investigation too. Again, if you make quite a bit of noise, there is a focus of an inquiry going through witnesses, as we saw with the police royal commission years ago. The more recent one is the child abuse. You start making that noise, you get the ball rolling, and people might think, "Oh, it is about bloody time I did the right thing." You only need one.

The CHAIR: Late in life.

Ms CATE FAEHRMANN: Of course there is a strong likelihood that the list of 88 would blow out quite significantly under a commission of inquiry?

Mr McNAB: Yes. There is debate do we apply the FBI routine? I do not care. You can apply any routine you want. Someone is still dead. The family and friends are still lurking around. The killer is still walking around, whether it be one or 12 as a group. Let us investigate them, sort it out. Prioritise the investigations and get stuck into it.

The CHAIR: What is your view on rewards?

Mr McNAB: Make them large. Let us face it, the mathematics are—if you make it as appealing as possible, like a \$40 million Powerball drop, you will get more interest involved. We do not pay out much in rewards. I think the amount New South Wales pays out in rewards is quite insignificant, so let us up the ante. I do not think the State will be drained heavily by paying out rewards to people. But if we get one, if there is \$1 million on the table and someone turns up with evidence that solves one or two crimes—remember, there is a high probability that some of the hate crimes of the 1980s are related. So you might hit the jackpot with them.

The CHAIR: The domino effect?

Mr McNAB: You got it.

The Hon. GREG DONNELLY: Playing devil's advocate, a government of the day, whoever it might be, needs a police force that is accountable to that government. It may be struggling to comprehend, in effect, what might be the cost of doing something like this, where there is no end in sight in respect of the doors that might open as the matters are looked into, so it has this roll-on effect. Ideally, there would be an ability to say, "Listen, irrespective of that, this is unresolved business. We need to follow this and work our way through it systemically." Is a worthy first step to concentrate on the 22 that have been mentioned. Work through those as a starting point and complete that task and then move on from that? In other words, a discrete step in of itself to deal with those or should we just confront the fact that we know and expect it is going to be beyond that, so we need to grapple with what is the overall cost of biting the bullet and doing this? I am not saying I am looking for a compromise, but in terms of getting something done. Using your words, there will be have to be a selection process done by someone to say we are going to deal with this cohort, whatever that might be—22, 15, 48, whatever—work through that and then move on.

Mr McNAB: For me, I would rather have a fresh set of eyes with some muscle behind it, the capacity to compel witnesses. Let us speed it up. The sad history of this is that we have not had a lot of success. Steve Page really shook things up in 2003, 2004. The reason we are having this discussion is because a detective sergeant, on his own without much in the way of resources, cracked open this whole mess. And a Coroner equally put some serious grunt behind it and made some hard findings. We are about 15 or 16 years down the track from that and we have not had a huge amount of success since that day, which is why I think maybe we need to shake it up again to get the results. It may be that a commission of inquiry, with fresh eyes and some power, can in fact shortcut investigating 22 or 23 cases.

One of my mates often says, "Open the bomb bag and let fly and let's see what happens." Rather than politely investigating the cases, which is fine, let us put some impetus behind it. Maybe a commission of inquiry would bring focus. Also, they short list what comes up because they might end up with a different short list to what the New South Wales police has. Let us drop the bombs. Let us get things rolling really fast and then go out and methodically go through the cases that seem to be better. I am not too sure how they have selected the 22. I do not know, for example, if Scott Johnson is on the list. We need a catalyst at this point to get it rolling. Then after that we take a more methodical approach.

The Hon. MARK PEARSON: Is there a fear or concern that an independent thorough inquiry like this might divulge a culture of knowingly admitting, aiding and abetting hate crime?

Mr McNAB: Every chance. I hark back to when I was working as a press secretary. There is a moment, when you are doing issues management, when you should say, "Okay, let's do something about it. That was the past; let's sort it out. Let's apologise for it and make amends—try and get it right." In our case it is not making amends; it is about getting it right. It is about simply going back and doing fair and competent investigations. I do not want the NSW Police Force being sent Christmas cards saying, "You've done a great job; I love you very much." I just want them to go and do the job.

As I was talking about earlier, with the old bloke in Wollongong so long ago, he just did his job because he believed that this is what had to be done. The case must be investigated. That is all we are asking for now. In these circumstances, it would be really nice for the NSW Police Force, at some stage, to acknowledge that they made a bit of a mess of a lot of investigations. Wear it; do not keep saying that everything is fine and resist it. I remember that I talked to Mick Gallacher when I was doing some book research and he said to me—I think it was the most telling thing—that this was the greatest opportunity for the NSW Police Force to make amends, and they did not.

The CHAIR: Is that Michael Gallacher, the former police Minister?

Mr McNAB: Yes. The former police Minister.

The CHAIR: You just referred to "Mick Gallacher" so I was not sure.

Ms CATE FAEHRMANN: I was grappling with that, too.

Mr McNAB: I knew him when he was Constable Gallacher. It is an opportunity to acknowledge that there have been failures—to acknowledge that there has been a mess. Let us see if we can go back and try to make amends for the failures. Thirty years have passed; people are still upright. Let us see if we can get it right this time, and go hard at it. We have seen what the police can do when they put their minds to it. It is a superb organisation in so many instances, but we have some stinkers amongst us as well.

Ms CATE FAEHRMANN: Why do you think they are so resistant? Not only resistant—in the Johnson case, for example, as you say in your submission—throwing money at challenging the Coroner's findings?

Mr McNAB: It is a cultural thing.

Ms CATE FAEHRMANN: Anything else?

Mr McNAB: I joined the cops so long ago—1977—and there are some things that have not really changed. The capacity to say, "Oops, we made a mistake; let's fix it," is not quite part of the culture yet, either. Wouldn't it be sensible to say, "Look, we bugged it up. Let's see if we can get it right this time." But the New South Wales police do not have that culture of admitting errors and then trying to fix them, or even going to the first step. Let us say that we made a mistake—"This shouldn't have happened. Yeah, it's a mess."—wear it, and then move on and do something about it.

The Hon. GREG DONNELLY: Underlying that resistance do you think there is a tacit—or maybe overt—concern about having to deal with matters of compensation? Without being naive about it, the defensive mode is the mode you take when you are really not sure where this is all going to go. So, if they are taking the worst case scenario, are they just doing what—

Mr McNAB: I agree. I think that is part of it. Mates of mine who practice and act occasionally for the NSW Police Force will tell you how vigorous they are in defending any claims against the New South Wales police. There is the cultural thing, "We don't do much wrong." I am speaking as someone who was around in the rock and rolls of the eighties, there is one think I will never, ever forget. Michael Drury is the copper who was shot. His dying deposition arrived at internal affairs. We were having a cup of coffee when we got the dying deposition. I was in the room at the time and I thought, "You've gotta be kidding!" My boss, who was a really good bloke—a detective—looked at it and said, "No, it couldn't have been Roger. He is too good a bloke." That is the culture, I think, we are in part looking at now. "Nah, it couldn't happen."

Ms CATE FAEHRMANN: Do you think it is also anything to do with protecting existing, serving officers?

Mr McNAB: There is a possibility, but I do not think that that is the case. I think that the officers who would have been problematic—for example, it might be one of the other Rosendale officers—if we could prove

that was the case. I do not think anyone would know. It has been so long. Look, there is quite the possibility, but I think that knowledge would be extremely limited—probably to the person or people they were with at the time. I do not think they are trying to cover up an individual. I just think they are not content to deal with the dark past.

The CHAIR: There are no further questions. You may have taken some things on notice. I do not think you did. If you did, you have 21 days to respond. You may also receive supplementary questions from the inquiry—

Mr McNAB: Cool; no worries.

The CHAIR: —particularly as we have more hearings. We may think of some other questions. Thank you for coming in. What is your latest book?

Mr McNAB: To be advised.

The Hon. GREG DONNELLY: This hearing is being broadcast to the whole universe, so here is the opportunity to make your pitch.

Mr McNAB: I have to be quiet for a little while. It is due out in March.

The CHAIR: We look forward to it.

(The witness withdrew)

(The Committee adjourned at 4.44 p.m.)