

**REPORT ON PROCEEDINGS BEFORE**

**STANDING COMMITTEE ON SOCIAL ISSUES**

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

**CORRECTED**

**At Macquarie Room, Parliament House, Sydney, on Tuesday 27 November 2018**

**The Committee met at 10:00**

**PRESENT**

The Hon. Shayne Mallard (Chair)  
The Hon. Greg Donnelly (Deputy Chair)  
Ms Cate Faehrmann  
The Hon. Trevor Khan  
Reverend the Hon. Fred Nile  
The Hon. Mark Pearson  
The Hon. Penny Sharpe  
The Hon. Natalie Ward

**The CHAIR:** Good morning, everybody. Welcome to the second hearing of the Standing Committee on Social Issues into gay and transgender hate crimes between 1970 and 2010. This 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, queer [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 LGBTIQ hate crimes and their families. My name is Shayne Mallard. I am the Chair of the Standing Committee on Social Issues and this inquiry. Before I commence I acknowledge the Gadigal people of the Eora nation, who are the traditional custodians of this land. I also pay respect to the elders past and present of the Eora nation and extend that respect to other Aboriginals present or viewing. I also acknowledge the people with lived experience of hate crimes who are in attendance today or who are watching this hearing or reading *Hansard*.

Today is the second of several hearings we plan to hold for this inquiry. Today we will hear from Steve Johnson, the brother of Scott Johnson; Paul Simes, a witness of gay-hate violence; Alan Rosendale, David McMahon and Michael Atkinson, survivors of gay-hate violence; Rick Feneley, a journalist; Professor Stephen Tomsen from University of Western Sydney; and Peter Rolfe, President of Support after Murder Inc. Before we commence, I make some brief comments about procedures for today's hearing. Today's hearing is open to the public and is being webcast live via the Parliament's website. Today's hearing will contain information about violent crimes committed against LGBTIQ people 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 this room and on the inquiry website. ACON counsellors are here today to offer their support for any of our witnesses or anyone in the audience who needs some assistance. Thank you for coming.

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 into hate crimes, strong and offensive language may be used in evidence. In accordance with broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I also remind media representatives that they must take responsibility for what they publish about the Committee's proceedings. In every inquiry and particularly in this inquiry, it is important that there is accurate and sensitive portrayal of the difficult issues being 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 the hearing, so I urge witnesses to be careful about any comments they may make to the media or to others after completing 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 through the secretariat. There may be some questions that witnesses could answer only if they had more time or with certain documents to hand. In these circumstances witnesses are advised that they can take questions on notice and provide answers within 21 days. I remind everyone 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 the audibility of this hearing I remind Committee members and witnesses to speak into the microphones; I hope I am doing that. In addition, several seats have been reserved near loudspeakers for persons in the public gallery who have hearing difficulties. Finally, everyone present should turn their mobile phones to silent for the duration of the hearing. Our first witness is appearing via Skype. I will, therefore, interrupt the hearing broadcast for two minutes while the secretariat contacts our witness.

**STEVE JOHNSON**, Private citizen, before the Committee via Skype, affirmed and examined

**The CHAIR:** I now formally welcome Steve Johnson, our first witness via Skype from Massachusetts in the United States of America.

**Mr JOHNSON:** I am Steve Johnson, the brother of Scott Johnson, who was a victim of gay-hate assailants, according to the Coroner's verdict last year. He died 30 years ago next month. In fact, today is his birthday.

**The CHAIR:** Thank you for that, Steve. We have your submission; I am sure members have read it. The case of your brother is very well publicised. Would you want to make an opening statement to the inquiry?

**Mr JOHNSON:** If I may, thank you. Forgive me, it is a few minutes longer than three minutes so please bear with me; it has been a long journey.

**The CHAIR:** It is fine.

**Mr JOHNSON:** First of all, I certainly appreciate this inquiry and I am sure my brother would as well. My statement today is that only action and investigation—not regrets, apologies or classification reviews—will matter to the Johnson family. It might seem that because Scott's case has had three inquests that Scott Johnson has received more than enough justice. These inquests, however, were all hard won and necessary because the New South Wales police have fought for three decades, including with every submission they made to Coroner Barnes through last November, to keep my brother's case closed. I will touch on each inquest briefly. The original police reported death to the coroner on December 10, 1998, reads:

It appears as though the deceased committed suicide by jumping from the headland.

It was marked, "No suspicious circumstances", signed and closed the day after Scott's body was found. The constable in charge of the case explained to me that this was a place where people go to jump, especially homosexuals. It was not; it was a popular gay beat. For three months without any effect the family urged the police to investigate. In March 1989, three months later, a senior Manly police officer testified to the Coroner at the first inquest that the area where my brother died was definitely not a gay beat. Without offering a single piece of evidence he told the Coroner that Scott jumped to his death, that he had committed suicide.

Last year the Coroner at the third inquest heard evidence 28 years later that even children in Manly in the 1980s grew up knowing this cliff-side area in North Head, less than two kilometres from the Manly police station, was a gay beat. Obviously an unclothed man dying at a gay beat in the late 1980s should have aroused suspicion, but it did not—at least with the Manly police. Seventeen years later in 2005 we received news that Deputy Coroner Jacqueline Milledge, a true hero in this story, had concluded John Russell and Ross Warren, who died in cliff falls at Bondi just after Scott's death, had been murdered by gay-hate assailants at a gay beat. And a third, Gilles Mattaini, probably was murdered as well. At the urging of former Detective Sergeant Steve Page, Deputy Coroner Milledge corrected previous incorrect police cause of death determinations.

After hearing this news in the United States and realising that this may have been what happened to Scott, I returned to Sydney to plead with the police to take another look. They agreed to, but in fact did nothing. So with our own investigator and a growing number of volunteers in Sydney, especially Steve Page and Sue Thompson—two more heroes—we pieced together court records of bashers and crimes of violence against gays on the northern beaches; listened to stories of gay men who used this particular beat. All of this could have been discovered in a few hours of police work but for seven years the police continued to refuse to look at our material.

The second inquest in 2012 occurred only after State Coroner Mary Jerram ordered the police to review our work. Deputy State Coroner Forbes overturned the suicide verdict and remanded the case to unsolved homicides. Although the police admitted in evidence at the second inquest that the area where Scott was killed was a gay beat, they also promptly informed me the case was unsolvable. Why? It is because, paradoxically, the same officer who testified to the Coroner in 1989 was now a superintendent and denied that it was a gay beat and insisted that no crime had been committed. This police resistance to appropriately investigating crimes against gay victims is not just a relic of the past; it is current. The efforts of Assistant Superintendent Tony Crandell demonstrate goodwill, but the Police Force has not yet proven it has changed.

It was not until after a highly publicised *Australian Story* program about Scott aired in 2013 that the police decided to act. They and the family held a joint press conference to announce a new strike force that would work on Scott's case. We were all [*Skype dropout*]<sup>1</sup> TV in 2015. This investigation was undertaken unwillingly and with hostility. We handed the police team a list of 60 persons of interest including credible suspects and the

police swiftly eliminated them all. Afterwards they informed us there was no reason to suspect violence and that the original officers had reached the correct conclusion of suicide. By this time with the work of Sue Thompson and Steven Tomsen, from whom you are about to hear, and with stellar journalism—particularly by Rick Minelli—the names of dozens of other victims surfaced. I should say resurfaced: Most of these names had been long on a list of gay victims waiting for justice.

In addition, with each publicity event other families would come forward who believed they lost gay loved ones from violence when the police had told them otherwise. The list keeps growing. As you know the list is now at 88, but it could be much longer. Scott's name would never have made this list had it not been for the publicity around the Bondi inquest 13 years ago. The police might have succeeded in burying Scott's case again, but fortunately in 2014 a new State Coroner, Michael Barnes, decided to hold a third inquest—an extremely rare event. He ordered the re-interviewing of the many persons of interest the police had ruled out. Forty of these witnesses, including friends of Scott, Scott's [*Skype dropout*]<sup>2</sup> the original investigating officers, former bashers, convicted perpetrators and former residents in the northern beaches who volunteered to take the stand testified in his landmark hearings in 2016 and 2017.

Those hearings opened a window to Sydney's dark homophobic past. This past was not exclusive to Sydney, nor is it exclusive to the past. In State Coroner Barnes' court we heard from men who used this beat to find love and companionship during a fearsome time to be openly gay. We heard from former bashers, some repentant and others proud of their exploits—with grim reaper tattoos to prove it—and some who may have been the actual perpetrators. We heard astonishing stories from habitual bashers who were convicted but given suspended or light sentences—weekends of washing police cars in one instance. On the last day of the inquest we heard of the friendly relationship between at least one of the most violent gangs and the Manly police.

Could there have been police complicity? This is the same question being asked in Alan Rosendale's case. Coroner Barnes concluded in November 2017 that, "Scott fell from the cliff top as a result of actual or threatened violence from unidentified persons who attacked him because they perceived him to be homosexual". I believe Scott Johnson, John Russell, Ross Warren and many others were killed due partly to police indifference, which tragically sent a clear signal to gay bashers they could get away with assault, robbery and murder directed at gays. The gay and straight communities are still waiting to hear an unmistakable message from the police that they care about the gay men who died. The only credible message would be for the police to rigorously reinvestigate all the cases that did not receive adequate attention, including Scott's.

Unfortunately, the police during and following Scott's third inquest squandered another opportunity to set things right. I was shocked when a senior officer approached me at the conclusion of Scott's third inquest to tell me that I should be grateful to the police and that he hoped that I was satisfied with the police investigation to date because it was all they would do. We also heard that others on the Police Force were outraged by Coroner Barnes' verdict last year as if this were a defeat instead of an independent, fact-based inquiry that had concluded that a homicide had been committed—one that had not been solved, let alone adequately investigated. The Coroner's ruling and the leads that surfaced in the court room should have motivated the police to launch an immediate effort to investigate Scott's homicide.

The police never called Scott's family, including me, after Scott died or at any time since until last week. I received a gracious call from Deputy Commissioner Dave Hudson and Assistant Commissioner Tony Crandell, who now have offered to help. I am grateful for this. There is little I can say publicly now except they told me they had organised a new homicide investigation to follow the many leads that surfaced in the inquest hearings that concluded more than 12 months ago. I was encouraged by the call and hope the police sincerely do what they promise this time. I told them I am ready to support them in any way I can. It is important that they take purposeful action designed to solve the crime and hold the murderer accountable if possible.

Regardless of where the investigation leads there should be no sacred cows. I believe it is not too late to solve these cases but time is running out. Bringing justice in Scott's and other cases will send a more credible message than [*Skype dropout*]<sup>3</sup> it would tell the world that the NSW Police Force not only says it believes in equal protection and equal justice but that it can deliver it. And, it could well give a voice to the dozens of other gay men who also deserve justice and whose families would cherish receiving it.

**The CHAIR:** Can I just clarify—you dropped out a little bit there—were you suggesting an apology? Is that what you were saying at the end there?

**Mr JOHNSON:** I am sorry. One more time?

**The CHAIR:** At the end you said justice for the families and so forth. Are you suggesting an action from the police? The broadcast dropped out.

**Mr JOHNSON:** Investigating the cases that have not been investigated properly speaks louder than an apology.

**The CHAIR:** Personally, I very much admire the courage and tenacity you have demonstrated to get justice for your brother. The development that occurred just a week ago, after the third inquest did the police at that point indicate they were not going to investigate?

**Mr JOHNSON:** That is right. At least one of the people you will be hearing from today was standing there when he approached me and rather grimly shook my hand and told me I was grateful for what they had done and also told me that this was all that I could expect from the police and then he walked away. He was a very senior officer.

**The CHAIR:** I will open it up to the panel now.

**The Hon. PENNY SHARPE:** Thank you very much for both your submission and your opening remarks today. They are very important and we are thinking of you today on what is obviously a difficult day. You have basically gone through in quite forensic detail the number of times that you believed that something was happening and something has not and I am wanting to understand a little bit about what that looked like. I recognise the good news that you have had from the New South Wales police in the last week, but you talked about 2005 and 2013, in particular. What commitments did the New South Wales police give to you in relation to investigation and what do you think actually happened?

**Mr JOHNSON:** First of all, in 2005, when I heard the Bondi inquest, I got on the phone, I wrote to the Coroner and was on the phone with the Manly police. I figured out who I should talk to at the Manly police department. That person took down Scott's name and said he would go look for Scott's file. Months passed, I got a couple of emails back from him that they could not find Scott's file. Finally, I flew there at the beginning of 2006 with my daughter and went into the Manly police station and happened to be with Steve Page. This is my first meeting with Steve Page. We talked and had a very kind meeting with a couple of officers in the Manly police station. They listened to me, I described what had happened to Scott, I kind of pointed up to the headland, which you can see from the police station, and I did not know whether it was a gay beat but it sounded like it was very possible given that he was naked and that matched the circumstances of beat users that I had heard about over in Bondi.

They listened carefully and said they would get on this. Then for the next few months after I came back to America I got email after email saying they could not find Scott's file. I finally hired an investigator the following year. He flew to Manly, drove up to the headland and immediately found somebody who said yes, this not only was a gay beat but it still is and has been for decades. He found some court records of bashers that actually were in court that the Manly police had arrested on 43 counts of gay bashing at five different locations around Manly, including Reef Beach, which is similarly rustic to North Head—everyone is within close proximity. We put all the information together into a report that we sent to the police in 2007 and never heard a word back.

I will skip five years now to the inquest that I have mentioned. In the police brief was a secret memo, internal to the police, marked "Not to be divulged to the Johnson family". It was apparently a response to what we submitted in 2007, which was a psychological profile of me. It blamed me for my brother's death because it surmised, even though it had never talked to anyone in my family, including me, that I must have not accepted my brother's homosexuality and that is why he committed suicide. Since then I have talked to other families that have been treated this way by the police where their guilt or unawareness or lack of information about their son's or brother's lifestyle was easy prey to the police; it was easy to send families home thinking it was their fault. So apparently that is how they buried the 2007 submission that we made.

Fortunately, as I mentioned, Mary Jerram took an interest in the case in 2012 when we had that inquest which reopened it. Still the police slammed the door on it until *Australia Story* aired and then we had the press conference that I mentioned there in Sydney. I was there with my sister in person with the police and we announced the formation of Strike Force Macnamir. As I said, I was very heartened, I was very encouraged we finally have an investigation. The first meeting we had with the investigating officer in charge was very hostile; she told us to shut our laptops and shut our mouths, they were the police and they would be in touch with us if they needed any help. This is after I had spent seven years working on this case. She clearly was disgruntled that she was being asked to work on this case. That never changed. Every name that we submitted to the team got ruled out, sometimes for incredible or spurious reasons.

Then, as I mentioned, when Coroner Barnes decided to have the inquest he went back through the list of names and reinterviewed almost everyone—dozens and dozens of people—and 40 or so took the stand, many of them were riveting, including one gentleman who had called the police on Crime Stoppers saying that two of his

buddies in December 1988, when my brother died, right there and then being right next door to Manly, had just come panicked from a bashing saying that they had just beat up an American faggot who was sunbaking on a rock up at North Head. The police buried that; they did not call him back.

When he took the stand in Coroner Barnes' court he nearly broke down into tears describing the agony he went through waiting for the police to call him back, because he was essentially talking about his friends and he still lives in the same place. He had no idea what the police were up to, whether the old gangs—and this is, of course, many years later—were getting word that he had called Crime Stoppers; he had no idea. He finally called the police after seven months—we are talking about 2014 now; this is just a couple of years ago—and said, "What's going on?" The police told him, "This case is closed. Thank you for your input." The details he gave on the stand and the particular people that he mentioned who took the stand after he did are a few of the leads that need to be followed up on. This has never been proceeded again since those couple of days in the court.

**The Hon. PENNY SHARPE:** I have got one more question. Thank you for that.

**Mr JOHNSON:** I could go on and on.

**The Hon. PENNY SHARPE:** That is why we have you here. You alluded to this in your submission, which is about asking us to ask questions of the police. Do you believe that the New South Wales police deliberately did not investigate Scott's murder and if that is the case why do you think that was the case? What is your answer to those questions?

**Mr JOHNSON:** So here are the possibilities. It is very unlikely that police did not know it was a gay beat, especially since he was naked and no-one in the police department there and any other police department that I have discovered has ever seen a naked jumper, so it must have been clear that it had something to do with violence yet they packed up his clothes up on the cliff head without taking a photograph. We heard at Coroner Barnes' inquest that the scientific officer who arrived by helicopter never got out of his helicopter; he took all his pictures from the air in the helicopter, so there is no forensic collection of evidence. Whoever was at the top of the cliff and gathered his clothes either made the decision this was a suicide and so no evidence needed to be gathered or he got instructions.

These are all constables. We have heard it is very unusual for a detective not to be dispatched when a body had been discovered. So we have four constables on the scene. They packed up the site; a helicopter carried Scott's body away. We are unclear why it got packed up. It is certainly very likely they did not want to spend any time on the death of this gay man. Now, one of the other possibilities that came out in Coroner Barnes' court room, which we had heard from two other independent sources, was that this gang leader who was in court on 43 counts of gay bashing in five different beats around Manly had paid the police and that there was a relationship with the police and the word might have gone out that Scott's case should not be treated as homicide so that an investigation would not lead to this essentially protected witness or protected suspect. That is another lead; that is another possibility that has never been explored. Whenever we suggested it to Strike Force Macnamir, let us just say the hostility got even more palpable all the way to the top.

**The Hon. PENNY SHARPE:** Can I just stop you there. Can I just clarify that the police were aware that there were 43 bashings happening by gangs of people in this area at the time and they have not interviewed some of those people in relation to Scott's death?

**Mr JOHNSON:** They have interviewed them now but only because we brought the names to the police, so the police never interviewed anybody when Scott died. As I said, the case was closed the next day. When I arrived two days later the only police officer I was allowed to talk to was this constable who was eight months on the job and his job was to tell me, "This is where people jump" and he did not suggest any other possibility. I had no idea about gay beat—those words—and that there was violence, so I did not even entertain that possibility. I was totally mystified as to what happened to my brother. Since he had just talked to his PhD professor the day before he disappeared—who told him he essentially had clinched his PhD so all these months and years of work was coming to fruition—it was impossible in my mind that Scott went some place to go jump off a cliff, so something was missing here. The police would not tell me what it was.

If they had called homicide they would necessarily have had to talk to this gang leader because he was the prime suspect; he may still be a prime suspect. He was not in jail; he was out. I will fill in two gaps here. Since the police did not talk to him in 1988 and 2013 when Strike Force Macnamir was formed that was the first batch of names we gave the police—this particular gang and then the other gang that happened to correspond to the "American Faggot" Crime Stoppers report; we had no idea about that Crime Stoppers report but we had already informed the police of the gang that it implicated. We gave all that to Macnamir. I am not caricaturing this; it is actually a fact. They have knocked on the door of the gang leader and asked if he killed Scott Johnson—

**The Hon. PENNY SHARPE:** Sorry, Steve, we have lost you. We got to where the police knocked on the door of the gang leader, which is pretty key point. Could you say that again?

**Mr JOHNSON:** They did end up bringing him back in to the police station to talk to him at length but the first time he was talked to, a police officer had knocked on his door. He answered. The police officer asked if he had killed Scott Johnson because the family suggested that he had. So this was not a police investigation intent on getting to the truth. This seemed to be a police investigation bent on ruling all of the names out that we had given them. I will give you two other pieces of information; first, the lure of that gang came to us through calls on the phone. I called my investigator by phone. He was a part of that gang and he was really worried that that gang was responsible for Scott's death. So he talk to us for a while and we convinced him to talk to the police. He took the police on a tour of North Head, talked to them and gave in great detail about how the hits worked.

They would arrive at the parking lot. If they saw some cars there, the first thing they would do is check inside the car. They would look in the windows and if there was a wallet somewhere to be seen—this is him talking to the police; it was all video recorded—that meant there were gay men out there so it is time for business. He toured them up the hill; it is about a seven-minute walk from the parking lot. You go through a little hole in the concrete wall, which is sort of the dividing line between where it kind of strolls round in the dirt trail, to where the gay men would go to meet each other. He said, "We would go here. I would be the lure. I would lure the victim to an isolated place. My friends would jump on him." This was not a guy who was kidding. He was deadly serious; had all the details. There was no way it was made up.

The police eliminated him—this was in the original police report in 2014—because he said along the way that they only strike at night and they determine, and this is written in the police report, it could not have been this gang because Scott was naked and he would not be naked at night. He did not realise that in their own police report was a recounting of the 43 counts—this is the same gang that was on trial on 43 other counts of bashing—and half of them were at 5.00 p.m. Coroner Barnes' team instructed the police to reinterview all these people, both gangs that I am talking about, the "American Faggot" gang—one of them is dead now but there are several still alive and they had testified in this third inquest, and then this other gang that had been arrested and convicted of up to 43 counts of assault. They were all reinterviewed and then put on the stand and the information they all provided was extraordinary and demanded investigation. There is no clarity about whether these two gangs were or were not responsible for Scott's death.

**The Hon. SHAYNE MALLARD:** Steve, in your submission you make a valid observation about whether the impediments have been removed by current policy and practice. What you are saying in the story and in the submission is that they have not been removed in terms of police impediments to getting to the truth. Correct me if I have that wrong. Do you think that whatever the initial motivation about the initial motivation of Scott's death, subsequent police have not covered that up, but just won't admit that there was a mistake made or that something went wrong? Is it the culture that is the problems?

**Mr JOHNSON:** One salient piece of information was that the officer in charge of Task Force Macnamir appeared on *Lateline*. I imagine you are all familiar with her interview on *Lateline*, where she spelled it out. She answered your question for you. She was convinced that the first investigation was carried out to the standard of the day. She was very aggrieved that she had to work on this again, she had 100 other cases that were more deserving—

**The CHAIR:** Sorry, you dropped out again. We will have to get you to repeat what she said in that interview.

**Mr JOHNSON:** She first said that she absolutely believed the first investigation—the one that I described, which was over in 24 hours—was "of the standard of the day". Those were her words. Then she got progressively more agitated and expressed her dismay at having been forced to work on this case ahead of hundreds of other cases that were more deserving. Then she went on to accuse the police Minister of having kowtowed to the family in undertaking this. It was actually the police that came to him, asking him to approve the reward. He had never met us or heard of us. That was because this *Australian Story* program was airing and they wanted a story for it.

I cannot tell you that this will happen again. The phone call that I had last week with the deputy and assistant commissioners was very encouraging. We talked for a while. I said a lot of the things I am saying right now. Yes, I have been through this a few times. We are all getting older, including the perpetrators, but there is enough evidence. These gangs operate with braggadocio, so there are a lot of people who know what happened here. An honest effort to call these people out and to follow up on many of the people who took the stand in the inquest last year would give a good investigator plenty of grist for investigation.

We also make the suggestion that a few of these cases could be looked at together. These attacks had a serial nature to them, as you can tell from the 43 counts spanning [*Skype dropout*]<sup>4</sup>. None of those counts were murder, but if we have two or three dozen unsolved murders here, they should be looked at as a whole, because they all happened around the same time. Sorting them by time and location and modus operandi [MO]—I am not an investigator; I do not know how this could be approached—it seems that there are many common elements to many of these deaths, and looking at them in a holistic way might help solve a few of them, if not more.

**Reverend the Hon. FRED NILE:** Thank you again, Steve, for all the hard work you have done. We are sorry for all the stress you have had to go through over what happened to your brother. You have mentioned gangs a number of times. Did the gang have any characteristics? There were gangs on the streets in Sydney around that time. I wonder if some of those gangs would go out to Manly to attack these men? Some of the gangs I am referring to were called "skinheads"—they shaved their heads. Is there any connection, in your mind, with that type of person? They were very violent people.

**Mr JOHNSON:** I did not make a count but the transcripts showed that something like 20 or 25 former gang members, some of them convicted of heinous beatings of gay men, took the stand in my brother's third inquest. So I am very familiar with the extreme violent nature of these attacks. One of them was a convicted murderer, who was just out of jail. He was asked to take the stand to describe what this type of violence was like, and the "American Faggot" story that I told you, with the Crime Stoppers caller, claimed that two of his friends had just returned from a bashing of an American gay man. That is the skinhead gang of the northern beaches. Whether it is the same skinheads from Sydney, I do not know.

I have heard from multiple sources that these gangs roamed. So I know that the infamous gang of the 43 counts, some of the counts took place in a North Sydney park—St Leonard's Park—and [*Skype dropout*]<sup>5</sup> and Narrabeen Beach. These [*Skype dropout*]<sup>6</sup> talk to us said that it was like an ATM machine. They would go out on a Thursday or Friday night, they would stop at a beat and sometimes two beats—this was not at 8 o'clock—and they would find a victim. They would take his money, take his jacket and his jewellery, and then they would beat the hell out of him—just for fun. Then they would go to the bars to spend the money.

**Reverend the Hon. FRED NILE:** They should be charged. They should be in prison. Do we have identities? Do they have names? You obviously do know some of them; you have mentioned some already.

**Mr JOHNSON:** Some of them have been charged. Some of them have been convicted. Some of them have served. Of the ones who took the stand, none of them served serious jail time. The gang leader of the most infamous gang is the one that got weekend detention in exchange for 43 bashings. So there was not serious jail time served. We also learned that his convicting officers attended his wedding. This is the friendly relationship I was talking about. There did not seem to be any real earnestness, especially on the northern beaches, where no-one got caught for anything, except this one gang. So, yes, there are a lot of loose ends here.

The leader of the skinhead gang was murdered by somebody—no-one has been convicted of his murder—but the two remaining leaders of that gang both took the stand. They both seemed to not remember anything. They need to be investigated. They were the ones that reported to the Crime Stoppers guy that they just beat up an American faggot. So I think you are right: Someone needs to be charged, but I think the investigation needs to come first. It has just never happened.

**The CHAIR:** We are running out of time. There are two more people who have questions.

**The Hon. GREG DONNELLY:** Thank you so much for making yourself available today for us. Can I just press you a little bit further about whether you can give some specificity about what the two representatives from the NSW Police Force said in terms of timing about following through with respect to further consideration of this matter? Did they give you some scope in terms of when this action would commence, and a timetable for dealing with it?

**Mr JOHNSON:** They are going to jump on this. For example, they will be meeting with my representative next week and will be meeting with me by telephone at least. I may come to Sydney if they ask me to spend a significant amount of time here because there is a great knowledge transfer that can take place. They expressed great interest in doing that. I would be willing to fly to Sydney to help get an investigation started. They really did seem very earnest and I think the investigation has begun.

**The Hon. NATALIE WARD:** Thank you very much for your tenacity. I am very sorry for your loss.

**Mr JOHNSON:** Thank you.



**The Hon. NATALIE WARD:** I have two specific questions and they go back in time. You mentioned the 2007 report you sent to the police, and you did not hear back about that. Do you have a copy of that and was it provided subsequently to the inquests, or has it been lost?

**Reverend the Hon. FRED NILE:** Can you provide the Committee with a copy of the report?

**Mr JOHNSON:** Yes, I can send a copy. There is a copy in the police brief to the coronial inquest last year, but I can certainly send the Committee a copy. It is bone chilling.

**The Hon. NATALIE WARD:** I am sure. Thank you. I am sorry to ask you to revisit that. My second question is probably a question for the police more than for you. You have said there was no investigation, that the case was treated as a suicide and was quickly closed. I am interested in whether there is a protocol for investigation of homicides as opposed to investigation of suicides. That is, were there steps that should have been taken had it been treated as homicide? As you said, there are the forensics and the photographs of the scene—I am sure you have identified them—is that the case now?

**Mr JOHNSON:** Can you repeat that?

**The Hon. NATALIE WARD:** I am interested in the police protocols when they investigate a scene they consider to be a suicide, as you have identified. You have pointed out in your submission that they did not take further steps to investigate as if it were a homicide. I am interested in whether the protocols are different. If they suspected it was a suicide, were there steps they should have taken to rule out homicide? Do you have a view about whether that was the case or whether it should have been the case? That seems to me to be crux of what you said earlier—it was just ruled out.

**Mr JOHNSON:** In terms of difference—and, again I am not an investigator—you have to look at all four of the junctures. Yes, if they thought it was a homicide, something different would have happened in 1988. That is, they would have interviewed a few people. They interviewed no-one other than my brother's boyfriend. They did not interview me either.

**The Hon. NATALIE WARD:** I know; I read that.

**Mr JOHNSON:** I think they wanted to hear whether there were any medical/health issues, even if they had information about what they felt was a suicide. Yes, they could have done something besides write the internal memo saying, "Don't touch this case," in 2007. In 2013 a more strategic approach to the violent convicted gay bashers that they knew of would clearly have been a step they would have taken if they wanted to investigate violence. They told us repeatedly that they did not believe there was any violence. At the beginning of this ordeal the investigating officer in charge insisted this was not a gay beating. We had to go through that again. We had to bring her people who used that beat to prove that it was a gay beat. All kinds of things would have changed if they had not gone at it with the assumption that they wanted to prove their original assessment.

When Coroner Barnes took charge of the case and reinterviewed all these people, that was the closest there was to anything resembling a search for the truth. A big question on the table was that his team needed to expel all doubt it was a suicide. That is what he managed to do, and that is reflected in his verdict. That seemed to be the beginning, and we have heard that from other police officers we talked to. That would be the beginning of a homicide investigation. That is when I heard from Deputy Commissioner Dave Hudson last week and I had the officer in charge on the phone. We heard that they are taking this seriously as a homicide investigation and that implies different protocols. I think their behaviour would have been much different if they had seen it as a homicide.

**The Hon. NATALIE WARD:** That is what I am getting to. You would have to actively rule out certain aspects to land on a suicide approach rather than take that approach nominally.

**Reverend the Hon. FRED NILE:** Was an autopsy undertaken on your brother's body? Probably not because if it was a suicide they would not conduct an autopsy.

**The Hon. NATALIE WARD:** Your submission says that the medical examiner said he would have proceeded differently.

**Mr JOHNSON:** To be honest, anyone looking at the scene would see that this was an act of gay beating. The guys we heard take the stand last year said that there would be 20 or 30 guys up there in their Speedos meeting each other on a sunny Friday or Saturday. That had been going on for decades and everyone knew it. It was ludicrous to assume that finding a naked body at the bottom of that cliff, where no-one had ever committed suicide—the suicide spot was at the other end, the north end, and it was a distance away—suggested it was a

suicide. Men do not go to gay beats to commit suicide, let alone take off their clothes before doing so. The whole ruse was that they needed to dispel the possibility of suicide before they could work on this. This was a violent death from the get-go, but it was clearly one they decided they did not want to work on for whatever reason.

**The Hon. MARK PEARSON:** This is very much appreciated. Was there an incident or something said to you by the police or someone else during the entire inquiry that made you begin to conclude that the police were either protecting these people proactively or, in fact, colluding with gay bashers—murderers?

**Mr JOHNSON:** In 2007 there was a little bit of publicity. There was a front page story in the *Manly Daily*, and we had our email address in it. We heard from 30 or 40 people. It was easy to get people to contact us. One guy in particular was a little brother of one of the gang members I was talking about. He was the first to tell us that they paid the police \$50,000 to lighten the sentence for the leader of that gang. By the way, the person he said took the money in the Manly police department was later convicted of taking bribes for decades as a result of Operation Florida, and he went to jail. These are the same guys—there were two of them who were convicted and went to the jail—and they were present in 1988 when Scott died. They took money—possibly—from the gang leader who may have been responsible, or at least would have been a suspect, and that would have been sufficient to keep Scott's case open. As I said, both were convicted in 1999-2000 as a result of Operation Florida for taking bribes all during the 1980s and 1990s—it was drug money. It was easy to suspect the police of colluding with the gang members. We have thought that was a possibility since 2007. We heard somebody else come forward, this lure that I talked about. This is one of the first things he told us when he called us in 2013, so here is an independent person who freely told us that this gang paid the police.

We brought that to the attention of the Macnamir team and let us just say that they blew me out of the room. The head of homicides blew me out of the room and said that was offensive to even suggest that the police could have colluded; that there was any impropriety was offensive; and that was really the end of any sort of relationship with the police when I suggested that. There was no more contact, no more cordiality. That was about six months into Strike Force Macnamir. Yes, that needs to be investigated—whether there was impropriety, whether the police had illicit reasons for scuttling this case back in '88, and whether that added pressure to keep it closed now.

I guess I will say one last thing: The woman who was handed Scott's case in '89 became a superintendent. We heard her name repeatedly. Every time we tried to go into a door we would hear her shortly after that that we are barking up the wrong tree. It was this superintendent who said so. I certainly hope no other family has to go through this again. I hope for the best outcome for the other unsolved cases that I think should be investigated along with Scott's, starting now.

**Reverend the Hon. FRED NILE:** Thank you very much.

**The CHAIR:** That is a good point on which to end your evidence. We all hope that justice is finally found for your family, for your brother. Thank you for the work you are doing in the broader context of these crimes of that period because it is very important work. Thank you for your submission. The Committee will break for five minutes and reassemble the room for the remainder of the hearing. Thank you, Steve.

**The Hon. NATALIE WARD:** Thank you.

**The Hon. GREG DONNELLY:** Thank you.

**The Hon. PENNY SHARPE:** Thanks.

**Ms CATE FAEHRMANN:** Thank you.

**Reverend the Hon. FRED NILE:** Thank you.

**Mr JOHNSON:** Thank you all for your work. You will hear from many other people today who are much more responsible for getting us where we are than I am. I am grateful to you for listening to them.

**(The witness withdrew)**

**(Short adjournment)**

In correspondence to the committee received on 29 November 2018, Mr Steve Johnson, brother of Scott Johnson, clarified the following:

1. *We were all heartened, but as the investigating officer admitted on TV in 2015...*
2. *...Scott's beat users, the original investigating officers, former bashers, convicted perpetrators and former residents in the northern beaches...*
3. *Bringing justice in Scott's and other cases will send a more credible message than any promise, expressed regret, or apology...*
4. *These attacks had a serial nature to them, as you can tell from the 43 counts spanning five separate beats around Manly.*
5. *...some of the counts took place in a North Sydney park—St Leonard's Park—and Reef Beach, the Narrabeen bus station, and Narrabeen Beach.*
6. *These former gang members talk to us said that it was like an ATM machine.*

**PAUL SIMES**, Private citizen, affirmed and examined

**The CHAIR:** I now welcome the Committee's next witness for the inquiry into gay and transgender hate crimes between 1970 and 2010. Before I swear in the witness, I remind everyone watching online and in the gallery that today's hearing will obtain information about violent crimes committed against the 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 brochures available at the back of the room and on the Committee's inquiry website and ACON has a counsellor present—again, thank you. Mr Simes, you appear on your own behalf?

**Mr SIMES:** Yes. I am here as myself.

**The CHAIR:** We have your submission, which is No. 31. I assume the Committee has read it. Would you like to make an opening statement?

**Mr SIMES:** Certainly. I thank the Committee for giving me the opportunity to be part of these proceedings and for accepting my submission as well as for the opportunity to be questioned. The story, my story, is that on an evening in 1989 I was going home in my car and I saw an assault happen. I recorded the numberplate of the car that the assailants or the perpetrators got out of and reported it to an agency. Subsequently, I was told that it was a police vehicle so the perpetrators were policeman. I was invited to a meeting at the Police Centre then in College Street and I was interviewed by a senior police officer. I was accompanied by a now deceased member of Parliament. At that meeting they told me that there was a hooligan squad who were in that car that night, and that they had been chasing a suspect and the person who got away.

When I had gone back to the scene of the event, no-one was around, so because there was no victim I was told there were no charges to be laid against anyone. However, I was told that the hooligan squad was going to be disbanded. Coming forward to 2013, that story had always ticked away in the back of my mind. I had been reading *Sydney Morning Herald* articles about the gay-hate crimes and I wondered if what I had seen that night had been a murder, which I had often wondered, reflecting back on it over the years. So I contacted the journalist and my story was published. As a result of the story that I talk about here in my witness statement, Alan Rosendale came forward and said that he was assaulted on that night in that location, and he remembered a lot of the details as I had described them.

That was 2012-13. The police then invited both Alan and I on separate occasions to attend the Surry Hills Police Centre to be interviewed about the event. Alan and I—we had met by that stage on one occasion or maybe two—and after we were interviewed we shared recollections of the interview, and both of us commented that the first thing that was said by the detectives who interviewed us were words to the effect of there is no reason to assume that these two incidents were the same incident. That was their opening statement, which seemed to give the impression that they had already formed a judgement about the event. Subsequently, that was their finding. We both made separate freedom of information [FOI] applications.

**The Hon. TREVOR KHAN:** I am sorry, what was their finding about?

**Mr SIMES:** Their finding was that there was no correlation between the two incidents, and in fact there was no record of my meeting at the College Street Police Centre. So there was no record of that and the retired member of Parliament who had accompanied me that day, Fred Miller, had passed away in 1990, I think, and he had not kept records of that event, either. The police said that there was just nothing there, nothing to be found. We then made FOI requests. The evidence that came back is here in my submission and I cannot help, when I look at that, that there are more questions unanswered than answered.

It just seems that—I should not say they did not try very hard—but it just seems that there are other opportunities to ask questions that came out of the FOI request. In particular, there is a report from the policeman who admitted Alan to hospital, and his name is—what is his name; it is here on this report but I cannot see it with my glasses—but anyway it appears he was never interviewed during the 2013 investigation and that would be one sort of person that I would be sort of interested to ask, "Why? What happened that night? Why did no-one ever go back and interview Alan after he was admitted to hospital?", things like that. There are a few other questions that I think come forward out of that.

**The CHAIR:** Can I ask you to provide copies of those documents? They are FOI documents, are they?

**Mr SIMES:** Yes, and they were in my submission.

**The CHAIR:** Okay.

**Mr SIMES:** Everyone has got them.

**The CHAIR:** We have lots of attachments with the submission, so thank you for that. It is there.

**Mr SIMES:** His name is Michael Boyd. Constable Michael Boyd admitted Alan Rosendale to hospital on 6 May 1989.

**The CHAIR:** Thank you for your opening statement. Mr Rosendale is giving evidence after this, which will be good. It will be good to have the evidence of the two of you side by side. I will begin my questions by asking about the issue of the bashings at the time. You observed this bashing on South Dowling Street.

**Mr SIMES:** Yes.

**The CHAIR:** Was it common for bashings to occur on South Dowling Street and that area of the beat? This goes to the fact of saying that it might be too different once with the same *modus operandi*.

**Mr SIMES:** That is right. I had heard from a friend that there had been bashings there and I had heard from other friends that there had been bashings there. I was aware. I was a young gay man living at Bondi Beach but working in the city and in the inter-west, so I socialised in Oxford Street. You heard the stories, and there were plenty of stories floating around. I do not know that "common" is the word, but I was aware that it was a possibility. Indeed, it was a possibility at Bondi Beach. It was a possibility in Bellevue Hill. I was chased myself on a number of occasions, walking my dog or doing a beat.

**The CHAIR:** In Moore Park?

**Mr SIMES:** No, in Bellevue Hill—very similar circumstances.

**The CHAIR:** The landscape there has changed now with the Eastern Distributor. But was there an open parkland?

**Mr SIMES:** If you just imagine infilling the Eastern Distributor, it was just the dual carriageway with a grass median strip dividing it, so you could actually drive over it and do U-turns very easily.

**The CHAIR:** Thank you for that.

**The Hon. MARK PEARSON:** You said that you reported the bashings that you witnessed and the assailants getting back in the car. You reported to an agency. Was that agency a police agency?

**Mr SIMES:** It was whatever—I think it was the first gay liaison organisation and I cannot remember its name. With the violence that was going on at that time, within the gay community a couple of fledgling organisations were getting together, may be the precursors of ACON.

**The Hon. PENNY SHARPE:** The Anti-Violence Project.

**Mr SIMES:** Yes, Anti-Violence Project, probably. It would have been that. I did not keep the detailed records that Alan Rosendale kept, unfortunately.

**The Hon. MARK PEARSON:** Was it a police officer or a person working with this agency who said to you that that numberplate was of a police car?

**Mr SIMES:** Once again, I am reasonably certain it was a person from the agency who contacted me by telephone and said, "The police would like to interview you and we would make sure that you are accompanied by Fred Miller".

**The Hon. MARK PEARSON:** Over this time of you reporting this and then the investigation going into it, did any police officer contact you to divulge concerns himself about how the police was involved with all this or how they were dealing with these sorts of reports?

**Mr SIMES:** Are you talking about the last few years or back in 1989?

**The Hon. MARK PEARSON:** Actually, both.

**Mr SIMES:** Both? Never.

**The Hon. MARK PEARSON:** Thank you.

**The Hon. PENNY SHARPE:** Thanks for coming forward and giving evidence today. It is very important. In your submission you talk about your freedom of information request to try to work out. But

obviously over the years you have thought about this a great deal and you have been trying to get to the bottom of the action or inaction of the police. Can you tell me what you asked for in your FOI and what you received back?

**Mr SIMES:** In fact, it is here. I asked for any information—I have not got the words right in front of me—relating to events that happened on the night of 6 May 1989. I received some advice from the *Sydney Morning Herald* about how to frame an FOI to make it broader rather than a narrower focus.

**The Hon. TREVOR KHAN:** That can be sometimes good and sometimes bad.

**Mr SIMES:** Yes. I did receive some advice about how to frame that.

**The Hon. PENNY SHARPE:** Can I be clear that when the police say that they do not believe that there is evidence to link what you saw and what happened to Mr Rosendale, it was on 6 May. There are not disputing the date?

**Mr SIMES:** No, the implication was that they were disputing the date, yes, absolutely.

**The Hon. PENNY SHARPE:** But you have never had confirmation that that is the reason?

**Mr SIMES:** No, not to my recollection. It was a comment made in that way. There were two different detectives and they both said words to the effect, "Of course, there is nothing to indicate that these two incidents are the same event". So the implication is that happened on—

**The Hon. PENNY SHARPE:** They debate they have not been able to draw the link.

**Mr SIMES:** Yes.

**The Hon. PENNY SHARPE:** When you went to the meeting at the police centre in College Street in Darlinghurst, can you take us through what happened at that meeting?

**Mr SIMES:** Certainly. Fred met me in the lobby—

**The Hon. PENNY SHARPE:** Sorry, how did you get to be there? Did you or the police request the meeting?

**Mr SIMES:** No.

**The Hon. PENNY SHARPE:** Take us from the beginning. How did you end up in that meeting and what happened?

**Mr SIMES:** The Anti-Violence Project set up the meeting. Initially, I was a little reluctant. Number one, I was surprised that they were telling me that the car I had recorded was a police car. I was very surprised. So they set up the meeting—

**The Hon. TREVOR KHAN:** Sorry, are you able to describe the car in any way? Obviously, it did not have a blue flashing light on its roof.

**Mr SIMES:** No, my memory was that it was a large sedan like a Ford Falcon or something like that—four-door sedan.

**The Hon. TREVOR KHAN:** Or a Kingswood that would have been—

**Mr SIMES:** Or a Kingswood, it could have been, but just a large sedan.

**The Hon. GREG DONNELLY:** And no markings on it?

**Mr SIMES:** No markings at all. I was surprised. They said that the police wanted to interview me and I probably went, "Oh, really?", a little reluctant perhaps. They said I be accompanied by Fred Miller.

**The Hon. TREVOR KHAN:** Why Fred Miller?

**Mr SIMES:** I understand that he had an association with the Anti-Violence Project.

**The Hon. PENNY SHARPE:** Yes, he did.

**Mr SIMES:** I did not know him. I did not know who he was at all. He met me in the lobby in the College Street police centre, which is now no more.

**The Hon. TREVOR KHAN:** It is now The Residence or whatever.

**Mr SIMES:** The Residence, yes. We went to an upper floor. There was an antechamber of typists and secretaries. It was not dissimilar to this sort of setting with very smart fit-out. We were taken through into an office that had harbour views. It had a desk, chairs—

**The Hon. PENNY SHARPE:** This was not the desk sergeant that you are meeting.

**Mr SIMES:** No, and a suite of furniture. It had a desk, chairs and a suite of furniture, 10 or 12 metres long.

**The Hon. GREG DONNELLY:** And a harbour view.

**The Hon. PENNY SHARPE:** Posh.

**The Hon. TREVOR KHAN:** So you were dealing with inspector or above, it is pretty plain. Was he in a uniform?

**Mr SIMES:** Yes.

**The Hon. TREVOR KHAN:** I am assuming that it was a he.

**Mr SIMES:** He was in a uniform with lots of—

**The Hon. TREVOR KHAN:** Plenty of braid.

**Mr SIMES:** Plenty of braid. Of course, I would have known his name but I have forgotten it. I would have been introduced to him but I have forgotten it.

**The Hon. TREVOR KHAN:** We are all in that stage.

**The Hon. PENNY SHARPE:** It was 30 years ago.

**Mr SIMES:** It was 30 years ago. He talked me through the events of that evening, similar to what I am doing now: "What did you say? What did you observe?" I said to him, "Look, I saw these guys jump out of the car and they beat this guy in front of my car. They had planks of wood. They were hitting". He had a police officer—a female police officer—standing beside him as a sort of aide. He had a word to her and sent her out of the room. She came back with the police baton. He showed me the police baton and he said, "Do you think you could have seen this?" I just had this sort of, "Yes, I did". What I thought were planks of wood I realised—I saw in my lights, it was shiny, it was metallic. I believe I saw both. I believe I saw police batons and wood. But it is just my feeling. He confirmed—he talked me through that scenario and said, "There you go". Then he went on to say, "Well, this was the hooligan squad". I did not remember—

**The Hon. TREVOR KHAN:** I am 61 but I do not remember a squad called the "hooligan squad". Was that the terminology? You could be right; I am not denying that.

**Mr SIMES:** Well, actually I do not remember that expression. It is only subsequently—What I remember him saying to me was: "We have a squad of police officers who are unassigned. They are troubleshooters and they go out and do stuff". He said, "We have had"—I do not remember him using the word "hooligan" but in years past people have said to me, "Oh, that sounds like the hooligan squad".

**The Hon. TREVOR KHAN:** Like there was the vice squad and there were various others.

**The CHAIR:** I think unofficial.

**The Hon. TREVOR KHAN:** A lot of them were wound up after the Wood Royal Commission because they were roving the streets doing no good.

**Mr SIMES:** Yes, doing no good. He said the reports that they gave from that night were that they were chasing a suspect from a stabbing in Moore Park Road and that no-one was apprehended. Then he said, "Of course, because there's no victim, we can't charge them with anything but we have had trouble with the squad before and they are being reassigned"—I think words to that effect. I got the impression I was satisfied when I left, that I had been heard, that the incidence—That was the end of it, as far as I was concerned.

**The CHAIR:** It was more a meeting rather than a formal interview process.

**Mr SIMES:** It was a meeting, yes.

**The CHAIR:** Effectively to sweet-talk you?

**Mr SIMES:** People have suggested that subsequently. When I spoke to Rick Feneley from the *Sydney Morning Herald* and others in 2012 and 2013, that was the impression. They have said things like that to me and I have thought, "Well, it seems to be the case."

**The Hon. TREVOR KHAN:** I am not being rude when I say this. If they are saying you are not a liar for making this up and I am genuinely not saying that, what you are witnessing is a bit of rough justice from the coppers on some character rather than it being the flogging of the gay man. Is that the better alternative that has been presented?

**Mr SIMES:** Yes, I had the same thoughts. I thought, "Who was that man?" He had come out of the park. It was a beat but it could be anyone. I have heterosexual male friends who have been bashed because it happens and they have been in Newtown and they have been called "faggot". It is not the preserve of gay men. I wondered if it was someone who dusted themselves off and walked home and thought that is the end of it. That is what I had thought. I was satisfied after that and parked that memory away and thought of it occasionally.

**The CHAIR:** Can I touch on Fred Miller's role because I am a bit confused. He went along with you as a member of Parliament or was he a police officer at the time?

**Mr SIMES:** My understanding is that Fred had retired and he had some association with the anti-violence project. I really do not know what it was. He made himself available to act as a support person. Maybe he did for others as well. I do not know what the records show about what he was doing then. I understand he was very unwell at the time. I did not know it then. And he passed away.

**The CHAIR:** What was his role in that meeting? If he wanted it to be investigated did he follow it up with you?

**Mr SIMES:** No. He was not a young man. I am going to be 60 this year. I am not sure what age he was. He was not young. He was warm and friendly. I appreciated him being there I would have been uncomfortable going to that meeting by myself. My only contact with him, and I did not have any other contact, there was no feedback that I recall at all after that event and I did not pursue it.

**The Hon. TREVOR KHAN:** He would have been 63 or 64 at that point.

**The Hon. NATALIE WARD:** Did you have a conversation afterwards? Did you say to him, "What was that about?" Did he say anything?

**Mr SIMES:** Not that I recall. My feeling is one of the things it was 30 years ago. We remember key events. Sometimes we fill in gaps. We all understand how memory degrades over time. That is why I have done a drawing of that office because I know that memory degrades. In one of my submissions there is a hand drawing of the way I perceived that office. I do not recall. We must have exchanged pleasantries and parted. I was reasonably satisfied that they had done their best endeavours to investigate that event on that day. Presumably, I was impressed by the senior status of the officer that interviewed me.

**The CHAIR:** You were meant to be.

**Mr SIMES:** In 2013 other people have said to me, I think there is an expression of "being duchessed", that is what they did to me.

**The Hon. TREVOR KHAN:** Can you remember the colour of the female police officer's hair?

**Mr SIMES:** Blond.

**The Hon. TREVOR KHAN:** That cuts out red, which was the possibility that crossed my mind.

**Ms CATE FAEHRMANN:** The evening in May 1989, the first thing you witnessed was Alan walking out of the park?

**Mr SIMES:** No.

**Ms CATE FAEHRMANN:** What was the first thing you saw?

**Mr SIMES:** The first thing I saw was a car heading from north to south down South Dowling Street at high speed and it screeched to a halt on the side of the park. That is what caught my eye. I was heading in the northern direction. I thought, "Wow, that is unusual." I knew it was a beat, number one, and I knew there had been bashers and thugs doing things in the gay community. So I stopped and watched what happened. They jumped out of the car in a very dramatic way. I described it to people, it was like *Clockwork Orange*, the scene where the thugs jump out of the car.



**The Hon. TREVOR KHAN:** They are too young for that.

**Mr SIMES:** It was just like that. Someone went to the boot, opened the boot, one person handed out these batons to each of them and they all ran into the park and it was really quite bizarre. It was very robotic and fast and so I hung around.

**The CHAIR:** There was a sense of immunity.

**Ms CATE FAEHRMANN:** To finish that line of questioning, they ran into the park and you were able to witness the bashing because Alan came out of the park. You were on the edge of the park. And they followed.

**Mr SIMES:** Yes.

**The CHAIR:** They chased him and he tripped over?

**Mr SIMES:** Yes.

**Ms CATE FAEHRMANN:** Was he running?

**Mr SIMES:** Yes.

**The CHAIR:** You turned around and drove up to them with your headlights on thinking they would desist?

**Mr SIMES:** No, not quite like that. I was on the western side of Moore Park Road in front of the Langton Centre, just before the Langton Centre, and they were on the other side of the road. They chased him out of the park from the northern end. I probably saw them coming back, they would have been 300 metres away from me. I saw a guy jump down out of the park and the four or five guys—I have a feeling there were five—followed him across the park and he got closer and closer to my car. My car would have looked empty because it did not have lights on. He fell into the gutter maybe 100 metres in front of me and they started beating him there. That is when I started my car up and put the headlights on. They were in my headlights and they knew I was there and they did not pay any attention.

**The CHAIR:** Did not stop?

**Mr SIMES:** Then I drove past them very slowly and then I did a U-turn and came up behind their car and recorded the number. They saw me do all of that. They knew I had taken the number plate.

**The CHAIR:** That number has been lost over time?

**Mr SIMES:** Yes.

**The Hon. PENNY SHARPE:** I have a question that goes to the police report, which we know was never followed up, around the possibility of skinheads. Did the people you saw look like skin heads?

**Mr SIMES:** No. Skinheads have got a look. These were smart, groomed, young guys.

**The CHAIR:** I have read the "hoodlum squad" was tasked to deal with skin head gangs. There was a bit of a mixed bag there.

**The Hon. MARK PEARSON:** Why do you think you pursued that so much?

**Mr SIMES:** That night or in 2013?

**The Hon. MARK PEARSON:** That night. Why did you stay there, put your lights on, turn around, pull up in front of them?

**Mr SIMES:** I was horrified.

**The Hon. MARK PEARSON:** You did not want to run, did you?

**Mr SIMES:** No, I was very angry. It makes me emotional thinking about it, the injustice of four guys on one person, the certain knowledge that it was probably a gay man. If it was a woman I would have felt the same. I have often reflected about the crimes against gay men and I have always thought it is not just gay men, it is women, it is people of colour, it is people who are different, it is anyone and we are focusing in this inquiry on gay-hate crimes. But, if anything comes out of this, better governance in the police department would be something I would feel very satisfied if that was an outcome.

Better oversight and independent oversight—we have seen it with the banks, we have seen it with the educational institutions. If you do not have independent inquiries looking at these things people are unaccountable

and if they are unaccountable they will misbehave. I think the police are fantastic. I am not speaking against the police, but it is just like every other institution if they do not have the correct checks and balances.

**The Hon. MARK PEARSON:** Your courage that night is helping us unravel the systemic abuse and harm to a minority group.

**Mr SIMES:** I do not think of it was courage, I was in a car. All of those things.

**The CHAIR:** Certainly outnumbered if you got out of the car.

**Mr SIMES:** Yes.

**Reverend the Hon. FRED NILE:** In your submission you talk about police interviews having a "lack of rigor and intellectual curiosity", what do you mean by that?

**Mr SIMES:** The perception they gave me of bias at the front end coloured some of my thoughts there and then the inquiry that did not seem to interview the officer whose name was on the documents. He may well have passed away, I do not know. The contents of the documents that came back from the FOI were confusing to me because there was a statement from a milkman but there was no explanation of what he had to do with it. It was redacted in such a way that you could not see any purpose for that document at all, but no statement from the police officer. I just thought it lacked rigour. Perhaps I am actually saying something else. Perhaps I am really saying I do not think they wanted to investigate this.

**Reverend the Hon. FRED NILE:** Does that relate solely to the police response to the interviews of Alan Rosendale and yourself or are there other—

**Mr SIMES:** I am only commenting on the Alan Rosendale matter. I have got views about all the other events that we have seen, and you will hear submissions from a lot of people.

**Reverend the Hon. FRED NILE:** You were not present though at the interview with Alan Rosendale.

**Mr SIMES:** No. It was on separate days.

**Reverend the Hon. FRED NILE:** He told you what happened in his interview?

**Mr SIMES:** Yes. We met sometime later—it would not have been the same day—and just shared, "What did they ask you?" and that opening comment was almost word for word the same, and he will probably make the same comment.

**Reverend the Hon. FRED NILE:** They did not seem to be very serious about how they were conducting the inquiry?

**Mr SIMES:** Yes.

**The CHAIR:** We are a little bit late on time. If there are further questions we can put them on notice. Thank you for coming in today and sharing your story, it has been very helpful.

**The Hon. TREVOR KHAN:** And compelling.

**The CHAIR:** And compelling. I do not think you took any questions on notice but if you did we will let you know. Thank you for coming in today.

**(The witness withdrew)**

**ALAN ROSENDALE**, Private citizen, sworn and examined

**The CHAIR:** I remind everyone watching that today's hearing will contain information about violent crimes committed against the 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 this room or on our inquiry website. I welcome Mr Rosendale. Would you like to make an opening statement to us?

**Mr ROSENDALE:** Yes. On the night of 5 May 1989 I was attacked at a gay beat on South Dowling Street, Surry Hills. I was transported to St Vincent's Hospital where I later regained consciousness and was admitted and treated for a broken nose and severe head injuries. I was discharged on 12 May. No police came to take a statement from me although I had a vague idea that there had been a policeman present in the emergency department when I was being assessed. On 10 August 2013 I read an article in the *Sydney Morning Herald* of an assault that Paul Simes had witnessed at the same place one night in 1989 and was amazed at how he had described my assault. He took down the registration number of the car that the assailants had arrived in and from which they had taken pieces of wood, and they then ran into the beat area. I had always known that my attackers had been armed with planks of wood.

Paul Simes feared that he had witnessed a murder and phoned a gay police liaison officer to report the registration number. He was later informed that the car was an undercover police car and he was asked to come in to police headquarters. I contacted Rick Feneley, the writer of the article, and identified myself as the person at the scene being attacked and confirmed the date because I still had my 1989 diary with all the details. He took my story and organised for a photographer to come and collect me the next day for his story. I then sat back on my couch and thought, "That's why the police never came to the hospital to interview me or tried to find my attackers, because they already knew who they were."

**The CHAIR:** Thank you for coming to give evidence as a survivor of gay-hate crime.

**Reverend the Hon. FRED NILE:** Why do you think they picked you particularly?

**Mr ROSENDALE:** I think I was just there—the wrong person at the right time.

**Reverend the Hon. FRED NILE:** Were you walking along the road?

**Mr ROSENDALE:** No. The set-up was South Dowling Street and then there was a park and then there was an area sort of over against a wall that was a tree, shrubbed area and that was where the beat was. It was off the main road and it was in part of the park.

**Reverend the Hon. FRED NILE:** Did you realise they were police that were bashing you?

**Mr ROSENDALE:** No, I really did not stop to ask. I went into the wooded area. There was sort of a way of doing things, if that is a way of saying it—the etiquette of doing a beat, so to speak. You would go in and you would wander around and see who was there and if anything was happening or whatever. I had only just arrived and I was just looking around to see if there was anyone else there and I heard someone say, "There's one. Get him", and I just knew that I was in for it, so I ran—I did not stop to look around.

**The CHAIR:** I insensitively ask you this question: Had you frequented that beat before and were you aware of violence?

**Mr ROSENDALE:** I had been there before, yes.

**The CHAIR:** Were your colleagues there talking about bashers coming there?

**Mr ROSENDALE:** In 1989 bashing was quite common, whether it was at that beat or others.

**The Hon. TREVOR KHAN:** I will just follow up on that. I am 61—

**Mr ROSENDALE:** I am 61 too.

**The Hon. TREVOR KHAN:** This is relatively late in developments, 1989; 1984 was decrim. Are you saying there was a spike in bashings?

**Mr ROSENDALE:** I think gays became more obvious; they came out on the street. Oxford Street was where everyone gravitated to.

**The Hon. TREVOR KHAN:** That was before 1989.

**Mr ROSENDALE:** That was before 1989, but then there was the AIDS thing that came out as well. So you had the AIDS campaign and it was all to do with gay people, there was not anything else basically, and people coming to attack gay people.

**The Hon. TREVOR KHAN:** In a sense, do you think that the campaign had the unintended consequence of vilifying the gay community?

**Mr ROSENDALE:** Yes, I do.

**Ms CATE FAEHRMANN:** Can I ask what happened then in 2013? You approached Rick Feneley. What has happened with the police since then and your case?

**Mr ROSENDALE:** I did the article on the 10th and my article appeared on 12 August 2013. I was called by Detective Mandy Hancock from Surry Hills police station; she organised for me to come in and make a statement the next day, which was Tuesday the 13th, coming in at 11 o'clock. I did, I got there and she was otherwise detained, so Lucy Hopper was assigned to interview me. Lucy Hopper did not know what she was doing because she had not been briefed. She had to read the article in Saturday's paper and then read my article from Monday's paper to know what she was supposed to do.

Eventually I gave my statement and at the end of it Detective Hancock came in and the first thing she said was, "Well, of course you realise these two incidents are not necessarily connected." I said, "Hang on, that's a bit sort of out there." She said, "I've read the police report and you were attacked by a group of skinheads." I went, "I didn't know there was a report. I've never seen anything." She said she wanted to take photocopies from my diary, but then she said, "Photocopies aren't good enough. I will have to take the whole diary." I said, "Okay, that's all right." She gave me the number to say that she had taken the diary and for me to keep that, and she said, "That's it." So I left.

**Ms CATE FAEHRMANN:** So no questions about why the police did not come and interview you at the time?

**Mr ROSENDALE:** No.

**Ms CATE FAEHRMANN:** That was your last experience with the police on this matter?

**Mr ROSENDALE:** No. I was attacked in 1989 and I finally gave my statement in August 2013. November of 2013 I was in Melbourne—it was the last week, I think about 21, 22 November—and I received a phone call from Detective Hancock, who said, "Hello, Paul. This is Detective Hancock from Surry Hills police station." I said, "Excuse me, I'm Alan." She said, "Sorry, Alan. I couldn't find anything. I've investigated the case and I couldn't find anything, so could you please come in and collect your diary?"

**Ms CATE FAEHRMANN:** And that was the last contact you have had with the police?

**Mr ROSENDALE:** No. I should not laugh but it has become laughable.

**The CHAIR:** Understandable.

**Mr ROSENDALE:** Yes. I came back from Melbourne and because it was the lead-up to Christmas or something I did not get into Surry Hills to get my diary so I think I went in January. I went in, I had the piece of paper and I said, "I am here to collect the diary. Detective Hancock has told me to come in." He went away and he came back and he said, "We can't find it." I said, "Is Detective Hancock here?" and he said, "No. We will find it and we'll give you a call and you can come back again another time." I said, "Okay. I just live down the road." When I did collect it I said, "Is there any way that I can learn what she found in the investigation?" And he said, "No, you would have to ask her that." I said, "Well, is she here?" and he said, "No, she's on six weeks leave in Canada." I thought, "Oh look, they're not even trying", so I just walked out in disgust; I grabbed my diary and left.

I would have given up then. I thought they just do not want to do anything and Rick Feneley said, "No, no, Alan, don't give up. We will go for freedom of information to find out what she actually investigated." So we did that, and that is when we got a freedom of information. I met up with Paul that night to fill out our freedom of information because Rick told us how to do it and then we got that back, which was nothing. It was my statement, Paul's statement, Refidex of the area, a photocopy of a street directory of the area, the police report from the night and the handwritten note from some milkman and that was her investigation.

**The Hon. TREVOR KHAN:** Can I just go to the police report from the night?

**Mr ROSENDALE:** Do you want a copy of that?

**The Hon. TREVOR KHAN:** It is a typed document, it is dated 6 May 1989?

**Mr ROSENDALE:** Yes.

**The Hon. TREVOR KHAN:** You might or might not be able to assist but the time of the incident is shown as 3.15 a.m. Saturday 6.5.89?

**Mr ROSENDALE:** Yes.

**The Hon. TREVOR KHAN:** Then in box 14, "Memo by VKG". If I am right that is a memo of a radioed-in report?

**Mr ROSENDALE:** I do not know.

**The Hon. TREVOR KHAN:** I think VKG is what was the police radio network?

**Mr ROSENDALE:** Going to the days of *Homicide*; they used to do that.

**The Hon. TREVOR KHAN:** It was VKG, so it is typed. The only thing I take you to is the description of an event involving four young men, possibly skinheads?

**Mr ROSENDALE:** Yes.

**The Hon. TREVOR KHAN:** Do you remember ever giving any advice to anyone that it was skinheads?

**Mr ROSENDALE:** No. Actually, while you have this piece of paper in front of you, the officer has spelt my name incorrectly, with a double "L". Mine has one "L". I am happy with that because a lot of people do that. He got my surname right but he got my date of birth completely wrong. My date of birth is .

**The Hon. TREVOR KHAN:** Yes, well you are holding up well.

**Mr ROSENDALE:** Thank you. So he got that wrong. He said, "The victim was walking home when he was attacked by four young persons, possibly skinheads." I was not walking home.

**The Hon. TREVOR KHAN:** I do notice that you lived in Rennie Street, Redfern?

**Mr ROSENDALE:** Yes. The reason I was walking home is that I had been to the Taxi Club and I did not have any money. It is a 10-minute walk down the road and I would often walk home. But this night I just thought I will go and check out what is happening on the beat, so I was not walking—

**The Hon. TREVOR KHAN:** So you did not have any problem with disclosing that you had gone to the beat?

**Mr ROSENDALE:** No, but nobody asked me that.

**The Hon. TREVOR KHAN:** Is there anything else that strikes you as odd in terms of this?

**Mr ROSENDALE:** Just "the victim was walking home". I never said any of this. I do not know where he got it from. "Possibly skinheads"—I never said that. "He was punched to the ground and then kicked"—I came running out of the park and stumbled. I was doing pretty good time to get away from them but the only reason they caught up with me is because I stumbled and fell in the gutter and I know exactly where I fell because it was outside the Langton Centre so that bit there is not true either. He made that bit up. I was not kicked and punched; I fell to the ground. They caught up with me and they attacked me with pieces of wood.

**The Hon. TREVOR KHAN:** I was going to take you to "describe weapon, instrument", et cetera "by punching and kicking victim", and that is wrong?

**Mr ROSENDALE:** No, that did not happen. I have always known that I was attacked with pieces of wood. I thought how organised these attackers were to be walking around the streets of Sydney on a Friday night. I knew it was not a branch of a tree or something that was found. They had armed themselves with it so I had always known. I think I have actually got a dent in my forehead where one of the batons—

**Reverend the Hon. FRED NILE:** So they were police batons?

**Mr ROSENDALE:** I did not know at the time but that is what has come out afterwards, yes.

**The Hon. TREVOR KHAN:** Or it is consistent with it being that?

**Mr ROSENDALE:** Yes.

**The CHAIR:** You did not know they had come from a car?

**Mr ROSENDALE:** No. That came when I was reading the article in the *Sydney Morning Herald* on the 10th.

**The Hon. TREVOR KHAN:** Do you remember giving to anyone or being requested by anyone to give a description of the assailants?

**Mr ROSENDALE:** No.

**The Hon. TREVOR KHAN:** Could it have been that whilst you were in the back of an ambulance a police officer spoke to you and asked for a description?

**Mr ROSENDALE:** There was a policeman in the emergency department when I was being assessed in the emergency department. I do not know.

**The Hon. PENNY SHARPE:** I imagine you were quite injured at the time?

**Mr ROSENDALE:** I was unconscious for most of the time. I remember being on the ground and being attacked. I saw car lights coming towards me and I thought, "Thank God, someone's here. I'm saved". That was the last thing I can remember there. The next thing I can remember vaguely being in the emergency department and I can remember waiting in a hallway somewhere on a gurney or whatever they are, the trolley.

**Reverend the Hon. FRED NILE:** Where was that? St Vincent's?

**Mr ROSENDALE:** That was at St Vincent's. I really came to Saturday afternoon when I was in the bed in the ward. I was not conscious. You know there are doctors and nurses there and for some reason I recollect that there was a policeman there.

**The Hon. TREVOR KHAN:** And did you still have your wallet on you at the time?

**Mr ROSENDALE:** Yes, because I think that is where he got some of the details from.

**The Hon. TREVOR KHAN:** That was where I was going.

**Mr ROSENDALE:** Which I cannot understand because he would have got a lot of these details from my driver's licence or I had my business card. I worked at the Waldorf Apartments because I cannot imagine myself lying there on the stretcher at three o'clock in the morning unconscious saying, "Well, I work at the Waldorf Apartments in Liverpool Street". Those things he must have got from my wallet or even saying that I lived at 4 Rennie Street. I think that would be a bit of a stretch in the state I was in.

**Reverend the Hon. FRED NILE:** It says in the report that you could not describe the men who attacked you but you could, could you not?

**Mr ROSENDALE:** I did not hang around.

**Reverend the Hon. FRED NILE:** What did they look like? Were they dressed in suits?

**Mr ROSENDALE:** I could not tell you. They were young; they are about my age. Once I heard, "There's one; get him" I just ran; I bolted. My initial thought was that because the beat was trees and bushes and things—that is where it happened—I thought if I got out of there onto South Dowling Street there would be traffic, there would be people around, they would stop—

**Reverend the Hon. FRED NILE:** You would be safe?

**Mr ROSENDALE:** I would be safe. That was my only thing.

**The Hon. TREVOR KHAN:** Can I just raise this: You say they were about your age?

**Mr ROSENDALE:** I would say so.

**The Hon. TREVOR KHAN:** You were young?

**Mr ROSENDALE:** Thirties.

**The Hon. TREVOR KHAN:** You were 32?

**Mr ROSENDALE:** Yes, I was 32 at the time.

**The Hon. TREVOR KHAN:** So we are not talking about the people who assaulted you being 16- or 17-year-old youths?

**Mr ROSENDALE:** No, they were adults.

**Reverend the Hon. FRED NILE:** They were young men?

**Mr ROSENDALE:** Yes.

**The Hon. TREVOR KHAN:** I am not being critical.

**Mr ROSENDALE:** And there was no accent; I know there was no accent. There was no islander, no Aboriginal, no "Oi, there's one, get 'im". It was a straight out, "There's one. Get him" and I just ran.

**The Hon. NATALIE WARD:** Thank you, Mr Rosendale, for coming forward and for your bravery in assisting us. We are grateful and we are sorry this has happened to you. The incident occurred on 5 May?

**Mr ROSENDALE:** Yes.

**The Hon. NATALIE WARD:** You said you were discharged on 12 May so you were in hospital for seven days?

**Mr ROSENDALE:** Yes.

**The Hon. NATALIE WARD:** They were some pretty serious injuries?

**Mr ROSENDALE:** Yes.

**The Hon. NATALIE WARD:** Did the police come to you at any time?

**Mr ROSENDALE:** No.

**The Hon. NATALIE WARD:** So you were not interviewed?

**Mr ROSENDALE:** No.

**The Hon. NATALIE WARD:** So in the seven days you were not interviewed?

**Mr ROSENDALE:** No.

**The Hon. NATALIE WARD:** I say this to be helpful not to be critical but on admission in the emergency department and otherwise—you might not remember because you were very injured obviously—but presumably the doctors and nursing staff asked you what happened?

**Mr ROSENDALE:** Probably.

**The Hon. NATALIE WARD:** At any time did they say, "We should get the police involved" or "Do you want the police involved"?

**Mr ROSENDALE:** I do not think they ever asked me that. I cannot remember but I know there was a policeman there so, like you said it would be—

**The Hon. NATALIE WARD:** I am sorry to interrupt you but for you specifically?

**Mr ROSENDALE:** I think it was, yes.

**The Hon. NATALIE WARD:** Or just hanging around the hospital?

**Mr ROSENDALE:** Well, I do not know. Do police hang around emergency departments in hospitals?

**The Hon. TREVOR KHAN:** No, they do not.

**Mr ROSENDALE:** They do not. It would have to be—

**The Hon. NATALIE WARD:** I am sorry, if I can finish; did that police person approach you and then ask, or you do not remember?

**Mr ROSENDALE:** I do not remember; I was mostly unconscious.

**The Hon. TREVOR KHAN:** What the cops used to do, and may well still do, is they do not have a business card but they have a sort of business card on which they write their name, the station and phone number. Did you have that amongst your personal possessions?

**Mr ROSENDALE:** No, I did not even—

**The Hon. TREVOR KHAN:** Often they leave it up to the victim to make further contact with the police.

**Mr ROSENDALE:** No. I did not even know this existed until we got it through a freedom of information.

**The CHAIR:** What triggered this, do you know? What would have triggered the crime information report?

**The Hon. TREVOR KHAN:** Because they have attended at the hospital.

**Mr ROSENDALE:** They have attended at St Vincent's.

**The CHAIR:** That is what I wanted the witness to say.

**Mr ROSENDALE:** This Detective Boyd must have attended at St Vincent's.

**The CHAIR:** You made no other contact with the police about this assault?

**Mr ROSENDALE:** No.

**The CHAIR:** So it is only that way that it could have happened.

**The Hon. TREVOR KHAN:** Because it is typed and because of the reference to VKG—

**Mr ROSENDALE:** He has gone back to his office.

**The Hon. TREVOR KHAN:** No, he has radioed it in. That is what I think has probably been the way.

**The Hon. MARK PEARSON:** Mr Rosendale, we have received evidence from a lawyer that there was a sort of a view—a culture—around this time and before, that when you are gay and you go to beats or you are in the community it is almost a given that there is a chance that you will be beaten.

**Mr ROSENDALE:** Sure.

**The Hon. MARK PEARSON:** It is like, "Maybe that is just something that we have to wear." Was that every expressed to you?

**Mr ROSENDALE:** Yes, I understand what you are saying. And it was as much that—basically everybody did it—when you were beaten there was a shame about it. You were shamed by having been caught in that situation, and having been beaten.

**The Hon. MARK PEARSON:** And therefore reluctant to report it, as any other person would, who was walking down the street and was beaten.

**Mr ROSENDALE:** Yes.

**The Hon. TREVOR KHAN:** Particularly in the context of it being at a beat.

**Mr ROSENDALE:** Yes.

**The Hon. TREVOR KHAN:** So it actually makes you an easy target for non-reporting.

**Mr ROSENDALE:** Yes, exactly. That is what I am saying.

**The CHAIR:** Mr Rosendale, thank you very much for taking the time to come here and re-live that experience. It must not be easy.

**Mr HARKER:** It is funny, because if I had not read that article I would never have thought about it again, but it just brought it all back and now it is at the stage where nothing has gone from when it first happened.

**The CHAIR:** There would be a lot of people in the same situation, I imagine, where it may have triggered—

**Reverend the Hon. FRED NILE:** You have had not permanent medical conditions as a result of the bashing?

**Mr HARKER:** No. As I said, I think I have a bump on my forehead. After I got out of hospital I just told myself, "I'm fine. Everything will be all right." But not long afterwards I broke out with psoriasis all over my body. I had extra time off work for that. Then after that I had alopecia; my hair started to fall out. They are all stress-related things. Even though I said to myself, "I'm okay. That happened; I'll get on with it," I did have a lot of stress related things afterwards.



**The CHAIR:** I do not think you took any questions on notice. If you did we will let you know. Thank you for coming in today. We appreciate it.

**(The witness withdrew)**

**DAVID McMAHON**, Private citizen, affirmed and examined

**The CHAIR:** I remind everyone watching that today's hearing will contain information about violent crimes committed against the 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. Correct numbers for those are available at the back of this room or on our inquiry website. Mr McMahon, we have your submission No. 26. Would you like to make an opening statement to the inquiry?

**Mr McMAHON:** Just my story. In December of 1989 I lived at Bondi Beach. I worked at Bondi Beach. I went for a jog around Marks Park, which was a well-known beat, but I was going for jog at that point in time. It was early in the evening, with daylight savings, so it was still a bit light. I came across a group of 18-to-24-year-olds. There were quite a few of them. They asked me for a cigarette. It scared me. I thought to myself, "I'm not coming back that way; I'll go another way." I lived right near Bondi Icebergs at the time. It was all very close to where I was living. As I said, I worked in Bondi. Then they all came out from behind a little rock in a cave area that was down there—it no longer exists in Bondi; the council has got rid of that—and jumped me. I remember being hit. I remember being bashed. I remember being told that they were going to put a stick—rape me like that. I remember that a young girl with a green bikini top was the one that was inciting most of the actions that were happening.

Then I do not remember anything else apart from being about to be thrown off the cliffs, so they had moved me over quite a length of time. In the diagram of Bondi it goes all the way around, so they had taken me up quite a distance. Then I came to, when they were about to throw me off the cliff. I thought to myself, "Either I do something now or I am going to go over." I just seemed to turn. I had my footing and there was loose gravel everywhere. And that is how I got away. And then I ran. They followed me for quite some time, and as I was running I went up through a little park I remember yelling out for help and I heard this gentleman tell me, "We don't help poofers." When I got home I rang Bondi police station. Two police officers came to my unit that I lived in. They said, "Do you want to go to hospital?" I said, "No, I've got a friend who is coming to take me to the hospital. I remember them laughing at me and I remember them walking out the door. I never heard anything else from the police again until just after Christmas, when they came to my place of work—

**The CHAIR:** What year is that?

**Mr McMAHON:** It was 1990 then. I had to go and give a statement at the police station. I went to the police station. I was locked in a cell for nearly three hours.

**The Hon. TREVOR KHAN:** Which police station?

**Mr McMAHON:** Bond Beach police station. When I got there at that time I did not know about shift work for police—what time they started or anything—so I got there and they put me in this cell. Then another police officer came who interviewed me. Knowing from Rick Feneley's article—or Steve Page, when he interviewed some time later—I think his name was McCann or something like that. He made me feel comfortable and at ease, because I did not want to be there anymore. I just wanted to go out.

I gave my statement and I heard nothing more for a few weeks. Then some police officers turned up at my work and said, "What are you doing here?" I said, "I'm working," and they told me, "You should be in court." I was never served a summons or anything to attend court into some inquiry. To this date I still do not know what I was supposed to have attended. Then it was a Sunday afternoon. As time went on I got to know that this group of people were known to be PTK, which was People That Kill—this group that has been in Bondi for such a long time.

**The CHAIR:** This is an acronym that they use themselves?

**Mr McMAHON:** From what I can—

**Reverend the Hon. FRED NILE:** Can you say that again, slowly?

**Mr McMAHON:** PTK. I knew a lot of people at Bondi, working at Bondi in a cafe-restaurant, so I got to meet lots of people, and lots of people spoke because a lot of people knew what happened to me. Then, this group of plain-clothes police officers came into the restaurant and asked my boss if they could borrow me for a while. They wanted me to go for a walk behind Bondi Pavilion to see if I could identify anybody. I said, "Yes, I will do that as long as I am going to be safe." They said I would be safe. They had a young plain-clothes police officer following me fairly closely, and they were all planted around everywhere else. The moment we got down

there the group of kids—they were young adults—fled. Because they stole so much from me that night—I had a signet ring since I was a little boy that my grandmother gave me and an earring. From what I have been told they kept trophies. And that is what they were trying to find. I didn't hear anything more about this until I got a phone call from Rick Feneley asking about the article that had been done on me.

Sorry, I just missed out a really big bit. Before that, there was Operation Taradale. Steve Page contacted me and I went to Paddington police station. I was interviewed again in relation to what happened 13 or 14 years prior. That was good for me. It helped me to understand what went on back at that time. So I went to the inquest and gave evidence. I am glad that the coroner, Magistrate Jacqueline Milledge, was a caring person. I thought I was going to be destroyed on the stand by the police. They were represented by two groups and I was being questioned. It was made out that what I was saying was not the truth. I was a homosexual and I went to this beat and that is what I did.

**The CHAIR:** Which inquest are we talking about?

**Mr McMAHON:** Operation Taradale. I was involved in that. I did not know other people who had been bashed or anything like that. It was fairly new for me. That is when I realised the extent of what was going on at the time. I was then when I was contacted by Rick Feneley to do the article. My name was suppressed in the inquest and Operation Taradale because of the *Daily Telegraph* giving my name, picture and everything. My family knew that I was gay, but they did not know any of that sort of thing. I was apprehensive about that going into the public arena, especially in the *Daily Mirror*, so I asked for my name to be suppressed.

Rick contacted me and helped me get the suppression order lifted so the article could be written and I could be named. That was one of the most positive steps. It helped me get over it. I became very introverted after the bashing, and that helped me to step up. After that article was written there was *Deep Water*. I was approached by Blackfella Films to do *Deep Water* and I said yes. I never realised that I would be the first person you would see in that documentary. I still remember the first time I saw it. It devastated me that I was number one in this show. It still gets to me. I cannot watch it anymore; I have watched it three times and that is it. I find it a bit difficult to keep going back and hearing the other stories. The article that Rick wrote was so resonating for me. Yes, I was bashed, but it was what happened to me after. I asked for help and I was locked in a cell in a police station despite the fact that I was the victim. To this day, I have never been able to understand why they did that to me. I really do not.

**The Hon. TREVOR KHAN:** I refer to when you were locked in the cell. When an officer came to speak to you—I take it from what you say that he did—were you still in the cell when you were questioned?

**Mr McMAHON:** No. The name "McCain" rings a bell for me. He was a lot older than all the others. He made me feel comfortable and he made me tell my story. That police officer was fantastic. If it were not for him, I do not think I would be the person I am today.

**The Hon. TREVOR KHAN:** We will give him marks for effort. I am still interested in why you were in a cell. That is not because I doubt what you are saying. Were you processed through the custody system by the desk sergeant?

**Mr McMAHON:** I was told to come and give a statement, so I did. I left my job and I went to the Bondi Beach police station, which was at the northern end of Bondi. It was a tiny police station.

**The Hon. TREVOR KHAN:** Many years ago when I was at uni I lived in Francis Street, so I know where the police station was.

**Mr McMAHON:** I had never been to that police station before.

**The Hon. TREVOR KHAN:** I visited it only once.

**Mr McMAHON:** I approached the desk and there were some young police officers there. I said, "I'm here to give my statement about the bashing." I cannot remember the police—

**The Hon. TREVOR KHAN:** Do not worry about names.

**Mr McMAHON:** Two young police officers then said, "Come and sit in here." It was a little cell.

**The Hon. TREVOR KHAN:** That would have been the holding cell in the custody area. It is not a cell itself. Would that be right? It is sort of like a dock.

**Mr McMAHON:** Yes, it was not very big at all. You could fit two people in it and it had a barred door.

**The Hon. MARK PEARSON:** Do you remember them locking the door?

**Mr McMAHON:** Yes.

**The Hon. TREVOR KHAN:** That is the cell where they would hold people prior to formally processing them through the system.

**Mr McMAHON:** Yes.

**The Hon. TREVOR KHAN:** If they are going to fingerprint someone, they would be put in the dock first.

**Mr McMAHON:** Yes. I felt I did something wrong. I could not get that out of my head, and it was making me very upset. I was young and naive and I thought I was going to be arrested for being gay.

**The CHAIR:** It seems to me that they were detaining you while waiting for the officer to take a statement from you. You said it was about three hours before that happened.

**Mr McMAHON:** Again, this was 30 years ago, so a lot has changed.

**The Hon. TREVOR KHAN:** I practised at that time and they did not stick witnesses in the dock. It is a bizarre process. In fact, it is bloody outrageous and contrary to all procedures.

**Reverend the Hon. FRED NILE:** It is intimidating.

**The Hon. TREVOR KHAN:** Yes.

**Mr McMAHON:** And that is how I felt. That is a really good way to put it. I was shy and introverted.

**The Hon. PENNY SHARPE:** You were the victim of a crime and you were treated appallingly.

**Mr McMAHON:** I still had not got over that night because of what they did to me.

**The Hon. NATALIE WARD:** What did they say to you?

**Mr McMAHON:** I honestly do not remember. I was so scared; I was petrified. I was a good boy. I was working in a restaurant in Bondi for a husband and wife who had lived in Bondi forever. They made feel a part of their family. I spent a lot of hours working for them at Shelly's Cafe. They were very good. I went to work the next morning and they sent me home because I was bruised and cut; I was a mess. I had been released from Prince of Wales Hospital only a few hours before.

**The Hon. TREVOR KHAN:** I refer to when the detective took your statement. Did he use an old typewriter?

**Mr McMAHON:** Yes, it was a typewriter. It had a ball in it. It was one of the new typewriters before computers came in.

**The Hon. TREVOR KHAN:** Coppers were terrible at typing. They did four-finger typing.

**Mr McMAHON:** My father got me to do a typing course and I thought I could type faster than that.

**The CHAIR:** That was Christmas 1990?

**Mr McMAHON:** No. I was bashed in December 1989, and I believe I gave my statement in January 1990. As I said, I am moving house at the moment. I still have my police statements.

**The Hon. TREVOR KHAN:** That is where I wanted to get to.

**Mr McMAHON:** I have them, but I am not sure where they are in the house.

**The CHAIR:** It would be helpful if you could find them. I understand how difficult it is for you to give this evidence. I bring you forward to any other contact you have had with the police in recent times about the crime. Has the file been reopened? Is there any investigation?

**Mr McMAHON:** Once Operation Taradale started and I got that phone call from Detective Steve Page, that, to me, was one of the best things that ever happened. I met him at the Paddington police station. It was like the oddest building of all, that Paddington police station, and it was out the back of it. I remember the really high ceilings. We sat down and we went through the photographs again and apparently I picked the same two people that I had picked the first time, and I do not know whether to name those people or not in this. But they were mentioned in articles, who I picked in those photographs.

**Reverend the Hon. FRED NILE:** Do you remember their names?

**Mr McMAHON:** Yes, I do.

**The CHAIR:** No, no. We would rather that you did not mention them in the inquiry. We have got obligations of confidentiality; otherwise, we will have to redact it. I have taken advice from the Committee secretariat. Continue.

**Mr McMAHON:** Where were we up to?

**The Hon. TREVOR KHAN:** I am sorry, why is that?

**The CHAIR:** I am taking advice.

**The Hon. TREVOR KHAN:** Yes. I am asking you: Why is that?

**The CHAIR:** It is adverse mention. We try not to mention people adversely, unless that is absolutely necessary, especially in a public hearing.

**Mr McMAHON:** I would prefer not to, if that is the case.

**The CHAIR:** That has answered this issue, actually.

**Mr McMAHON:** Yes.

**The CHAIR:** But, as you said, they are published in other publications.

**Mr McMAHON:** Yes, and they are. It is all published, and who those people were. Then I did a lot of work, or it seemed like a lot of work at the time, with Steve. I was interviewed. I was living in New Caledonia at the time. I came back for different things. I kept coming back to Australia all the time when I was living there for certain things and interviews with him. It seems that we met quite a few times, I believe. But that was the first time ever that I was treated like I was the victim in this. Then Operation Taradale happened and then in that inquiry, the magistrate or the coroner at the time, was the one that put things together. Then the article of Rick's came out. I could see within the article that things happened. Then with *Deep Water*—the filming of *Deep Water*, which was three years in the making—I was contacted by them: Would I be prepared to do this, and I said, "Yes, I will." I did not realise the extent of what that was going to be.

I went to the photograph shoot after we filmed and everything and I got to meet some other people, one of which was the brother of one of the deceased who was bashed and thrown over a cliff, just where they went to throw me off. They did say that to me, "We'll throw him off the cliff where the other one went." So it made it a bit more personal for me. Now that is why I am pleased that the parliamentary inquiry is happening. I have wanted to give evidence in this. I want to be a part of this because I believe that we need to move forward.

**Reverend the Hon. FRED NILE:** Thank you.

**The Hon. PENNY SHARPE:** I have one last question. Really, we have talked around this a bit and you believe that there are perpetrators who are still out there.

**Mr McMAHON:** Yes, I do.

**The Hon. PENNY SHARPE:** That have not been investigated; that the crime against you has never been properly investigated and that it should be. That is what you are seeking out of this inquiry.

**Mr McMAHON:** Yes. This may sound silly, but why was I locked in the cell for that length of time?

**The Hon. PENNY SHARPE:** That is an entirely separate issue; but, yes a very important one.

**The Hon. TREVOR KHAN:** A very valid one.

**The Hon. PENNY SHARPE:** It is a very important one. I am not downplaying that.

**Mr McMAHON:** I watched your inquiry on 9 November. I took a day off work to watch that. I have been involved. I was watching it before I came this morning.

**The CHAIR:** Thank you.

**Mr McMAHON:** I just find that there needs to be answers. I would like answers for the people like Ross Warren's mother, who wrote all those letters, and John Russell's family—that is the one I feel closest to because that morning he was lying out, dead. I remember because, as I said, I lived right near Notts Avenue there.

I could see that red shirt on his body lying there. I remember that morning very well, so it is personal for me, I suppose. That is probably the best way to describe it.

**The CHAIR:** As there are no more questions from the Committee, thank you for coming and sharing that clearly major event.

**Mr McMAHON:** I am quite happy to provide my statement when I find it.

**The Hon. TREVOR KHAN:** I would love it.

**The Hon. NATALIE WARD:** Thank you.

**The Hon. PENNY SHARPE:** That would be really good.

**The CHAIR:** Yes. It would be helpful.

**Mr McMAHON:** Thank you.

**The CHAIR:** Thank you for sharing your experience with us; clearly, it is deeply emotional still.

**Mr McMAHON:** It affects me because I worry about the other people that have survived, like Ross Warren's mother.

**The CHAIR:** Your involvement with the media is also very important. With *Deep Water*, I cried my eyes out watching that. It is very powerful and it is important for the community to hear these things—broader than just the gay community, which I am a member of as well. Thank you for coming and giving your evidence today.

**Mr McMAHON:** Thank you all.

**The CHAIR:** I do not think you took anything on notice, other than if you can find that statement.

**Mr McMAHON:** Will do.

**The CHAIR:** But do not ransack your house.

**Mr McMAHON:** I have got an idea where it is.

**The CHAIR:** I know what it is like when you move house. But if you could provide that, that would be helpful for us, particularly the Hon. Trevor Khan.

**Mr McMAHON:** Will do. Thank you all very much for taking the time.

**The CHAIR:** Thank you for giving evidence, Mr McMahan.

**The Hon. GREG DONNELLY:** Yes. Thank you very much.

**(The witness withdrew)**

**RICK FENELEY**, Journalist, affirmed and examined:

**The CHAIR:** I remind everyone watching online and in the gallery that today's hearing will obtain information about violent crimes committed against the 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 brochures available at the back of the room and on the Committee's inquiry website.

**Mr FENELEY:** I am a journalist who has been involved in this story for five years or so. I am back with Fairfax Media, where I did my original work. I am back at the *Herald*, but I am just editing on the opinion desk. I have written this story for everyone from the *Herald* to SBS to the *Guardian*, the *Australian* and the *Saturday Paper* so it is had a fair range of coverage. I was sort of involved in the documentary as well.

**Reverend the Hon. FRED NILE:** The *Deep Water* documentary?

**Mr FENELEY:** *Deep Water*, yes. I was interviewed on it but I also worked for them in lining up all the, to use a horrible word, "talent", they call it—but people is probably the word.

**The CHAIR:** You started to make an opening statement. Do you want to expand on that?

**Mr FENELEY:** I will try to encapsulate that briefly. I suppose it is fortuitous that I am here on the same day as Alan, Paul, David and Peter Rolfe—people who have been survivors. The reason I think that is a good thing is because I think probably the survivor stories allow us the best chance for maybe—I hate to use the expression—cracking some heads in this case. The process has been cathartic and positive for most of the victims involved who have survived because they finally have their voice. It is very empowering for them, so for that it was worth it; but I suppose, as a journalist, I feel a sense of inadequacy in this.

I do not think I had really any expectations that we would solve a lot of crimes; I thought maybe one by now. I thought maybe you would have. The critical thing to me is that clearly there are a lot of people out there in these multiple crimes who know what happened and I thought that somebody on the periphery of those crimes, if not the main perpetrators, might have by now caught the guilts and come forward. I have certainly spoken to people over the years who clearly indicated that they did know things but they were not telling.

It is a frustration for me that, without naming the names, I think in the couple of cases—and they are here today; you know the witnesses—in the David McMahon case, he named two suspects. What is interesting—and I do not think you may have—is that a guy called Alan Boxsell was bashed three days before or three days after, I am trying to remember. But it was three days apart only metres apart from where David was seized. Teenagers approached him and said, "Are you a poof?" et cetera and he confirmed he was; he thought that might have been the best strategy. They attacked him with a skateboard and broke his ribs.

**The CHAIR:** This was in Moore Park?

**Mr FENELEY:** No, this was Dave McMahon—right near the beginning of the path near the Bondi Icebergs, just as you get on to the coastal path there, on the periphery of Marks Park; Marks Park being the beat and the coastal walk goes around that beat.

**The CHAIR:** We are going to have a look at it.

**Mr FENELEY:** Yes. It is right at the beginning from where Icebergs. Anyway, three days apart, Alan Boxsell was attacked and then David was attacked. One of the people they identified is a pretty big name. He has been named often. He appeared at the Taradale inquest. He was identified by both of them. Another man, who was identified by both of them, is a convicted killer so I do not know if you happy for me to name him.

**The Hon. TREVOR KHAN:** Well, I am, frankly.

**Mr FENELEY:** His name was—he's convicted—

**The Hon. PENNY SHARPE:** This is on the public record. We are not outing anything that has not already been published.

**The Hon. TREVOR KHAN:** That is why I was looking in my phone before because some of these names have been well and truly ventilated in a variety of publications.

**Mr FENELEY:** I have certainly written about all of them, including the ones we are being sensitive about. The one who was convicted—David McAuliffe, who was identified by Alan Boxsell as one of his three

bashers—went on seven months later to be among the Tamarama Three. He and his brother and another guy essentially forced Kritchikorn Rattanajaturathaporn, the Thai guy, off the cliff. They attacked him and he may have backed off—it seems he probably backed off—the cliff while trying to escape them and he died. Those guys were done for that murder. What disturbs me most about that is that the police actually charged him with the Alan Boxsell attack. He obviously did not get much—he was convicted, I think, of that attack. The other guy who was not convicted of that attack, allegedly or according to David McMahon, went on to bash him and went on to lead the Bondi Boys and may have been responsible; we are not sure.

If we accept David's evidence that he said that they said, "Let's throw him off where we threw the other dude"—or whatever the exact words were—four weeks before David's attack, John Russell went off the same cliff or thereabouts. We know it was in the same proximity. These people and this man appeared at Taradale and denied he was involved. But I remember speaking to one of—in David's testimony, there were girls cheering on the boys during David's attack. I contacted Taradale's Steve Page. He and his crew did a very good job of trying to get to the bottom of what this crew really did. I, through whatever means, got to the point where I was contacting a lot of that alleged crew. I spoke to a woman in her 40s—a mother living out west with no contact with these guys. I really tried to push her to say, "Look, some of you people—I'm not saying you do—know what happened and it's about time that we gave some"—I hate to use the word "closure" but you know what I mean—"closure to these families". I think I have reported this somewhere, but she said to me, "Well, we all know they did stuff, mate, but we're never gonna tell you".

That sort of sickened me at the time and it sickens me now that a lot of people are still in the know. To skip forward to the other case that is here, Alan Rosendale's bashing, the police bottom line between Alan Rosendale and Paul Simes' evidence is: "We cannot substantiate that these are one and the same bashing". That may be the case. I do not know if you have read it but if you read the detail of what happened to Alan and if you read Paul's account, they are so remarkably similar that it would be extraordinary if they are not the same attack. But let us suppose they are not the same attack.

**The Hon. PENNY SHARPE:** That is worse.

**Mr FENELEY:** What we still have is, if they were two attacks, that Paul Simes witnessed an attack in which the police themselves not only believed but encouraged Paul to believe that police were the perpetrators of the attack. They called him in, had a long interview with him in which they showed him the police batons and said, "You think this might be the sticks?" Sure enough, Paul was triggered to remember the glint on them—he probably gave this evidence today. The point is that the police at the time held this high-level meeting in which someone with epaulets—a high-level police officer—has taken this evidence. There is no record of that meeting; nobody kept a record.

This was around the time that the "White Knights" were trying to clean out the force, so we can understand. My supposition on this—and maybe I am being too kind—is that the police who were trying to clean the baddies out of the force thought it was going to be that they know. They came back to Paul eventually with, "We know these guys are but we have no evidence of a crime so there's nothing we can charge them with. We know they're bad apples". It is quite possible that these guys were just forced out of the force; I do not know. It is quite possible they thought, "This was just so murky that, while we are trying to clean up the force, we really don't need a major scandal like this in the process". I do not know what the motivations were but the reality is probably some very good policemen committed a crime by burying a crime. Somebody has actively buried this case.

**The CHAIR:** You are an investigative journalist and we had Duncan McNab give evidence. You might have read the evidence since then.

**Mr FENELEY:** I have not. I know he is a —

**The CHAIR:** Both he and you are interested in seeing—what do they call?—the charge books. Do you want to talk about that? They are in the State archives, locked up for a hundred years.

**Mr FENELEY:** The only thing is when I was involved in trying to get FOIs on this particular case, my memory of the feedback—I should remember this—from the Ombudsman and from the police was that, in fact, a lot of the stuff even pertaining to Alan's case no longer did exist. It seems that all they ever bothered to do was that the one statement from—what was the cop's name?

**The Hon. PENNY SHARPE:** Boyd.

**The Hon. GREG DONNELLY:** Steve Boyd?



**Mr FENELEY:** Boyd, yes. I did my best. I thought I did contact him but I am not really sure whether he got the right guy in the end but—

**Reverend the Hon. FRED NILE:** Do you think the police are destroying those records?

**Mr FENELEY:** No, I think in this case it sadly shows how little effort was made in Alan's bashing. But it is interesting to me—

**The Hon. PENNY SHARPE:** Can I stop you there? Do you think there was so little effort because they knew police were involved or do you think that gay bashing was something that was happening so frequently that the care factor of the police was also very low?

**Mr FENELEY:** I think a combination of both of those things. I think if we accept that Paul's testimony pertains to the same crime, or clearly police knew that it pertained to the same crime; if we accept that it is not—I believe it was, myself; my hunch tells me that it has to be but I am willing to accept the possibility that there are two crimes here—the problem is that if we accept that they are the same crime, clearly a lot of police have actively buried the evidence around that case. But even if they are separate crimes, we have four police who are known to senior police. They used to have what they called—what was it?—the hoodlum patrols.

The hoodlum patrols, I have spoken to three cops who told me that they were known. This is not all they did but the hoodlum patrols were known to get a bit of sport gay bashing at the time. These patrols, one of them described rabbit spotting or spotlighting—they go out and shine the torches in the tree and find someone at a beat and give them a hiding. I do not want to overstate this; I am sure it did not happen every other night but it happened. That is the account of police officers. Paul is clearly a reliable witness. If Paul was a cop-hating radical, people do make stuff up, but Paul I would never believe for a moment has made any of this up; he is clearly a substantial reliable witness. Either he is a liar or four policemen committed a crime and a whole lot of other cops, for whatever reason, have buried a crime. This case, perhaps even more so than David's, is a case where there must be police who can be interrogated who were senior at the time, even if only to expose the doubts around their evidence. I spoke to a lot of senior police.

**The Hon. MARK PEARSON:** Could I ask a question? Analysing all of the information that has come before you, did you ever form the view that maybe police were engaging bashers as agents of theirs or aiding and abetting their behaviour?

**Mr FENELEY:** I think aiding and abetting. I do not think this was a formal systemic instruction, but I think there was a systemic problem of rogue cops. There were a lot of them at the time. They were engaged in it.

**The Hon. TREVOR KHAN:** This was the half dozen years before the Wood Royal Commission exposed in the Kings Cross station for instance and other inner-city stations courses of conduct which fall way outside what you would expect police officers to engage in.

**Mr FENELEY:** Exactly. At the time in the late eighties Tony Lauer came in with the White Knights. That process had started.

**The Hon. MARK PEARSON:** Could you elaborate?

**Mr FENELEY:** The White Knights were the clean cops cleaning up the rogue cops, basically. That was the way the headlines cast them at the time.

**The Hon. TREVOR KHAN:** They cast themselves that way as well.

**Mr FENELEY:** There was probably a bit of public relations in that. I am not saying that he did not have good motives, but I think it is clear that some of the White Knights were involved in the burying of it. I am amazed that one of them has not come forward to me, even off the record. I suppose they might be implicating themselves in a crime. I think it is great we are having this educational process and everybody finally acknowledges the history of what happened. As a journalist, I hope we can get a bit deeper than that.

**Ms CATE FAEHRMANN:** Do you have any particular recommendations that you believe this Committee should come up with? You have had a look at the list of witnesses we have called. Is there any area we should probe, given your experience and knowledge of this?

**Mr FENELEY:** There are a few things. You may not have time or think it is speculative stuff. State Coroner Michael Barnes listed in the Scott Johnson case areas where he did not have enough for prosecutions or enough to recommend that police go further on any angle. He highlighted one area. I sent an email yesterday,

which you may have seen. Naming names may be problematic. There were a couple of cops who were later found to be corrupt. During the Scott Johnson inquest council assisting the Johnson family ran the flag up the pole saying to a witness who had been a confessed basher—and his name is okay but I will not do it here just because of the context but he was 18 at the time he did his bashings; at least 18.

During his evidence at the inquest he was accusing these two cops of fabricating evidence against him and false confessions but then John Agius, SC, lit into him and said, "If they made up all this stuff why did you invite them to your wedding?" It turned out that one if not both of those cops were at his wedding. He said, "I forgave him". It may be scuttlebutt but the suggestion was that the brother of the particular witness, also now doing time, had not been convicted of drug deals for many years. He allegedly paid a \$50,000 bribe to the cops. This is highly speculative but I would have thought it would have been useful to call those two police.

One has appeared on *Four Corners* after confessing to his corruption. He has spoken out and still does stuff at the police academy warning people against becoming corrupt. I can name him or you have got his name. That policeman would be useful to have here to ask, "Why were you at this guy's wedding?" He was never interrogated. The Johnson family were joining a lot of dots and it may be they were joining too many at times, but they were doing the work that the police never bothered to do. Their fear was that if that suspect had been Scott Johnson's killer and police had been taking bribes from Scott Johnson's killer, that was where it was naturally leading.

**The CHAIR:** We had the latest news from Steve Johnson this morning. He told us that the police had contacted him last week and said they are starting a new investigation?

**Mr FENELEY:** I have heard that but I did not hear it this morning, sadly.

**The CHAIR:** He gave evidence about alleged bribes.

**Mr FENELEY:** You may have better legal and different expectations but I thought the power of this Committee is to spend a little time going where other inquiries—because of terms of reference or because police have not put the resources into it, you can at least scratch the surface. And why not call the witness we were talking about before who could have bashed Dave McMahon? He is out there. I do not see any reason not to call him. He has given evidence at the Taradale inquest.

**The Hon. TREVOR KHAN:** Is that exercise of questioning these witnesses a role for us poor silly parliamentarians?

**The Hon. GREG DONNELLY:** Speak for yourself.

**The Hon. TREVOR KHAN:** Or is it that the recommendation coming out of this inquiry should be for the appointment of a judicial inquiry to investigate all these matters? Would that be better?

**Mr FENELEY:** Quite possibly it would be.

**Reverend the Hon. FRED NILE:** We have to get the evidence to recommend the judicial inquiry.

**The Hon. TREVOR KHAN:** I think we are getting close.

**Mr FENELEY:** That is a matter for you. As a journalist, I do not like to be seen as an advocate in these things. I want people who make those decisions to make those decisions. I am already perceived, I think, because I have been on the case so long, as being a campaigner on this. I do not see myself that way.

**The Hon. TREVOR KHAN:** Kate McClymont would be seen as a campaigner on a variety of issues and it has not damaged her career.

**Reverend the Hon. FRED NILE:** In your email you refer to possibly 80 murders.

**Mr FENELEY:** Initially 80 was the figure. Sue Thompson and Steve Tomsen, the criminologist, they were the numbers they came up with. Looking at a declaration of what happens in journalism that first story that appeared with the "80" headline that came after police had abjectly refused for months to come back. Had police been involved in that story I am sure I would have been more circumspect in the treatment of those numbers. The fact that police had not wanted to reply I thought it seems to me that a former police gay liaison officer and a criminologist may be right about this. In fairness, I probably would have been more circumspect with figures than we were in that first story. Later I became more qualified.

The reality is that the police have come back, Parrabell has come back, and it says 29 or 27—I cannot remember. Twenty-seven do look like gay-hate crimes, 25 we cannot be sure but in interviews with me and

comments since then Tony Crandell, the head of Parrabell, has acknowledged that quite a few of those 25 may well be gay-hate crimes. We are potentially getting up to 50 crimes anyway. I think it is down to semantics if we say there is no evidence for 30. We have Peter Rolfe, whose partner was killed, he is among the 30 deemed "no evidence", which is extraordinary when you read the evidence of the case and the motivations of the killer, who was found. Whether it is 50 or 40 or 80, it is a lot of people.

Nobody, including Tony Crandell, is trying to water down this as a piece of history and something that needs to be acknowledged. I think getting into the sort of semantic debate is almost wasting our time; it is more about which particular case is the most likely to lead us somewhere, and I do not think there are many of them, frankly. But I do think the Bondi Boys is an area where we know there are names in the Taradale papers—all their names are there, all of those people could be questioned again. There was one I did write about—I think I did mention her somewhere. Her Facebook page has her daughter in a Holy Communion dress. This is a woman who has moved on and has got a nice family and I tried to play on that and hopefully play towards some guilt factor, but with no success. I have never had them come back and confirm anything for me.

I spoke to a young bloke who I see around Bondi—he is not young now, he is 44 or 45—he is in one of the stories. He was 12 when he was part of the bashing outside the Bondi Pavilion and he laid the boot in. He said it is all he ever did, but he put one boot in and then he went home and cried his eyes out. When I spoke to him about this, the guy from the Bondi Boys, I remember putting to him the first time I had a long chat to him—because he avoided me for a long time—I said did he kill anyone or did he know for a fact that he was involved. He said, "Mate, that's heavy. I don't think you should ask me that." He would have just said no, and I think he clearly knows or he knows by word of mouth. He either knows directly or he knows—

**The CHAIR:** These bashers, some of them clearly went on to bad lives and murdered and went to jail, other than that woman you talked about who just walked away—

**Mr FENELEY:** I do not think she was a basher but I think she was a witness. She was in the milieu. The suggestion with her was that she was down on the beach and two of the Bondi Boys, including our main guy and one other—I can give you all these names privately if you like—

**The CHAIR:** But she was a witness, you are saying, she was not a participant.

**Mr FENELEY:** Let us say she may or may not have been on the periphery, for example, of the David McMahon bashing—we do not know. So it is possible. She certainly hung out with that group. Then she and her brother turned out to be gay and he got bashed. He was part of the group but he was bashed by the group.

**The CHAIR:** He was in *Deep Water*.

**Mr FENELEY:** No, not that one. This family has never told their story. I know the one you are talking about there. The suggestion was that these two guys came down crying, they were so disturbed by what they had just done. If they were moved to tears I do not think simply bashing someone would have done that for them.

**The CHAIR:** What I wanted to get at there is your knowledge of sources and, as you call them, the characters that you helped assemble for the film. Would a reward or something like that flush out, at this stage in their lives, any—

**Mr FENELEY:** It would just be a reward—we have already got substantial rewards for the Johnson and for a few of the others, \$100,00. To be honest, I actually think you may as well call them million-dollar rewards because—has one of them got up to a million dollars? They may as well all be million dollars. Peter Rolfe has this thesis too that the reality is you are not going to be paying out very often—the cost to the public purse—and if we are, if \$3million gets us three killers, I would have thought that was bang for your buck given the money that has just been spent on the Johnson inquest. A reward would have to be in the knowledge that there are these crimes that have been unsatisfactorily dealt with. I do not know how you would measure the value because somebody might come forward with useful but not that useful information, so how you would do that I do not know.

**The Hon. NATALIE WARD:** Would immunity assist, do you think?

**Mr FENELEY:** I think so, yes. I suppose the normal immunity arrangement, unless you were the perpetrator of the crime, but if you had knowledge of a crime I think that would help hugely because I think a lot of them are terrified. The woman I spoke to said, "Mate, we're just never going to tell you. No-one is ever going to tell you."

**The Hon. MARK PEARSON:** What are they terrified of?

**Mr FENELEY:** There are a whole lot of pretty nasty characters that they were friends with when they were teenagers who are now still pretty awful people, frankly—people who have gone down for other crimes, not gay bashing.

**The CHAIR:** You have published these names, so there is a list of names known to police.

**Mr FENELEY:** I have not published every one of them but I can certainly help you. It is Steve Page's work, not mine, but I can help direct you—or Steve could.

**The CHAIR:** What I was getting at is if we were to craft a recommendation that the police re-examine the suspects and reinterview the suspects and, as my colleague talked about, look at tools to coerce them to—

**Reverend the Hon. FRED NILE:** Lay charges.

**The CHAIR:** If they have got the evidence.

**Mr FENELEY:** I think the problem is the evidence is difficult. I do not have a naive view about we are going to get this but I think it is certainly worth a crack in the most likely cases. Again, I think sometimes the survivors' cases might be more likely. In the John Russell case, given that we know who the suspects were, but Steve Page—I do not know if he has given evidence yet—

**The CHAIR:** We have not got hold of him yet.

**Mr FENELEY:** I would definitely get Stephen because he is probably the most knowledgeable person particularly around all those Taradale. I think he thinks that they really did give it their best shot; so he might counsel you to say, "You know what? I just don't think you are going to get any further" because it was not through lack of trying. Steve McCann was the cop who went before Steve Page did a lot of great work and he would not have been a Bondi cop; he would have come in because he was the first one to start drawing the dots. I think he lives up in the mountains now, but he has never wanted to be involved with media, he is retired and he says he has done his time, but he was pretty heroic. He worked very closely with Sue Thompson, and so did Steve Page for that matter.

**The Hon. PENNY SHARPE:** Just a few very quick questions to go to checking on the evidence. I was reading Paul Simes' statement to the police and I just wanted to check two things with you because I am sure you looked at them. One was that on the night, Paul said that he went back to where he had seen the bashing and he had run into someone who was in their car and he had a conversation with them and that that person at the time had said, "I've just called 000." I am assuming people have checked that that ever happened and there is no record of that.

**Mr FENELEY:** I tried to find this guy. I am trying to remember his name. We know who he is.

**The Hon. PENNY SHARPE:** Do you?

**Mr FENELEY:** Yes. There was another guy—I do not know how I found out, frankly. His name appeared—

**The Hon. PENNY SHARPE:** You can take it on notice and maybe give it to us.

**Mr FENELEY:** I am thinking of a witness in particularly the Rosendale matter.

**The Hon. PENNY SHARPE:** This is what I am talking about.

**Mr FENELEY:** But if we accept that Paul's case might be separate. I think that is what I did, I just said well let us assume it is the same case. I went to, I think it was a milkman or something—anyway, I found him. Did he respond to me? Either he never responded or he said, "Sorry, no memory of it".

**The Hon. PENNY SHARPE:** The other one that I am intrigued about—and I should have asked Mr Simes this before, but I assume that you have also looked at this—after the meeting with Fred Miller, Fred Miller had told Mr Simes that they knew the police officer involved in the assault and in his statement he says, "These officers made a report on that same evening that they had been chasing a suspect from an alleged stabbing and that they had not apprehended anyone". Has anyone ever sighted a copy of that report, or is that one of the things that is missing?

**Mr FENELEY:** That is a good question. To be honest, that is one of the things I did not do which I probably should have done. That might be something really good for you to try and get hold of. I am just trying to remember what happens—this is one of the frustrations that after 20 years I think if there is no conviction or if someone deems there is no prospect of furthering that case, they get rid of the record. So it is not like every single

report is available in the State records. I think that will be a frustration, but it is certainly worth a shot. Similarly, and I think Duncan would have said this, the number of road patrols—whatever their formal name was, hoodlum patrols—that were active in Sydney, let us say, on the night of Alan's attack, there cannot be many of them; there might have been two or three. They did not have them at every station, they are pretty much an inner-city phenomenon, I think.

I would have thought that if there is no record of staff or of rosters, which there may well not be—if there is, bingo, but if there is not, I would have just thought there must be police we can talk to who should say, "Well, this is how you would find out". But I think our real problem is that there must be at least 10 or more police who are deliberately not telling us and that is my grave concern.

**The CHAIR:** It goes to what I mentioned in the beginning of your evidence that Duncan McNab has asked us to see if we can acquire the charge books, which are in the State archives under 100-year seal. We had Assistant Commissioner Crandell here to give evidence and he said they had reinvestigated the Rosendale assault. I asked him specifically whether those charge books had been accessed to see who were in the hoodlum patrol and could be interviewed. He took that question on notice and he will come back to us on that so we are going to pursue those records.

**Mr FENELEY:** I think if you found out the three hoodlum patrols for that night, that would be a huge advance in this case. It is something I have tried to do. I have asked the police but I am pretty sure we found out, that we were told, those records simply do not exist.

**The CHAIR:** Okay. We will find that out.

**The Hon. NATALIE WARD:** Mr Chair, that might also be a recommendation of this Committee.

**The CHAIR:** That is right. What stations was the hoodlum patrol based at?

**Mr FENELEY:** From memory, whether Surry Hills as such existed, but you had College Street as the headquarters. We are talking before the big police centre was built. I think there was the Surry Hills police station nevertheless at that stage. Then you had Darlo, which closed before the Rosendale attack; I understand it was formally closed down but there was some suggestion that the cops still used it, maybe not for nice reasons. I do not really have evidence of this but if we go back to the big cop who used to do the phone book bashings down at—

**The CHAIR:** Farrell.

**Mr FENELEY:** Yes, Bumper.

**The CHAIR:** Bumper Farrell.

**Mr FENELEY:** But that was more like 1985-1986 and earlier. I am pretty sure by the time of Rosendale, if they were taking people to Darlo, they would not have been doing it for nice reasons, but I just do not have hard evidence around that. But there must be police who are still working who can tell us all about it.

**The CHAIR:** We will get hold of Mr Page and have a chat to him. Are there any other questions from Committee members? As there are no other questions, thank you for the work you are doing.

**The Hon. NATALIE WARD:** Thank you very much for your great work.

**Reverend the Hon. FRED NILE:** And all your research.

**The CHAIR:** Thank you for coming here today.

**Mr FENELEY:** All the best.

**The CHAIR:** Just before you go, you took some questions on notice. You have 21 days to provide answers to those questions.

**(The witness withdrew)**

**(Luncheon adjournment)**

**STEPHEN TOMSEN**, Professor of Criminology and Criminal Justice, School of Social Science and Psychology, Western Sydney University, sworn and examined

**The CHAIR:** Good afternoon, and welcome to the inquiry into gay and transgender hate crimes between 1970 and 2010 by the Social Issues Committee. Before I welcome our next witness, Professor Stephen Tomsen, I remind anyone watching that today's hearing will contain information about violent crimes committed against LGBTIQ people 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 this room and on the inquiry website. We have your submission, which is No. 16. Would you like to make an opening statement?

**Professor TOMSEN:** I have an opening statement. I will read it to you. It will take possible 10 minutes. I hope I am quicker than that.

**The CHAIR:** That is fine.

**Professor TOMSEN:** It is to position the background of my research and how I came to this area.

**The CHAIR:** Afterward, you might give a copy to the secretariat.

**Professor TOMSEN:** It is also some thoughts on Parrabell from me.

**The CHAIR:** Thank you.

**Professor TOMSEN:** There has been widespread anti-gay and anti-transgender violence in the last four decades in New South Wales. This has had a profound relation to policing and aspects of the criminal justice system rather than just being some mirror of societal values, as you might have heard. Assaults and killing directed at sexual and gender minorities peaked in the 1980s and 1990s. This became my key area of crime research from the early 1990s, with support by grants from the Australian Criminology Research Council and then from the Australian Research Council. My research focused on the crimes with a significant likelihood of perpetrator hostility, prejudice or dislike directed at victims, which were broader in motivation and context than just conscious hatred or bias. These therefore included selection of victims as soft targets for attacks and robbery.

The history of police disregard for victims and lax investigation in many cases means that it is now reasonable to expect a formal New South Wales police apology to victims and survivors of this violence. This should happen along with a real commitment to focus more on the investigation of unsolved assaults and homicides, rather than merely debate the total possible number of homicides or the merits of a narrow definition of hate or bias crime that potentially excludes matters from priority.

The original purpose of Parrabell may have been just to submit it as evidence to the 2017 Scott Johnson coronial inquiry. If that was its purpose it was far too late. However, it also may be linked to growing organisational pressure and embarrassment about the very high number of unsolved homicides in New South Wales. I hear different figures. I hear 500-plus or 600-plus. They are the largest group of unsolved homicides in Australia, and there is a lot of pressure to start to clean them up. Setting off the Parrabell inquiry was slow, and it involved protracted expert-shopping, with an ultimate failure to attract or settle on leading Australian homicide researchers. Its research sample was built on a 2013 list of 88 names which, in the report, is confusingly referred to as something earlier from the Australian Institute of Criminology[AIC], but that is wrong.

This list was soon outdated by revisions done within the local expert community group that was meeting in 2015 and 2016. Until 2018, the gap between community and police estimates of unsolved cases was only about 15 matters. The police at that time, and until very recently, said that there were eight of these homicides unsolved and community researchers thought that it was in the range of about 23. Therefore it would have been a much better use of time and resources for those community experts and actual homicide squad staff to jointly review these in intensive meetings, with all the evidence on the table. By that I do not mean oversized LGBTI-police management-stakeholder-interagency meetings that have 30 or 40 people in the room.

Parrabell has an offensive tone in trying to dismiss legitimate concerns about widespread violence as mere moral panic or as being mixed up with inflated claims about victimhood. It does not reflect genuine, scientific expertise, as is claimed. New South Wales police have taken up FBI and US Justice definitions of hate or bias crime following some short-course training in the United States. However, there are rival definitions around the globe, and none of them is obviously the best.

Parrabell has drastically cut police estimates of the total long list of homicide cases and also the short list of unsolved cases. Unsolved numbers have been cut to a very low, implausible level given the nature of many of these homicides, especially stranger attacks related to casual sexual activity. Perhaps 15 to 20 per cent unsolved would be a good, more plausible outcome, rather than stretching this to a much lower figure of unsolved. Parrabell has a "trust us" tone in the way it is written but it does not give case specifics to judge whether or not most of these exclusions of so many cases are fair or reasonable. It does not give a half-page summary of each case. It is anecdotal in what it mentions or does not mention. It states that these matters that are being dismissed from consideration are suicides, accidents, anti-paedophile attacks or robberies that led to some killing. There is no detail on these cases for the reader to make a fair judgment about whether it is acceptable.

The NSW Police Force and some of its allied organisations have played up their emphasis and good work with transgender issues and the transgender community. Last week or the week before we had Transgender Day of Remembrance. It surprises me when I reread the Strike Force Parrabell report now that the three or four cases of possible anti-transgender killing may all have been excluded from what the report accepts. This is a remarkable outcome if according to Parrabell there really have been no anti-transgender killings across 25 years of widespread violence.

**The CHAIR:** Thank you for that and for your submission. Your submission talks about the Avery reforms and suggests that the police are moving away from some of them. I am interested in seeing whether policing today is up to the challenges of hate crime and so forth that we are dealing with or it has slipped backwards.

**Professor TOMSEN:** You can judge from my entire submission that my view is that it has slipped backwards. That is mostly because of a shift in the way that the New South Wales police relate to minority groups in general and a shift towards more heavy styles of policing and street policing. There is more emphasis on force than community liaison and talking to people. The change of name in 2006 symbolised that. The great days of community policing were the Avery years, and there has been a shift back from that over time.

In retrospect, there was a belief on the part of some senior police that that was too starry-eyed and reflected a lack of discipline and being overinvolved with minority groups and incorporating too many of their perspectives. We still have LGBTI liaison training at the Goulburn academy and so forth. It can take on more of the quality of looking like window dressing. But I think there has been a general shift in New South Wales policing and not particularly in respect of that one group of minorities.

**The CHAIR:** Can you put your finger on when that shift to more force in the community became apparent?

**Professor TOMSEN:** Members probably know that there were factional struggles going on in the NSW Police Force in the years of the Avery reforms. The Avery Building in Sydney was full of police engaged in many squabbles—pro-Avery and anti-Avery.

**The CHAIR:** Was that the White Knights?

**Professor TOMSEN:** Yes. They were also called the Barbeque Set. Some of this spilled over to Melbourne when Christine Nixon went there. One of the strangest things that came out of the Wood royal commission in New South Wales, which revealed so much about corruption and poor behaviour—which at that time was probably not as bad as it was in the 1950s and 1960s—was that there were groups of police officers who believed that corruption and lack of discipline was mixed up with things like community liaison and closeness to communities rather than police hanging on to their sense of being something different and distant from the community and not having close relations with these different organisations. It is counterintuitive; it is a strange thing in New South Wales that community liaison in the Avery years somehow became conflated with lack of discipline and things like abuse and corruption.

**The Hon. GREG DONNELLY:** What is your evidence that they are less community orientated in 2018 than they were in the past? It is an assertion you are making. Where is the evidence?

**Professor TOMSEN:** I do not have a research report. It is a reasonable claim for me to make because I have been researching this and have been quite familiar with it over the decades.

**The Hon. GREG DONNELLY:** With due respect, that is not sustainable. You cannot make an assertion and expect the Committee to accept it if you have no evidence. It may well be your heartfelt belief—

**Professor TOMSEN:** No, it is not a heartfelt belief.

**The Hon. GREG DONNELLY:** I am pressing you because—

**Professor TOMSEN:** In the 1990s the amount of gay and lesbian liaison in New South Wales was celebrated as the leading international model; it was so intensive and it had such a high profile. That high profile has gone down in more recent decades.

**The Hon. GREG DONNELLY:** Says who?

**Professor TOMSEN:** For example, the level of training at Goulburn could be far more intensive than it is. The number of hours on this topic area that are dedicated—

**The Hon. PENNY SHARPE:** Did it have more back then?

**Professor TOMSEN:** Yes.

**The Hon. PENNY SHARPE:** How much more?

**Professor TOMSEN:** I do not know the figures, but it was far more intense and detailed at that time.

**The CHAIR:** Muslims and other communities experience hate crimes. Are the police across cultural awareness and community engagement in those different areas?

**Professor TOMSEN:** This might be part of the explanation. Hate crime has now incorporated more and more groups and more categories of crime. We have to do more work with hate crime training than we did in the 1990s.

**The Hon. PENNY SHARPE:** I refer to designated police monitoring hate crimes within the LGBTI space and your understanding of what it used to look like and what it looks like now. Your submission states that New South Wales does not seem to have a designated employee assigned to the basic task of monitoring such crimes and communicating on them. I know that people like Sue Thompson did that and I am familiar with the role that various people have played. Has that changed and in what way? Can you elaborate on that?

**Professor TOMSEN:** I do not think there has been anyone for a long time who has acted in the role in the way that Sue Thompson did prior to her leaving the NSW Police Force in 2002, I think it was. She kept a really good watching brief on potential serious assaults and homicides. I do not think there is a single individual who has that level of status and networking at a senior level.

**The Hon. PENNY SHARPE:** Surely part of that was that she was given the time and resources to keep track of that. Are you saying that you do not feel the NSW Police Force provides those resources now? Is there a variety of people in different roles but not someone dedicated to that task?

**Professor TOMSEN:** I think so. I do not know whether she will be a witness.

**The Hon. PENNY SHARPE:** She has made a submission.

**Professor TOMSEN:** She will tell you that is the case. She will say that her role has been considerably downgraded from the status it had in the 1990s.

**The Hon. PENNY SHARPE:** You are not aware that there is any central monitoring around complaints against police from the LGBTI.

**Professor TOMSEN:** No. I do not think it has happened in that form. With the role that she assumed in the 1990s, I do not think that is still the case either.

**The Hon. PENNY SHARPE:** In terms of the recommendations that this Committee could make for the future, would it be the case that there is actually someone monitoring and reporting publicly in relation to these crimes and, similarly, in relation to complaints?

**Professor TOMSEN:** I think that keeping a watching brief on serious assaults and homicides and also complaints should be core elements of a senior liaison officer role. I do.

**The Hon. TREVOR KHAN:** Or is it the role of the Police Integrity Commission?

**Professor TOMSEN:** I do not know, but I do not think there would be central monitoring if these are just lost in a scattered sort of way as individual complaints by different people rather than a set of victims or a set of complainants from those minority groups.

**The Hon. TREVOR KHAN:** I suppose I am going back to your earlier point as to how we have evolved. Avery was the commissioner from '84 until '91. Tony Lauer was '91 to '95. I was in practice as a lawyer then and



I have to tell you my impression of the coppers at that stage was that they were an entirely different beast from what they are now and I also have to say that that impression is not positive in terms of what they were like then. But what has occurred over that period of time is increased oversight of the police by a variety of bodies, which have been either independent or semi-independent of the cops. I think that has actually been one of the positive parts: That there has been greater external oversight of the performance of the cops rather than it being done internally. Is that not the mechanism that we should use? The crimes that we are looking at are crimes that occurred during this heyday of community involvement by the cops—people being bashed in parks and thrown off cliffs. I struggle to see the connection between the heyday of community involvement and what is described to us here.

**Professor TOMSEN:** I know what you mean but we are talking about is an organisation that even back then I think had about 15,000 officers.

**The Hon. TREVOR KHAN:** Oh, no.

**Professor TOMSEN:** It was the fifth largest police force in the world for a very long time.

**The Hon. TREVOR KHAN:** I agree with that.

**Professor TOMSEN:** There were pro-Avery and pro community liaison elements who were always in a minority at that time and who were more progressive, and there were the more redneck and more backward-leaning police officers, who could still, to a wide extent, have been engaging those sorts of behaviours.

**The Hon. TREVOR KHAN:** But not only engaging in those sort of behaviours but, from the evidence that we have received here even today and that we know from the Wood royal commission, were overwhelmingly covered by an attitude of silence that was pervasive largely throughout the cops. That is the case, is it not? That is one of the clear conclusions that comes out of Wood.

**Professor TOMSEN:** Yes. To give context to my remarks before, there was still a lot of corruption and Wood certainly found that in the nineties. It was disgraceful corruption. I think that pales in comparison to what we know about things like the Askin years in New South Wales.

**The Hon. TREVOR KHAN:** I agree. I have no problem with that. That is an earlier phase, but we still have Avery in there from '84 until '91. Some of the crimes we are talking about now were committed in the late eighties period. Then we had Tony Lauer in there, who resigned during the Wood royal commission. We had all the stories that came out. What came out during the Wood royal commission was not simply corruption; it was an attitude within the cops that the cops covered up for the cops. Yes? That is right, is it not? That is how that corruption flourished.

**Professor TOMSEN:** There was a great deal of that, yes.

**The Hon. TREVOR KHAN:** It was as a result of the attitudinal issue.

**Professor TOMSEN:** Yes.

**The Hon. TREVOR KHAN:** If that is the case, I go back to what Mr Donnelly asked. Mr Donnelly and I sometimes have areas of disagreement but when you look at what actually was the history of what was disclosed and read the attempts at reforming the cops after Wood, I really have difficulty accepting that there was this heyday of community interaction when it is inconsistent with both the evidence we have received here and the evidence that clearly was given before Wood. Let me put this into context. I acted for the cops in the Wood royal commission, so I have some insight into the other side of the exercise.

**The CHAIR:** Do you want to answer that, or take it is a statement?

**Professor TOMSEN:** I just do not agree. I actually think that the police were so fragmented at that time. There were progressive elements, but they were hotly opposed by other sorts of police with those more traditional practices.

**The Hon. MARK PEARSON:** Was it just window-dressing, a joke?

**Professor TOMSEN:** I do not think it has ever been. I would not want to be a complete cynic about this. I do not think it has ever been intended as window-dressing. Particularly in the nineties it was quite heartfelt, the idea of new gay and lesbian liaison, as it was being advocated in New South Wales.

**The CHAIR:** I am interested in if there was evidence. You study this sort of material all the time; it is your career, but if there had been a movement away from community-oriented policing today, for whatever reason, that would interest me because to my mind that would impact upon the relationship that the police have with the

various areas of society that have hate crime issues. There are nine or 10 different groups now. But you cannot put your finger on a study or research or any information that is saying that it is happening? I accept it is your thesis.

**Professor TOMSEN:** There is a bit of scholarship in there about the decline in belief in community policing.

**The CHAIR:** If you do not mind, would you take on notice for this Committee some references? Can we have a look at that?

**Professor TOMSEN:** Yes. I would add to this a little bit to convince you, or an element of this. The controversial behaviour of so many hundreds of police at the Mardi Gras in 2013, which was actually well removed from feeling that they were policing, jointly policing, in a liaised sort of fashion, that would have been not the case in the 1990s. It was a very different style of approach.

**The CHAIR:** We have evidence from Alex Greenwich that that had been a turning point to repair that problem.

**Professor TOMSEN:** In 2013.

**The CHAIR:** Now there is a memorandum of understanding.

**Professor TOMSEN:** There were community meetings to try to reverse that decline.

**The CHAIR:** I know. I was involved in those. I remember speaking at them.

**The Hon. NATALIE WARD:** Professor Tomsen, thank you for your opening statement. Forgive me if I misquote you, but I think you said in your opening remarks something to the effect of reclassifying potentially excludes matters from priority. Is that what you said?

**Professor TOMSEN:** Yes.

**The Hon. NATALIE WARD:** Could you clarify that statement, please?

**Professor TOMSEN:** Certainly. If the unsolved homicide squad in New South Wales has this lot of 500 or 600 unsolved homicides—

**The Hon. NATALIE WARD:** I think you said 500 in your submission, yes.

**Professor TOMSEN:** Yes. It could be even higher. Peter Rolfe is giving evidence and I think he has heard about higher figures. The pressure is on to clean some of those up and to review them. It would be something that would be assisting that process of reducing the overall number, which is so embarrassing, if they were reclassified as things like possible suicides or accidents. I do think that if there is a report or there is an inquiry that takes a look, takes a set of homicides, and actually says that they are no longer to be classified as gay-hate killings or anti-transgender killings, I actually think there might be a reduced level of interest in solving them as well.

**The Hon. NATALIE WARD:** If there is reclassified as something else that is less of a priority. Is that what you are getting at?

**Professor TOMSEN:** Just in the general—

**The Hon. NATALIE WARD:** I was just trying to get to what your endpoint was of that sentence.

**Professor TOMSEN:** I think if they are put back in the general pool of unsolved killings, there would be less political heat around them. That might become an attraction then in putting them back on that lot.

**The Hon. NATALIE WARD:** Okay, I think I understand. You said New South Wales has a higher total backlog of all homicides—500-plus. Is that in comparison with other jurisdictions? I think you mentioned in Australia it is the highest. Does that compare with other international jurisdictions as being quite high for our population?

**Professor TOMSEN:** I do not know about international. We have a low homicide rate in Australia: one per 100,000, which is good.

**The Hon. PENNY SHARPE:** Do not have guns.

**Professor TOMSEN:** But I actually think New South Wales has a disproportionate level of number of homicides.

**The Hon. NATALIE WARD:** Unsolved?

**Professor TOMSEN:** We are about a quarter of the population and we about a third of the homicides and we actually do have a higher than you would expect number of unsolved as well.

**The CHAIR:** Have you studied those unsolved homicides at all or is it just an observation? I would be interested. Are they cohorts? We are talking 30 or more gay-hate—

**Professor TOMSEN:** It would be a great topic. I have suggested this to the Australian Institute of Criminology, which has a staff that monitor the national homicide rates. I think it would be a great topic but it is there and they have not extracted it to turn it into a short report. They probably think that they do not want to be— It could be embarrassing and they might be creating winners and losers in what is solved and unsolved in homicides between the different jurisdictions.

**Reverend the Hon. FRED NILE:** You talked about Sue Thompson. What was her role? You said she was very effective. Now she is no longer effective or she is not allowed to be effective.

**Professor TOMSEN:** Sue Thompson retired in 2002. She has not been in that role for a very long time. But the role that she was given when she assumed the role, I think in the mid-1980s or the late 1980s and throughout the 1990s, was a very senior position. She was positioned higher. Back then, what floor you are you in, in the Avery Building, signals your importance. And what assistant commissioners—could you approach the commissioner? She actually did have a senior role and she had support staff at that time, which I think has exceeded where that has ended up. Part of reducing the emphasis on this area has been reclassifying positions and calling them sometimes as just general hate crime positions as well. There is less resourcing.

**Reverend the Hon. FRED NILE:** In your research, have you identified a pattern under the various governments or government policies, obviously directed through the Minister for Police, to the police? Is that having any effect? Is it that a part of the changes could be coming from that direction or is there any evidence to support that? Or are the police just running themselves in isolation from governments?

**Professor TOMSEN:** I am not sure what you mean. Are you asking me if the violence has gone down and why?

**Reverend the Hon. FRED NILE:** No, you were saying a moment ago that there is been a whole change in the culture of the police and the way the police are operating. Is that just because the commissioner had a flash, an idea, or is that a culture that has been led by the Government or the Minister for Police and so on? You are saying there less emphasis on community involvement and so on.

**Professor TOMSEN:** There has been a big stress on law and order in New South Wales in the past 20 years. We led the way with incarceration and our elections have been like Dutch auctions about who can be the most tough on crime and more and more resourcing of police. Politicians are looking for heavier styles of policing and are actually less welcoming to stuff like talk of community liaison or diversion of juvenile offenders, rather than harsh punishment. But we are also talking about trends in policing that are probably global: the entire shift of a paramilitary style policing, rather than the old-style bobbies in smaller numbers or even walking unarmed alone in neighbourhoods where they try to make friends with locals to extract information or confidence and trust from the public. That just does not happen now. It is a global shift as well.

**The Hon. PENNY SHARPE:** In your submission, you talk about the establishment of an expert review team. Is it similar to how the Child Death Review Team would work? When you say "expert review team", what does that actually look like?

**Professor TOMSEN:** I do not have enough knowledge about those. Some of my friends in legal academia know about them. We have them for child deaths and also domestic—

**The Hon. PENNY SHARPE:** Violence, yes.

**Professor TOMSEN:** —violence cases in New South Wales. I was just wondering perhaps if something of that sort could be there for hate crimes or potential hate killing.

**The Hon. PENNY SHARPE:** But that is the sort of model, you think? It would not pick up violence but it would pick up deaths and the idea that there is a review of it from a range of stakeholders with different input might provide some systemic recommendations. Is that what you are thinking?

**Professor TOMSEN:** That is one possibility. I think a general apology is just the major one and you have probably picked up on it. I do not think that is the same thing as saying sorry to the 78ers on repeated

occasions. There could be a range of different things. I do not know which one would work but a greater level of determination to actually track the unsolved cases, which I think are probably 12 to 15 cases, would be a very good outcome. However, I do not know about the culture of New South Wales homicide squad—the unsolved cases. You have heard about the toxic relationship between that group of police and Scott Johnson's family and supporters. I do not know how deep that runs but it is extraordinary how far that went.

**The Hon. MARK PEARSON:** When we were gathering some evidence from witnesses at the last hearing, we talked about this idea of the liaison officer, community involvement for police, how functional that is and how it could assist. Some evidence by somebody who had really covered this area was quite compelling. It was a journalist who covered most of these incidents over this long span of time. Basically, he said, "Look, we just want the police to do their job". We can have a gay liaison officer, we can have community liaison officers et cetera and that might have a place but at the end of the day maybe a lot victims and families want this: "Just do your job. Investigate it thoroughly. Overturn every bit of evidence. Examine it through to finality. And that is the justice, and the liaison work has a place but maybe we should not be using it as some sort of softening of what the police are really expected to do by the community—to investigate—no matter what the circumstances of the violence or the crime is". What do you say to that?

**Professor TOMSEN:** I tend to agree with that sentiment, perhaps because I am a homicide researcher.

**The Hon. MARK PEARSON:** So do you think that might be—

**Professor TOMSEN:** There have been some really lax investigations. Some of this is just *Keystone Cops*: the lost evidence with the John Russell case, the hair that went missing that nobody could find, and then this bizarre paying an expert to actually look at old photographs of the hair and to write a report on what the grainy old pictures of the hair looked like and putting that in the evidence for the Scott Johnson case.

**The Hon. MARK PEARSON:** Almost setting it up to fail.

**Professor TOMSEN:** It is very resistant. There is some sort of resistance. There is some level of resistance about just getting on with it and doing thorough investigation. The Scott Johnson case and several of the Bondi cliff killings looked like that. If you are looking for verification from me, I should tell you that I have done research on this for years and I worked on that committee that I mentioned in 2015 and 2016. I was not part of the Operation Parrabell inquiry and it was not talking to anybody much. It did not have much communication at that time.

I was invited by Surry Hills police in late 2015 to one of the great big meetings with 30 or 40 people in the room, which I do not think is useful. There was a bit of a show-and-tell on four cases that the police conducted at that time, including one that I thought was ridiculous because it was a case that nobody thought was an anti-gay killing for a long time. A gay couple killed over a business fight in a house in Zetland. They are showing colour photographs of the dead bodies.

**The Hon. TREVOR KHAN:** I think the Hon. Penny Sharpe and I might have been at the same meeting.

**Professor TOMSEN:** I was the grump asking questions at one side of the table. I think they might have found that I was a bit difficult as I had too much knowledge about some of these cases. I was also saying that it was pointless to investigate so many that might no longer be regarded as possible anti-gay killings and the FBI 10-point criteria did not apply so well in Australia. At the end of that meeting the police said, "Is there anybody here who could give us more information about any cases? We would quite welcome that". I went to them with the clarification that Bill "Rudney" was actually Bill "Rooney" and I had made a spelling error on a document 10 years earlier and now realised what I had done. I gave them the proper victim name and the date of the killing in Wollongong. Then for months afterwards I heard nothing.

I had to keep contacting an officer on the Parrabell inquiry about what happened. "Did you get my email?" "Yes, I acknowledge I got your email." "What is happening?" Nothing much happened and in frustration after some time I contacted Rick Feneley and this went to SBS news. Police were a little bit embarrassed when this finally came out at that time and then claimed in the media that, "Yes, we know all about this and it is being investigated." I think that is how the Rooney case ended up in Parrabell. Not because I mentioned it at that meeting but because I was very persistent with the emails and eventually I had to go to the press. If they were seriously saying they welcomed information about the killings at that meeting my news was not welcome at all when I gave the name of a victim.

**Reverend the Hon. FRED NILE:** In your submission you were critical of the Parrabell inquiry.

**Professor TOMSEN:** Yes.

**Reverend the Hon. FRED NILE:** Is there any simple explanation as to how that could have happened? Was it a lack of resources, it was not funded properly?

**Professor TOMSEN:** I think it has been very heavily funded.

**Reverend the Hon. FRED NILE:** "Poorly written and confusing".

**Professor TOMSEN:** I do not know if New South Wales police got the best people. For some time they were on the phone calling up criminology departments around the country asking people if they were interested. They even made an approach to Don Weatherburn at the Bureau of Crime Statistics and Research asking if he would do this. There was a lack of interest and it took a long time to find somebody to do it.

**Reverend the Hon. FRED NILE:** Was it toxic where people with qualifications did not want to be involved because of the environment?

**Professor TOMSEN:** I think people thought it was a difficult highly politicised topic. In our world in academia it is not the best money. The prestigious stuff is Australian Research Council grants of a large amount or criminology grants of a large amount. It is paid consultancies where some people might think it is implicit that you are expected to write in a certain way because this is a paid consultancy. That has less status in academia as research work.

**The CHAIR:** Going back to your opening statement you suggested that transgender hate crimes, murders, under Parrabell seemed to be excluded, under reported. Do you want to expand on that?

**Professor TOMSEN:** Their list of 88, and there are a few things that do not belong on that, it could have been less. In that 88 there were three or four, potentially four, victims you could describe as transgender. You have to deduce a lot when you are reading it. It is a frustrating document really. As far as I can tell none or at best one are acknowledged as a hate killing and the others, or all of them, are just knocked down.

**The CHAIR:** Under the guise of robbery or something?

**Professor TOMSEN:** Yes, robbery, domestic violence was possibly given as the explanation for one. I am projecting a bit from what I know about those four cases. I just do not know. Their logic is not explained. They do not have clear half page summaries of each case that says, "We do not regard this as anti-gay or anti-transgender for the following reasons". There is pseudo scientific jargon and classification of cases and a lot of discussion of that, but there is not a proper case summary for each of those cases. Where you do get that come in and out it is anecdotal.

**Reverend the Hon. FRED NILE:** You recommended an expert review team should be selected, would they go over the 500 cases?

**Professor TOMSEN:** No.

**Reverend the Hon. FRED NILE:** Or only hate crimes?

**Professor TOMSEN:** What I said for years about this was that this might be 70 plus killings. The anti-gay anti-transgender killings might be 70, 80, 90 or 100, I do not know. I really would not want to lose sleep arguing, particularly as most of them have been solved. My interest is a few years ago is that police thought it was eight unsolved and community researchers thought it was in the low twenties. I was always interested in the different figure, the 12, 13, 14, 15. To have a tight very well versed expert group of people, half a dozen people perhaps, who could look in detail and put everything on the table around the dozen or so unsolved cases and come to some agreement. I thought that would be a much better use of time and resources.

**The CHAIR:** Thank you for your submission and evidence the secretariat will be in touch with you concerning questions on notice, including any the Committee may have.

**(The witness withdrew)**

**PETER ROLFE**, President, Support After Murder Inc., sworn and examined

**The CHAIR:** I remind everyone that today's hearing will contain information about violent crimes committed against the 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. The contact numbers for those services are available at the back of the room or on the inquiry website. Mr Rolfe, would you like to make an opening statement?

**Mr ROLFE:** Yes, I sure would. On 2 August 1994 my partner of 16 years failed to turn up to work. Stephen, my partner's body was not located until five months later. This culminated in what the detective, now superintendent, Ian Lynch described as the most macabre crime he has ever been involved in and the crown prosecutor, Chris Maxwell, QC, described as the most heinous crime he ever investigated. That led me to the person who perpetrated the crime, Richard Leonard, who received a sentence of life meaning life and that has led me to devote my life to helping other people going through the horrendous journey.

**The CHAIR:** Can I pause you there because I am having trouble hearing you so I imagine it might be difficult for others? Can you pull the microphone towards you and speak into it? You were saying you dedicated your life to—

**Mr ROLFE:** Yes, to helping others through the horrendous experience of life after murder.

**The CHAIR:** In your submission you talk about your late partner in Parrabell indicating that there is no evidence of hate crime, but you are saying the academic view is this is gay-biased related. Could you expand upon that?

**Mr ROLFE:** I was totally confused about those two descriptions. I got in touch with Assistant Commissioner Crandell and I went into the Sydney police centre at Surry Hills and met up with Detective Superintendent Ian Lynch, who was the officer in charge of the case with Tony Crandell; two senior investigators from Strike Force Parrabell; and Jackie Braw, the gay and lesbian liaison officer. Richard Leonard, when he was in a cell, was bragging to a cellmate about the kick that he got out of seeing Stephen in excruciating pain trying to pull the arrow out of his chest.

The cellmate reported that to the prison officials and the prison officials reported it to the police and they put a bug in a TV set. The cellmate encouraged Richard Leonard to talk about the matter again and Richard Leonard reiterated his story and, to me, that was evidence of a gay-hate crime. However, Ian Lynch said that Leonard had known that the bug was in the TV set and that negated the gay-hate bias. I am totally confused about all of this. I just wonder where we go to from here.

**The Hon. PENNY SHARPE:** What would you like to happen?

**Mr ROLFE:** I would really like it to be classified as a gay-hate crime.

**The Hon. PENNY SHARPE:** Why is that so important to you?

**Mr ROLFE:** It is a matter of principle.

**The Hon. PENNY SHARPE:** You just feel that they have got it wrong?

**Mr ROLFE:** Yes.

**The Hon. PENNY SHARPE:** And it needs to be said that it is right?

**Mr ROLFE:** Exactly.

**The Hon. PENNY SHARPE:** To understand where it came from?

**Mr ROLFE:** Yes. I did have a reporter ring me up after Parrabell was released and she said to me, "Richard Leonard has been sentenced to life meaning life. Why are you so insistent about it being categorised as a gay-hate crime?" I said, "Because it is a matter of principle".

**The Hon. PENNY SHARPE:** In your submission there are a number of examples where you feel like the police have got it wrong. Again, is it a matter arising from this inquiry of a recommendation for them to look at those and look at the classifications again?

**Mr ROLFE:** Take the matter of Stephen Jelfs. Stephen Jelfs came to Sydney from Canberra in approximately 1973. Stephen moved in with me and stayed with me for six months. I was horrified when Stephen

disappeared off the face of the earth in 1978. I organised a reward for information regarding Stephen Jelfs' murder, because the Coroner had said he disappeared under suspicious circumstances, but this case was not included in the 1988 cases.

**The Hon. PENNY SHARPE:** Why was that?

**Mr ROLFE:** I do not know.

**The Hon. PENNY SHARPE:** I presume that you have had conversations with the police about that, about why it was or was not included?

**Mr ROLFE:** I have but I have had no response to it.

**The Hon. PENNY SHARPE:** Is the Stephen Jelfs case still in unsolved homicides? What is the status of that?

**Mr ROLFE:** It is an unsolved homicide, but, as I put here, his father, Neville, nominated a person as the main suspect and to my knowledge that was never followed up.

**The Hon. PENNY SHARPE:** When was that? Was that 1978?

**Mr ROLFE:** Yes, but I think it was in 2014 the reward was announced in the matter of Simon Knight. Simon's parents requested a review by the unsolved homicide team and they were informed that because the Coroner had not referred to the unsolved homicide team it could not be reviewed. That, to me, is a load of crap. As I say, Duncan McNab and myself further investigated it and we will be contacting the police commissioner in the next couple of weeks. In the matter of Scott Johnson, I was the person that Steve was talking about this morning who was with him when he was insulted by a senior police official. I might also add that after the findings were handed down I went into town to another matter and spoke to another senior police officer who had been involved in the Scott Johnson matter and he said, "Bloody millionaires". Then I went to another matter and the police officer there said—

**The Hon. TREVOR KHAN:** Sorry, the "bloody millionaires" is reference to—

**Mr ROLFE:** To Steve Johnson. Then I went into another matter and the police officer involved in that matter was heard to say to the Crown prosecutor the findings in the Scott Johnson matter were despicable and he said "Bloody millionaires" again. Steve Johnson in his submission said that the adversarial system works in Australia and in the United States but, as he said, he did not realise that the adversarial system works as the police versus the Johnson family.

**The CHAIR:** What sort of rank were the police officers that were making these comments?

**Mr ROLFE:** Chief inspector.

**The CHAIR:** Quite senior.

**Mr ROLFE:** Yes.

**The Hon. TREVOR KHAN:** Do you know who the officers are?

**Mr ROLFE:** Yes. The other matter was Marcus Allcorn. That was never investigated by Strike Force Parrabell. Marcus disappeared from a hotel in Paddington in 1980 and I just feel that that should have been followed up by the Strike Force Parrabell.

**The Hon. PENNY SHARPE:** Is that just classified as "missing person"?

**Mr ROLFE:** I think the Coroner's findings were that he was a victim of foul play. I have also been heavily involved in organising rewards for unsolved murders of gay men—Steven Jelfs, Crispin Dye, Ross Warren, and John Russell and Gilles Mattaini, I just feel I am there to help my gay brothers and sisters to get justice for them.

**The CHAIR:** They are unsolved crimes?

**Mr ROLFE:** Yes.

**The CHAIR:** What was the response to rewards? Were there any new leads or information for the police?

**Mr ROLFE:** No, there has not been any response but I also suggest that the rewards be increased to \$1 million as they are in Victoria and South Australia. I know that my friend Duncan McNab reiterated that. Parrabell was a review; it was not a reinvestigation.

**The CHAIR:** That is right.

**Mr ROLFE:** I just feel that the police should pull their fingers out. I also feel that the number of unsolved homicide team members should be increased to at least 60 because the solving rate of the homicide squad is not that good, as Stephen Thomsen was saying. When the Scott Johnson matter was being raised the police were quoting 770 unsolved homicides. When Coroner Barnes handed down his findings it came down to 500 unsolved homicides so I do not know what has happened to the other 270 but we feel increasing the rewards to \$1 million—I think they have only paid out about \$360,000 over the past eight or nine years—is not going to break the bank.

**The Hon. TREVOR KHAN:** Mr Rolfe, I raise this with you because the issue of rewards and the level of the rewards have arisen in a number of circumstances, and I can think of one fairly lengthy discussion I was involved in recently. If one makes all the rewards the same, do you not run the risk that you, in a sense, lose the notoriety of big rewards offered in some cases?

**Mr ROLFE:** I think that the police use the rewards as a tool in an investigation.

**The Hon. TREVOR KHAN:** Indeed, that is right.

**Mr ROLFE:** We have had four rewards of \$1 million announced recently—

**The Hon. TREVOR KHAN:** Yes, but can I just stop you there? They use it as a tool because it is not simply about getting on television and saying, "We are offering a reward of \$1 million or \$500,000 or \$100,000." They are using it because they think it may achieve some information at a particular time, is that not the general drift of this?

**Mr ROLFE:** Yes.

**The Hon. TREVOR KHAN:** It is a forensic tool that they use?

**Mr ROLFE:** Yes.

**The Hon. TREVOR KHAN:** So that the amount and the timing of the offer of the reward and the increase in the offer of the reward are done for a forensic purpose?

**Mr ROLFE:** Yes.

**The Hon. TREVOR KHAN:** So if you say, "Look, we will just offer \$1 million for every outstanding case", in a sense you create almost a confetti, a blinding curtain of news that actually may have no forensic purpose at all. It is a great political play by a politician but it may not help solve a crime, that is the problem, is it not?

**Mr ROLFE:** Yes, but at the same time \$100,000 is peanuts these days.

**The Hon. TREVOR KHAN:** Mr Rolfe, murders occur in New South Wales for a lot less than \$100,000.

**Mr ROLFE:** Of course they do.

**The Hon. TREVOR KHAN:** And people give up mates for fairly serious crimes for trivial outcomes sometimes, in fact frequently, do they not? That is, it is not always necessitated by money. For instance, you may get information out of one crim because you decide, for instance, to go light on a set of charges against him. It is not possible to put a particular value on getting information out of a person, I suggest?

**Mr ROLFE:** Put it this way: I feel that \$1 million would entice information from a criminal or someone who wants to do someone in more than \$100,000 would.

**The CHAIR:** Duncan McNab refers in his book to all the listening devices that have been in place before they announce rewards and that it creates chatter amongst suspects?

**Mr ROLFE:** Yes.

**The Hon. TREVOR KHAN:** Yes, but that is the forensic tool.

**The CHAIR:** I agree.

**The Hon. TREVOR KHAN:** That is, you are offering the reward at a particular time because it generates activity.



**The CHAIR:** That is right. The Hon. Greg Donnelly has been waiting patiently.

**The Hon. GREG DONNELLY:** Thank you for your submission, Mr Rolfe, and for coming along and giving us the opportunity to ask you questions. In paragraph (1) you refer to the "Academic Review". Is the Academic Review a journal. I am not familiar with it. Is a particular document?

**Mr ROLFE:** No, that was the Flinders University study. There were two—Strike Force Parrabell and Flinders University.

**The Hon. GREG DONNELLY:** Thank you. I did not quite know what that was referring to.

**Reverend the Hon. FRED NILE:** I am not sure if you have covered this already. In paragraph (6) you state, "A friend of mine Duncan McNab and I have found some interesting evidence that was not investigated by the team from the NSW Police Force". Could you enlighten the Committee what evidence you were referring to?

**Mr ROLFE:** I do not really want to give away the evidence at this stage.

**The CHAIR:** That is fair enough.

**Mr ROLFE:** Could I take that on notice?

**Reverend the Hon. FRED NILE:** Or we could hear it in camera if you only want the Committee to hear it.

**The CHAIR:** You can take it on notice and consult Duncan McNab as to how you would like to present the information to us and if it is confidential we will agree to keep it confidential.

**The Hon. TREVOR KHAN:** Or if he does not feel comfortable in giving it, I do not think we can hold him over a fire.

**The CHAIR:** That is correct. We have been very cooperative as an inquiry.

**Reverend the Hon. FRED NILE:** In your submission at paragraph (7) you said there was an exchange between unnamed parties as if that was significant. We do not know what the background story was. You may not be able to tell us. What is the significance of that exchange that occurred between the unnamed parties?

**Mr ROLFE:** I was standing here, there was a police officer here and a former police officer over here. The former police officer said to this police officer, "Now that the findings have been handed down, don't you think it would be a good idea to shake hands with Steve Johnson"—Steve Johnson came up from my right. The unnamed police officer said, "I remember you. I was there when we announced the reward." He said, "We put a lot of effort into these findings" and I could see that Steve Johnson was about to explode because the NSW Police Force had not put any effort into it so Steve went to extend his hand and this unnamed police officer said, "Let me tell you we only did it for your brother not for you and, by the way, we don't like the submission that your barrister put in" and with that he turned around and walked off. There was definitely—

**Reverend the Hon. FRED NILE:** A lot of tension?

**Mr ROLFE:** Yes. And I then went on to say that I went into the city and this police officer said, "Bloody millionaires". I was in another court not long after and another police officer said to the Crown prosecutor, "It's a terrible result with the findings of the Scott Johnson matter" and he said, "Bloody millionaires".

**Reverend the Hon. FRED NILE:** And were they millionaires? Was that meant to be an insulting term?

**Mr ROLFE:** Steve is very wealthy now.

**The Hon. MARK PEARSON:** He was not then.

**The Hon. TREVOR KHAN:** No, but Steve was at the time of the inquest.

**Mr ROLFE:** Steve did not have a bean to his name when Scott—

**The Hon. TREVOR KHAN:** No, but that is not the timing of when these comments were being made, was it?

**Reverend the Hon. FRED NILE:** It is a show of prejudice against the family.

**Mr ROLFE:** Yes.

**The CHAIR:** It is part of a narrative.

**The Hon. MARK PEARSON:** I have one question. Coming back to your partner and what happened there, is part of the reason you think it should be looked at as a hate crime because maybe the original assault with the weapon was just an assault with a weapon, and then later the perpetrator realised he was gay and then that changed the nature of the crime to become what it was, and at that point it became a hate crime? Is that something that you have considered?

**Mr ROLFE:** No. Richard Leonard, the guy who murdered Stephen, was known as a dystonic homosexual. He was homosexual himself but he could not accept the fact and he took it out on other gay men. He shot Stephen with a boy and arrow. There was evidence given about another beat at Long Reef: that gay men would be congregating at the beach and arrows would go flying through the air. We feel that that was possibly Richard Leonard. That is the reason I want it classified as a gay-hate crime.

**The Hon. MARK PEARSON:** I understand. Thank you.

**The CHAIR:** Mr Rolfe, thank you for your attendance at the inquiry for the last two hearings. I appreciate the work you do for victims of crimes. You took one or two things on notice. The secretariat will pursue you on those, and then you have 21 days in which to answer them. As the Hon. Trevor Khan said, you do not have to provide information if you feel it is not appropriate to do so on the question that was asked about the evidence.

**Reverend the Hon. FRED NILE:** Are you getting good support for your organisation?

**Mr ROLFE:** Yes, and no.

**(Short adjournment)**

**MICHAEL ATKINSON**, Private citizen, affirmed and examined

**The CHAIR:** Good afternoon. Welcome to the inquiry into gay and transgender hate crimes between 1970 and 2010. I remind everyone watching either in this room or on the internet that today's hearing will contain information about violent crimes committed against those in the LGBTIQ community that be may be distressing. If you need 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 brochure available at the back of the room or on the Committee's website. I acknowledge receipt of your submission, which is submission No. 5. Do you wish to make an opening statement?

**Mr ATKINSON:** Thank you for the chance to participate in today's hearing and to elaborate on my submission, in which I briefly outline a violent homophobic attack I experienced in Lismore, New South Wales, in 1995 when I was 23 years old. I look forward to answering any questions members may have. However, I will start by sharing some of my own questions that remain from those few moments when I was beaten around the head, neck and back.

What if my boyfriend, who took after the perpetrator, had caught him or, indeed, if the police had caught him? How would I have reacted had I had the chance to see him again? Would I have kept it together or would I have been tempted to return the favour? What would have happened after the dust had settled and if we had had a chance to sit and talk, maybe even gotten a window into each other's lives? Would we have felt differently about each other? If he had gotten to know me even just a little, would he have regretted his actions? Might he have even apologised? One thing he would have learnt about me is that at that point in my life I already had a low enough opinion of myself and was already sufficiently beating up on myself.

What if I had gotten to know and understand him a little? Would I have understood why he felt so disgusted and justified in lashing out at a complete stranger? What lay behind his anger and confusion? Was he acting out his own fears or those of another? What if I had gone to the police station and found an understanding police officer who took the time to listen to me? What if the hospital staff had taken the time to dress my emotional wound? What if I had the chance to talk through that experience in the months that followed? Would I have continued to attribute blame to myself and allowed those painful moments to further contribute to the already mounting sense of shame and self-loathing?

In some ways all these what-ifs are pointless today. Yet I have more questions. If the perpetrator were to reflect on the incident today, how would he feel about his actions and himself? With hindsight, has he resolved his confusion? Does he hold regret or remorse? Has the incident left a stain or did he simply move on? If we did have a talk today, I wonder if he would be surprised to learn how far the ripples he set in motion have travelled? When I take a moment to think about how John Russell, Scott Johnson, Ross Warren and the many others must have felt in the last moments of their lives, I become filled with intense feelings of anger, sadness and resentment. When I compare my experience to those of the many other people who survived far more brutal attacks than mine, I am filled with respect that they managed to pull their lives together and keep on going. Finally, when I ask would it make a difference if all these people and the uncounted other victims had a chance to be recognised, respected and nurtured, finally I have an answer: Yes.

**The CHAIR:** Thank you for that. They were poignant questions. You describe this 1995 attack on you fully in your submission. Did you report it to the police?

**Mr ATKINSON:** No.

**The CHAIR:** Do you want to explain why?

**Mr ATKINSON:** I said in my submission that when I emerged from the shock of the situation and could start to have a rational or straight thought, I realised I was in a costume. I was dressed as a fairy and I decided I would not go to the police dressed like that. I was sure I would get ridiculed and they would probably say, "Hello, you deserved that. Look at you, you are dressed like a fairy."

**The Hon. PENNY SHARPE:** Was that based on how you felt the police would react or on your, your friends' and others' experience of the police at that time?

**Mr ATKINSON:** It was based on my perception of police developed over time. I have had friends go to the police since 1995, and I have also had a variety of interactions with police in more consequential ways through my work, because I worked in the AIDS Council in Perth. I also wanted to set up self-defence classes in

recognition of the violence going on, and I got a very unhelpful response from police. I have had a variety of other experiences and heard other people talk about pointless responses from police.

**The CHAIR:** Are you from Lismore?

**Mr ATKINSON:** No, I am from Western Australia.

**The CHAIR:** You were just visiting Lismore?

**Mr ATKINSON:** Yes. At the time I was living in Brisbane and working for the Queensland AIDS Council. I have gotten around.

**The Hon. PENNY SHARPE:** You have spent your life working in this area. Do you think there have been some improvements in relation police reactions?

**Mr ATKINSON:** I have worked in refugee resettlement, Aboriginal cultural development and disability services. I have worked in a broad range of community areas. I think that societal attitudes are changing very gradually, which is very encouraging to see. There is a fair bit of evidence of that. But the reality is that people do still hold very strong negative views today. You have to be careful depending where you are, at what time and who you are with. You are still at risk and you need to be mindful. Do I think there are improvements in policing? It is hard to say because I have never had a role directly working with police. I do at the moment with ACON and I can see various attempts being made within the police today to engage the community and to build relationships. I think there are lots of opportunities for police to develop an authentic relationship with the community.

Then when I give some thought to trans and gender-diverse people, they are experiencing what we experienced in the 1970s and 1980s. It is awesome that there is so much support. It spits and spurts for trans and gender-diverse people being recognised. As a result, they are becoming more visible and coming out in the public and there is discourse. But they are visible; and I was quite camp as well, as a kid, and I was quite visible. Today, trans and gender diverse people experience, potentially even hourly—by the hour—abuse. That needs quite significant and authentic action.

**The Hon. TREVOR KHAN:** Can I ask a question from the reverse side? Do you think the assault on you may have been facilitated by an expectation that you would not go to the police?

**Mr ATKINSON:** I think in the moment, I do not think that that person had that level of thinking. I think that person was just literally triggered by seeing two men kiss because up until that point we had been chatting and he seemed quite comfortable. But also everyone went back inside to the party and there was just two of us and maybe he felt, "Okay, now I can jump them", particularly as we were kissing and we were not looking. We were taken unaware. So, no, I do not think that person had that level of sophisticated thinking. I think some people historically would definitely have had that level of thinking—yes, definitely. From the eighties and nineties there was little action taken.

**The Hon. TREVOR KHAN:** I am not being rude but, for me, the eighties and nineties are not historical. It is like yesterday.

**Mr ATKINSON:** I hear you.

**The Hon. TREVOR KHAN:** But if you are talking about people getting rolled at beats, then at least a theory I am attracted to is that expectation that gay men were less likely to complain to the police out of fear for their own privacy and out of a fear that they would be disrespected by the police.

**Mr ATKINSON:** Yes. I think, though, in many ways they were soft targets because a lot of the gangs had done it many times and, "Well, okay. This is kind of easy. There's not a real lot of police action going on. Beats are nice locations. They're a bit out of the way." They had really fantastic strategies to lure people and distract them, get them down on their knees, maybe start having sex with them and then jump them. Yes, I think policing for me, what I have learnt in my role at ACON, could have done—not just police; there is a lot of action that could have been done to go, "Okay, well, look: They have been beaten at these places. Maybe we should put up some signs. Maybe we should work with the community and go, 'Hey look, this stuff is happening to your people. Maybe we need to be more proactive about stopping this from happening.' " Yes, there are a lot of what-ifs and what could have been. Yes, absolutely. It is not rocket science at all.

**The Hon. TREVOR KHAN:** No, it is not.

**Mr ATKINSON:** I know that they had committees back then—talkfests—the Attorney General's office. There seemed to be intent from different arms of government. They were a bit shocked by the data that was being

presented to them; so a fair few committees, a fair few talkfests, but not a lot of action seemed to hit the ground. Yes, I think soft targets—absolutely. I do not want to talk too much on my professional or my work capacity but when I reviewed the cases I was interested to see that the men were shorter and smaller framed; not all of them, but, yes, they were targets—people who looked easier to attack.

**The CHAIR:** Targeted for robbery, or an egotistical thrill bashing? Because they are gay and because they are vulnerable, in circumstances where they can be targeted, the perpetrator is less likely to be caught or prosecuted. I am thinking about the recent Grindr assault.

**Mr ATKINSON:** In Perth?

**The CHAIR:** No, no. In Sydney, just down in Pelican Street, I think. Grindr is a dating app, for the information of anyone who does not know that—like Tinder. The guy went there—they have arrested the guy—but he bashed him and the fellow jumped off the balcony or something. But that is a targeted gay—I see that as a hate—crime.

**Mr ATKINSON:** Clearly.

**The CHAIR:** Would you agree with that?

**Mr ATKINSON:** Absolutely.

**The CHAIR:** So it is still happening today?

**Mr ATKINSON:** Yes. In Perth they prosecuted two men for luring I think it was five or six people to beats. With apps today, there is a bit of a trend because people are experiencing too many crimes or hostile experiences in their homes, so people are less likely or less inclined to just bring a sex partner off an app straight into their home. Now what they are doing is going to beats or other public places. I mean, I wish it was a cafe; maybe they would have a conversation with each other but, no, they are going to beats. Absolutely, they are again fair picking—like easy turf. Like in Perth, they knew exactly which beats to pick because they took them further into a dark and very secluded spot. I know of that case. I am sorry: I am not a professional; I am not a police officer or a lawyer, so I cannot make an assertion. But, my goodness, it would be so easy—absolutely—and it is happening.

**The CHAIR:** I am aware of a transgender woman big bashed by four men who pretended to be one person in the Blue Mountains, so there is an issue of violence still occurring for robbery and homophobia.

**Mr ATKINSON:** Yes. It is hard to sometimes pull those two things apart.

**The CHAIR:** Yes.

**Reverend the Hon. FRED NILE:** Did you try to analyse what was going through this visitor's mind when he was apparently so friendly and you were dressed as a fairy, which is not usual.

**Mr ATKINSON:** Yes.

**Reverend the Hon. FRED NILE:** He seemed to be very accepting. Was the kiss the trigger, or something?

**Mr ATKINSON:** Yes, I must admit—because generally I have always been a bit scared and a bit cautious—when he rocked up I was concerned and reluctant; but, yes, he did seem to relax. But I was observing him a little. I was kind of thinking, "Is he just a bit fascinated?" Is that this a bit of a freak show?

**The Hon. TREVOR KHAN:** How does he fit in?

**Mr ATKINSON:** Yes. I was trying to get a sense of, like, what was he doing there. And I was just thinking, you know, it would be nice: "Hello. Come and join the party." You want to be open-minded and think that people are accepting and so you go, "Yes, of course. Come and join in." But I just think prejudice is such a hard thing to un-learn, and I think it is learnt. I think he gave it a go. I do not know, to be honest. I am speculating, that is why it would be great—wouldn't it be great to talk? That is what, for me, justice is all about.

**The Hon. MARK PEARSON:** What led to you writing that poem?

**Mr ATKINSON:** While I was thinking about it—I had started writing something else and I was a bit on my high horse about how things should be—but I thought, no, it would be more personal. I do authentically wonder and have these questions. It just dawned on me or occurred to me, "Gosh, look, half of my life ago I got beaten and I'm still thinking about it." I wonder if he does think about it.

**The Hon. MARK PEARSON:** Did your poem surprise you, what you wrote?

**Mr ATKINSON:** No. What do you mean?

**The Hon. MARK PEARSON:** Because it seems to explore an interest in where he is coming from and what is the world behind him that caused him to do what he did to you.

**Mr ATKINSON:** I am very empathic. I think in some ways, growing up different, you have to be mindful of what is happening around you. That might be the reason my brothers beat me up heaps. I got teased heaps. I got teased at school. I had a teacher who once announced in human biology class, "I hate poofters", and was standing right next to me. You have just got to be aware. It is natural for me to think about what is going on in people's minds. I am a bit hypervigilant which, when you look at all the trauma studies, I fit the mould.

**The CHAIR:** Hypervigilant?

**Mr ATKINSON:** Yes, hypervigilant—all that kind of stuff.

**Reverend the Hon. FRED NILE:** Would Lismore be a bit more conservative than other places, or not?

**Mr ATKINSON:** It is an interesting place because in some ways you do get the alternative types moving there. There is real kind of Left thinking, green—

**The Hon. TREVOR KHAN:** Yes, a difficult seat to hold.

**Mr ATKINSON:** —but then you have your native, your traditional—people born and bred and raised in Lismore, who are very conservative. There are quite stark differences. Yes, so I could go, "Don't worry, I've blamed myself for this for a long time. Maybe I should have thought about this more. Maybe what if I had not done that—what if, what if, what if?" Had I known, I had only heard of that hippie side of Lismore and I was like, "Oh, yes, fairy party, how fantastic". I did not think too much about there.

**The Hon. MARK PEARSON:** But nothing would ever justify beating someone up?

**Mr ATKINSON:** No, I do not think so either.

**The CHAIR:** It is estimated that in the gay-hate crime wave, there are thousands of men stalked and savagely assaulted and, in at least 50 cases, murdered. You are a survivor. We have heard survivors today. I can sense the emotion. Is there a need for some resources into counselling for the thousands who were assaulted who have not come forward. I am sure this seems to be the trigger?

**Mr ATKINSON:** I think so, yes. In some ways it would be a difficult undertaking because those people have just dealt with it the best they could.

**The CHAIR:** Or have they?

**Mr ATKINSON:** I do not think they have, but what they have done is they have either pushed it aside—In my work through these last couple of years, people have contacted me or I have been having conversations with individuals and it would be 10 or 15 minutes into a conversation that they go, "Oh, yes, I was beaten. Oh my God, I have forgotten that. I have put it over there". Then when you see them start to entertain it they go, "No, no, no, I do not really want to talk about it". I would say to them, "Do you want to make a submission to the parliamentary inquiry?" and they would go, "No, it is the past". When I think of people, one gentleman who I have spoken to on the phone was 82 years old. He moved to regional New South Wales—I forget the town. Oh my God, for two hours, he was crying on the phone and he said it was the first time he ever spoke about those incidents. He has been with his male partner for 40 years and he said, "There's just no way I would talk about this with my partner. There's no way I would talk about this with my family. There's no way I would go."

He was just so stoic. The only way for him to deal with it was just to push it. I think it would be a challenge to get those people to come forward. We would need to be innovative. Today is also important to respond to people who are being subjected to violence, whether you are Aboriginal—the variety of vulnerable populations—and women; it is horrendous how many women have been murdered and the impact on family. The trauma and the impact of those moments can interfere with people's study and their relationships. That intense trauma—you can think that you have dealt with it, you can think—I am waffling.

**The CHAIR:** I do not hate the conversation but it has been suggested to us by, I think, ACON and others that if we had more time we should take the inquiry to northern New South Wales and to the Blue Mountains or even for the west and down south, down Berry way where a lot of the mainly gay, but gay and lesbian, community

of the era have—see change or, whatever you call it, bush change—have gone to. Do you think we would learn anything additional for this inquiry if it is something we do in the future?

**Mr ATKINSON:** I think definitely. The context is so different in terms of what help and what options there are. There are less options for help and support. I do not know how people coped, really. A lot of people did move out of Sydney but people have been beaten in those locations as well across New South Wales. I have become more aware of different trans and gender-diverse communities around New South Wales and they have stories to tell definitely in the past 20 or 30 years.

**The Hon. TREVOR KHAN:** In a small community, it is even more difficult, isn't it? If you are the subject of a beating in a small community, then you rock up at the police station in your local community, you are baring yourself twice. The likelihood is if you tell the local copper, he might well have told half the town. Your privacy is completely at risk. It is a reasonable perception that your privacy would be completely at risk, wouldn't it?

**Mr ATKINSON:** I think privacy would be not your greatest concern. It would be the reaction of the police officer or of the people that you are talking to. I grew up in a wheat belt town.

**The Hon. TREVOR KHAN:** Where was that, if you do not mind?

**Mr ATKINSON:** In Western Australia.

**The Hon. TREVOR KHAN:** Where in Western Australia? To the south-east, was it?

**Mr ATKINSON:** I was born in Lake Grace, south-east on the way to Esperance. I moved to Quairading, which is two hours east of Perth. It is bad enough—trans people, whenever they disclose their identity, they are the ones who then had to help that person to get their head around it. They would sit in there, dealing with having been beaten, in shock and you just know the likelihood of being judged or not understood—which is the nicest possible outcome; not being understood is probably the nicest—but then you have to sit down and explain, "Well, this is me. This is my lifestyle". Growing up in the country would be much harder.

**The CHAIR:** Would that 82-year-old gentleman come forward if we were to be in—where was he? What city was he?

**Mr ATKINSON:** At the end of the conversation, he became very impassioned. He said, "I want to go on media. No, that's it, I want to tell my story", after a lengthy conversation. I do believe, a phone line—whether it is Skype support or whatever—people could still, from the safety of their home, be invited to talk and have the chance to talk, absolutely. I think in that scenario I did not want to push him. I wanted to get his details but I wanted him to feel safe that I was not pushing him so I did not get details. I left it for him to call me back and he has not. But I think definitely—

**Reverend the Hon. FRED NILE:** With your experience, do you think there are some young men who have a violent streak? It does not have to be a gay person. I have been bashed myself, working in a Christian coffee shop a few years ago. I had all my face split open with a broken bottle.

**Mr ATKINSON:** Horrible.

**Reverend the Hon. FRED NILE:** I had to go to the hospital and have it stitched up. I was not doing anything provocative. It just seems some guys are just violent and have the built-in violent nature. If they run into you, they enjoy punching you.

**Mr ATKINSON:** I try to understand the perpetrator, the psychology, what leads people to act on their prejudice. Having prejudice is one thing—we are all a little bit racist, we are all a little bit whatever. If anyone is going to sit here and try and say that their morals are perfectly well-balanced, why do then people act? I think that it would be great to understand and to be able to unpack. There needs to be more research. There is some evidence and some research.

**Reverend the Hon. FRED NILE:** What are the seeds of that, as a child, as a young person, as a teenager?

**Mr ATKINSON:** Yes, what did people over that edge to think, "I'm justified to commit—".

**The CHAIR:** Education?

**Mr ATKINSON:** Yes, I definitely think. It cannot just be like, "Don't be racist". It is got to be more nuanced. It has to be a little more sophisticated to understand the human psychology. It still possible to package a campaign when you take into consideration the needs.

**The Hon. TREVOR KHAN:** It might be a bit off-point, but do you think since marriage equality, we have become more split apart and that there is a sort of an almost heightened sensitivity on both sides of the equation now?

**Mr ATKINSON:** Yes, I think so. I will share a personal experience. I was back visiting family and friends in Perth. I think it was about a year ago. It was not long after the marriage equality was announced. We had been out having a few gin and tonics at the new gin bar in Perth. It was really nice. We are walking to go back to drop our friend off. We were walking through Northbridge, which is the entertainment precinct. I noticed two guys behind us—maybe a bit hyper vigilant, but it paid off. We stopped at the traffic lights and they said, "Oh, we voted for you", and I was like, "Oh, here we go again". So I called, "Good on ya". We kept walking. "No, mate, no. What are you gonna do? What are you gonna say to thank me?" I was like, "Oh my God, this is not good". His mate went off for a pee. We kept walking. He said, "No, come and get 'em." I was like, "Oh, shit." I was in fight or flight and I just said, "I'm on off-duty police officer, you might want to fuck off". Excuse me. As if! They came at us. But we were right near a bar and we just went into the bar. So, I mean, split. Those people clearly already had that kind of hatred. I am glad that we dropped our friend off.

**Reverend the Hon. FRED NILE:** You said in your submission in the last paragraph that you support "special measures" to redress these crimes. What do you mean by "special measures"?

**Mr ATKINSON:** When I think about people doing their jobs like if you work in Centrelink you are going to be working with a lot of people from different backgrounds. If you have an African family that have come over, refugees, and they are resettling you have to understand that experience of what it is like. African refugees normally have 10 children, eight children. You have to understand that when you are resettling. I think to deliver effective government services and I do think in that sense police are delivering a service to the LGBTIQ and other communities. It is not like, "How nice we are and generous in delivering training or special programs". I could go into the variety of different possible programs but actually it is your job to deliver your service to those tax paying people. You have to understand them. In my personal view it should not be seen as a generous thing, a couple of hours of police training.

My personal preference would be I love the concept of third-party reporting to put a buffer between the police and the community; an understanding person, a person who is trained to listen without judgement. Whether that person is Muslim, Aboriginal or trans, that person would be less likely to have fear, more likely to come forward, and more likely to share more honestly and authentically what their experience has been. The third-party person would know well enough through their training how to triage that person. The model in Scotland is amazing. They have 450 third-party organisations that are trained in such a variety of different types of organisations. Some people might say, "Why are you pandering to these minorities?" Whereas I think actually you have to be innovative in how you develop your response to the fact that they experience more crime and the impact is more significant, it is different.

**The CHAIR:** Can you flesh out the third-party system used in Scotland? How does that work? Would ACON be contracted by the New South Wales police to provide a service? What are you talking about?

**Mr ATKINSON:** It would need to be tailored to the Australian context. They have a different government system and they have a different not-for-profit system, the community sector. It would need to be tailored here. It would need to be explored fully in terms of how it would look and what it would involve. The police would have to be willing to come to the table and be willing to entertain this and that. They would need to be prepared to engage, which I think they would be. In Scotland hate crimes are legislated, while it is not legislated here. There is a different political, social and legislative context. Essentially it would involve working together to set up a system, a structure, with your algorithms when this happens you go to here.

**The CHAIR:** You go to the police first. This is a post police engagement analysis of your satisfaction?

**Mr ATKINSON:** No, it would be the other way. It would be other organisations like ACON. But I would say there would need to be more than one. I would set them up in the regions as well. Once the third-party organisations have been trained and their system is set up for referral and triage then you promote to the community: If you have experienced a hate crime you can go to these community organisations. They will listen to you and support you to give your statement and to facilitate connection with police. If the case does have merit you need to have a system to for how that would happen. I would like to apply for a study and learn it in more



detail. You probably could ask someone more knowledgeable and experienced. I have had email conversations with people about it and it seems really effective.

**The Hon. TREVOR KHAN:** Mr Atkinson, you have been here for all the evidence today?

**Mr ATKINSON:** No, I arrived at lunch time.

**The Hon. TREVOR KHAN:** Mr Simes gave evidence of an event that occurred and he gave evidence that he attended what was then police headquarters in College Street. He went there with a support person in the form of a former member of Parliament. He provides information to who I think was probably the head of internal affairs, by the size of the office and the braid on his shoulders, and bugger all happens with what he has done. He has had the third-party intervener to assist him attending but the shortfall was not that he provided the information to the police, he had done it twice, it was the police did not act on the information that was provided. Your third-party model, whilst it may help in the first phase does not do anything, with respect, to so many of the cases that we have heard about here. The Scott Johnson model is not a problem with people speaking to the cops, the problem is the cops saying, "No, we are not going to look at it".

**Mr ATKINSON:** Can I speak frankly?

**The Hon. TREVOR KHAN:** Yes.

**Mr ATKINSON:** I think the police were covering up the fact that police officers beat Alan Rosendale. It is not a good example, with all due respect. In that situation of course the police are going to lose their files or confuse their information. They knew who was on duty. Let us skip to the Scott Johnson case. I do not understand why the police have not been vigilant. I can think of a few possible explanations.

**The Hon. TREVOR KHAN:** That is the problem, there are multiple explanations available but all of them really involve, in one form or another, a failure of policing.

**Mr ATKINSON:** Even more reason for third-party reporting, or something innovative.

**The Hon. TREVOR KHAN:** Third-party support does not deal with that.

**Mr ATKINSON:** It is a different environment today. I hope corruption is on the decline. I think it is. I am not an expert. You have chosen two pretty particular cases.

**The Hon. TREVOR KHAN:** A lot of these cases I do not think you conclude at the end of the day they involve corruption. I have a view about life that a lot of them involve a degree of prejudice which creates apathy or a lack of enthusiasm to undertake an investigation. That may explain why many of the cases have gone nowhere, because the cops just want to prioritise someone else not some gay they do not feel empathetic towards.

**Mr ATKINSON:** Possibly, but that is even more justification for what I am saying. At the beginning of that question as to what is special treatment and if officers on the Police Force are prejudiced and acting based on their prejudice, which they are today, that needs to be stamped out.

**The Hon. TREVOR KHAN:** I am not disagreeing with that.

**Mr ATKINSON:** That is a different matter.

**The Hon. MARK PEARSON:** The third-party person would not just go with the person to the first interview but work with them to follow it through with police to finality?

**Mr ATKINSON:** Potentially, yes.

**The Hon. MARK PEARSON:** That is different too.

**Mr ATKINSON:** Yes, it is. You would have social workers in those roles potentially, which we already do at ACON. We have that kind of system where I receive calls quite often, I triage people who are experiencing a variety of different harassment or violence. Our fantastic team, if it is an apprehended violence order refer them for legal support. And, victim services have different help. They triage and manage it. In terms of understanding whether it is a crime would need to be worked out with police.

**The CHAIR:** It is very helpful evidence. As a researcher could you furnish the Committee with some information about the Scottish model?

**Mr ATKINSON:** Absolutely.

**The CHAIR:** Thank you for your time and evidence before the inquiry on two different occasions in two different roles, and sharing your story. It was moving.

**Mr ATKINSON:** Thank you for the opportunity.

**The CHAIR:** You have 21 days to reply to questions on notice. The secretariat will assist you.

**(The witness withdrew)**

**The Committee adjourned at 16:10**