

REPORT ON PROCEEDINGS BEFORE

STANDING COMMITTEE ON SOCIAL ISSUES

GAY AND TRANSGENDER HATE CRIMES BETWEEN 1970 AND 2010

UNCORRECTED

At Macquarie Room, Parliament House, Sydney, on Wednesday 28 November 2018

The Committee met at 10:00

PRESENT

The Hon. Shayne Mallard (Chair)

The Hon. Greg Donnelly

Ms Cate Faehrmann

The Hon. Trevor Khan

Reverend the Hon. Fred Nile

The Hon. Mark Pearson

The Hon. Natalie Ward

The CHAIR: Welcome to the third hearing of the Social Issues Committee inquiry into gay and transgender hate crimes between 1970 and 2010. The inquiry is seeking to understand whether there existed impediments within the New South Wales criminal justice system that impacted the protection of lesbian, gay, bisexual, transgender, intersex and queer [LGBTIQ] people, and whether they have been effectively addressed by current policy and practice. We will also examine the delivery of justice to victims of LGBTIQ hate crimes and their families. My name is Shayne Mallard and I am Chair of the Committee.

Before I commence, I acknowledge the Gadigal people who are the traditional custodians of this Land. I pay respect to the Elders past and present of the Eora nation and extend that respect to other Aboriginal persons present or viewing on the internet. I also acknowledge people with lived experience of hate crime who are in attendance today or who are watching this hearing. Today is the third of several hearings we plan to hold for this inquiry. We will hear today from Dr Allen George from the University of Sydney, Professor Willem de Lint and Associate Professor Derek Dalton from Flinders University, Dr Andy Kaladelfos from the University of New South Wales, Associate Professor Shirleene Robinson from Macquarie University and Steve Page, former NSW Police Force detective sergeant.

Before we commence, I would like to make some brief comments about the procedures for today's hearing. Today's hearing is open to the public and is being broadcast live via the Parliament's website. Today's hearing will contain information about violent crimes committed against LGBTIQ community that may be distressing. If you are in need of assistance I encourage you to seek support from counselling services such as QLife, ACON and Lifeline. Contact numbers for those services can be found in the brochures available at the back of the room and on our inquiry website. A transcript of today's hearing will be placed on the Committee's website when it becomes available. I give notice that in today's hearing, given the nature of the inquiry on hate crimes, there may be strong and offensive language used in evidence.

In accordance with the broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I would also remind media representatives that you must take responsibility for what you 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 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. I urge witnesses to be careful about any comments you may make to the media or to others after you complete your evidence as such comments would not be protected by parliamentary privilege if another person decided to take an action for defamation. The guidelines for the broadcast of proceedings are available from the secretariat.

There may be some questions that a witness could only answer if they had more time or with certain documents to hand. In these circumstances, witnesses are advised that they can take a question on notice and provide an answer within 21 days. I remind everyone here today that Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. I therefore request that witnesses avoid naming individuals unnecessarily. Witnesses are advised that any messages should be delivered to Committee members through the Committee staff. To aid the audibility of this hearing, may I remind both Committee members and witnesses to speak into the microphones. In addition, several seats have been reserved near the loudspeakers for persons in the public gallery who have hearing difficulties.

Finally, could everyone please turn their mobile phones to silent for the duration of the hearing. I remind everyone listening that today's hearing will contain information about violent crimes committed against the LGBTIQ community. If you are in need of assistance I encourage you to seek support from counselling services such as QLife, ACON and Lifeline. Contact numbers for those services can be found in the brochures available at the back of the room and on our inquiry website.

ALLEN GEORGE, Lecturer in Socio-legal Studies, Faculty of Arts and Social Science, University of Sydney, affirmed and examined

The CHAIR: I welcome the first witness, Dr George. Would you like to make an opening statement to the inquiry?

Dr GEORGE: I speak as an individual today. Thank you for inviting me to be a witness to this Committee. I am a university lecturer and I have researched in the area of homosexuality and the law and violence against the LGBTIQ community for a number of decades now. I commend the Parliament, and this Committee in particular, for examining violent crimes in New South Wales against members of the LGBTIQ community. Violence was a common occurrence in the lives of gay men and lesbians in Sydney and in other regional cities, particularly during the 1970s through to the 1990s—although it has not stopped.

This has been shown in a number of sources. These sources include: government reports such as that released by the Anti-Discrimination Board; numerous and many articles from the *Sydney Star Observer*, or *The Star*, which was a gay and lesbian newspaper; the Gay and Lesbian Rights Lobby, which helped to create the Anti-Violence Project [AVP] and ACON; the NSW Police and Attorney General's Department, and; the Parliament, to name a few. The extent of the violence was relatively broad and it required a response from groups such as police, the LGBTIQ community and the different organisations it set up, and lawmakers. Cultural change was and still is required.

Regarding the terms of the inquiry I will just make some general comments. The first term of reference (a) (i): Yes, there were impediments within the criminal justice system to the delivery of justice to victims particularly of hate crime and their families. Also, it was primarily before decriminalisation, but also after. Even though it was no longer illegal for men to have sex with each other a social, moral and political stigma continued to exist. Today there is still religious-based stigma that we could point out. Section (a) (ii), the extent of current impediments: There were general impediments and these were identified and addressed to a certain extent and to a certain extent with great success. For example, the creation of the Anti-Violence Project, and later ACON, has offered support, education and advocacy on hate crimes.

There has been assistance through the Anti-Discrimination Board NSW and the very successful at the time gay and lesbian liaison officer both within the NSW Police Service and also the officer program that was set up through the different police stations. There were education programs that were very broad and very well known. The second part asks about the role of gay panic defence or homosexual panic defence. I do know a little bit about that, but we can talk about that if you wish to know.

The Hon. TREVOR KHAN: Some of us know it quite well.

Dr GEORGE: Also, in the last section: How the so-called gay panic defence impacted the delivery of justice. I am not well versed in saying it delivered justice or not but I was watching yesterday and I did take note of the evidence provided by Steve Johnson and Mr Rolfe, which might give an indication. It might be an outlier. It is difficult to say whether that is a general one. The Committee is also interested in recommendations on this issue and I support some of the recommendations put forward by others here such as an apology. That has an important symbolic function and I also note that the Parliament has been debating over the last few years, particularly around expunging homosexual offences.

Notions of how wrong it was to have treated homosexuals, male behaviour, in an illegal manner: There is an attempt to redress this and an apology would be good there. The recommendations put forward should take account of individuals who were the victims of hate crime, their families, particularly the secondary victimisation they experienced and the trauma associated with such crime. An apology will help with that. While the focus on individuals is important it is also very important to think about the broader social and cultural beliefs around LGBTIQ people and to address these.

There are still some debates that are going on that are constructive an us and them dichotomy and that the outsiders are deserving of the protection of the law. I would definitely support a review of the unsolved killing cases that you have been discussing as well. I would also support the revitalisation of what was a gay and lesbian officer program or a particular person in the police hierarchy, primarily the position that Sue Thompson used to fill. I think Sue has been mentioned a few times and has put in a submission to this Committee.

The CHAIR: Thank you for that. Does anyone want to start with some questions?

The Hon. TREVOR KHAN: I will. Have you published peer reviewed papers in this area?

Dr GEORGE: A few, yes. It was a few years ago now.

The Hon. TREVOR KHAN: That is all right.

Dr GEORGE: I worked on the homosexual advance defence or homosexual panic defence or gay advance defence in the 1990s. I have also published in a peer review one that I provided you with that I think you might have here today, where I analysed some crime and victim statistics around crime against the LGBTIQ community. I was also the research assistant on Professor Stephen Tomsen's report into the killing of homosexual men in New South Wales, which has been talked about here.

The Hon. TREVOR KHAN: Are you able to give us—not now—a list of relevant papers that you have had published over the years?

Dr GEORGE: Yes, I can do that. I will take that on notice.

The Hon. TREVOR KHAN: One of the things that we did not ventilate yesterday, but it arises out of the extinguishment of historic offences, was that some of the people that some of us dealt with in terms of that extinguishment issue were relating events where they were arrested. For instance—I do not think he would mind me saying this—Peter Bonsall-Boone related being arrested by police in a toilet at, I think, Campsie police station. That went back to the 1950s and 1960s in terms of offences, but it was a circumstance in which homosexual men were in a position where the police were not seen as "not assisting"; they in fact were outright opponents of homosexual men. I am wondering if we go then to the 1970s and 1980s, which you have referred to, did that conduct—what may have been prior conduct—by police influence how the gay community responded to assaults in, for instance, parks at Waverley or otherwise? Do you think that acted as an impediment to proper communication?

Dr GEORGE: Yes. It definitely acted as an impediment. There are numerous reports in the *Sydney Star Observer*, the gay newspaper, that point out almost witness testimony or victim testimony as to what occurred and the police were involved either in bashing or in acting as decoys and arresting. Even post decriminalisation this still occurs. The Anti-Discrimination Board did a report in the early 1980s which was addressing adding sexuality to one of the factors for discrimination. It is quite a thick, 500-page report. They had quite a lot of anecdotal evidence of the type that you are talking about. That was from the 1980s.

After decriminalisation there is still a worry about police in the sense of the ability for someone to go forward and state that they had been attacked—there was a worry about how they would be treated. And also after the spread or the proliferation of HIV/AIDS and the moral panic around that, police officers were partly involved in setting up an us and them dichotomy again. Decriminalisation came in, which sort of removed a stigma, but then this new medicalised stigma comes in not too long afterwards.

The Hon. TREVOR KHAN: Do you know if any papers have been presented that deal with the impact? We are not necessarily talking simply about the spread of HIV but it was the advertising campaign that the Government, with all good intentions, ran with regard to the impact of HIV. Do you know if any papers have been written in terms of how that impacted upon the community?

Dr GEORGE: I think there was one in *Gay Perspectives*, a series from the gay or homosexual history conferences that have been held over the decades. I would have to take that on notice, but I think there is one I read.

The Hon. TREVOR KHAN: That is fine.

Dr GEORGE: While the grim reaper managed to attract everyone's attention, from my memory it was said that it perhaps attracted too much attention and that HIV/AIDS organisations were overwhelmed by people contacting them. They were perhaps too successful. But there are elements written on that. The response in New South Wales in particular was a community based response which was then copied around the world, even though it shocked quite a few people because of the rather graphic nature, which was necessary at the time. Also let us remember police officers also started to wear rubber gloves when attending events where gays and lesbians were, so there was this fear of blood, this pathogen, and that gay men were now contaminated. Previously they were morally contaminated and perhaps medically contaminated in having a mental health problem; now they were also medically contaminated by this pathogen that was going to spread. You might recall the—

The CHAIR: Dr George, could you take on notice to see if you could find something about the linkage between HIV and violence?

Dr GEORGE: Yes. I can.

The CHAIR: Also the *Star Observer* unfortunately is not digitalised historically so if you could provide those articles you talked about a minute ago regarding the victim accounts of police being involved in entrapment—

Dr GEORGE: I am pretty certain I can do that. I know in my thesis I have some copies of that, so I can provide you with some of that, yes.

The CHAIR: That would be good. Thank you.

The Hon. MARK PEARSON: Dr George, we have received quite a bit of evidence about how the police have been behaving. It is obviously very serious information. In your research were there any serious concerns about the judiciary itself and how it was responding? Putting aside the fact that homosexual activity between men was illegal up until 1984, I think, was there a systemic problem or a problem in the judiciary as well?

Dr GEORGE: Not to my knowledge, no. There were some worries about gay panic defence or homosexual advance defence and that that was being allowed to be run. There were issues around that, most definitely, but I do not think it was necessarily constructed as the judiciary per se has a problem. It was the way that this particular information could be used in a courtroom.

The Hon. TREVOR KHAN: Is that not what Justice Kirby essentially says in *Crown v Green*? There was actually a misperception of, "We could describe it as a homosexual advance." That is that it was graduated up the scale to be something quite different from a heterosexual advance. That was essentially his point in *Crown v Green*, was it not?

Dr GEORGE: Yes, exactly. And the Green case is very convoluted. There are quite a few twists and turns in that one.

The Hon. TREVOR KHAN: Indeed.

Dr GEORGE: But some of the cases one could argue were primarily young men using an excuse about a sexual advance and this was readily accepted in a courtroom. Whereas, dare one say, if a woman reacted in the same way, this just would not be taken on board.

The Hon. MARK PEARSON: Did any magistrates or judges in their judgements or findings comment on police behaviour towards any people?

Dr GEORGE: Not from my memory, no.

The CHAIR: The ACON report has a couple of isolated quotes from the judiciary that are condemning of the homosexual lifestyle.

Dr GEORGE: Let me restate that. There was a series of articles, which I was a co-author on—it was a while ago—by Professor Stephen Tomsen, who was here yesterday, along with a lawyer. I can provide those for you if you are interested.

The Hon. SHAYNE MALLARD: You talked about an apology as one of the recommendations that you would support. You broadened it out. I am interested in talking about that. You took it from an apology around the response to gay hate from the Government in terms of police and government to a broader apology concerning the criminalisation of homosexuality. Do you think we should be looking at that broader apology or should we just be looking at the apology around the issues of our inquiry, which is the impediments and the response?

Dr GEORGE: I think that it is really up to the Government and Parliament to decide.

The Hon. TREVOR KHAN: An apology was given at the time of the expungement of strike homosexual offences.

The Hon. SHAYNE MALLARD: A broad one?

The Hon. TREVOR KHAN: A broad one. What there was not was an apology with regard to the police. I think the Commission of Police has given an apology. We have been through various iterations of apologies. It is just a question of: which one?

Dr GEORGE: Of course, one of the points I am making is that while an apology is symbolic and important, there are other elements that really do need to be addressed as well.

The Hon. SHAYNE MALLARD: You said that cultural change is still required. Do you want to expand upon that for us?

Dr GEORGE: We just need to look at the debate that has been occurring around marriage equality and same-sex marriage, as well as the debate around protecting or enforcing religious freedom. We have just now had a discussion around the ability of churches and other faith-based organisations to discriminate against LGBTIQ teachers and/or students and the push to not remove the ability of faith-based churches to do that. That again highlights that homosexuality and LGBTIQ people are marginalised.

The Hon. SHAYNE MALLARD: Do you think marriage equality has set us back with regard to the cultural change; or is it a step forward?

Dr GEORGE: Marriage equality?

The Hon. SHAYNE MALLARD: The debate and process?

Dr GEORGE: I think it is a step forward. I think the result is reflective. What was the result—about 60 per cent?

The Hon. TREVOR KHAN: 61 per cent.

Dr GEORGE: Exactly. Of course, in some areas it was much higher than that. I think that sends a message to parliamentarians at the State and Federal level that the community, broadly, is on side with treating LGBTIQ people equally. That is why I am referring to the current debate around protecting religious freedoms and the reaction to that, which seems to be broadly that students should not be treated this way, as well as teachers. I think it has been a rather good thing, even though it is terrible to think that people were somehow voting on giving others human rights, which is not what human rights are supposed to be about. It has turned out to be a good thing.

Ms CATE FAEHRMANN: I was going to ask a question about institutional homophobia. Obviously we have dealt with and discussed the law and police, but one of the things I do not think we have talked about much is religious institutions. During the 1980s and nineties, which we have heard so much about, there was a lot of proselytising in terms of homosexuality being a sin and what have you. Do you have any experience in researching that area or would you like to comment on it? As we know, most of all of the other institutions we have talked about are now very progressive—generally—in their views; but I think it is the religious institutions you were talking about that are not. Is this an area of research that you or others have undertaken to see the impact of that bias against the LGBTIQ community from religious institutions?

The Hon. TREVOR KHAN: Before Dr George answers that question, taking into account that Cate Faehrmann and I probably share similar views, I wonder if it falls within the terms of reference. I am mindful that this Committee will come to a pretty unanimous position on a variety of things, but I think the issue of religious freedom might blow this up.

Ms CATE FAEHRMANN: This is not about religious freedoms. I asked a particular question about the impact of figures proselytising that homosexuality was a sin during the 1980s and nineties. We have heard about all of the victims that have come forward. Surely it is a question to direct to an expert in historic homophobia. It is not about religious freedoms.

The Hon. SHAYNE MALLARD: I will allow that question and Dr George can take it on notice if there is any research in that area. I think it is valid. It is about cultural change and cultural context.

Dr GEORGE: Specific research—not to my knowledge, off the top of my head. But Garry Wotherspoon, the historian, has written about the gay history of Sydney. Usually when a history of activism around decriminalisation et cetera takes place, there are references to the churches and the messages that were sent. Is there a study to say that certain messages sent over a certain period of time created a particular outcome? I cannot tell you that.

The Hon. MARK PEARSON: I think it is an important question because the religious views at the time helped to fuel and give oxygen to a culture of so-called legitimate bashings and crimes and almost vindicated the perpetrators. It is a bit like when a member of Parliament or religious figure says, "This is my view about X". Even though it is criminal, it can legitimise their actions and people feel they are vindicated by another institution. It is an important question.

Dr GEORGE: Some of the young men that took part in the killings in the period that you are looking at would use claims such as "It's wrong" and "This is not allowed" et cetera. Whether they actually believed that

or used it as an excuse I cannot tell you. But it is definitely an issue, which is why I am trying to draw attention to the broader element of it.

Ms CATE FAEHRMANN: It is also important in terms of the genesis of those comments and the genesis of the thought of "It's wrong and it's not allowed", historically and culturally.

The Hon. SHAYNE MALLARD: It is not a bad idea to go back and look at some of the *Hansards* of the time too. Parliamentarians were pretty reflective of that as well.

The Hon. NATALIE WARD: Thank you for coming along today. In your opening statement you spoke about impediments to criminal justice. I wanted you expand on that for the Committee. We are well across the issue of the reluctance to report. We have heard quite a lot on that. But are there other current impediments to criminal justice in your view and what would be your recommendations to the Committee to address those?

Dr GEORGE: I could not comment directly on that. To my knowledge, there are no current impediments. People can go forward to the NSW Police Force if need be. Even during the 1980s and nineties, some people who reported crimes to the police got fantastic Responses.

The Hon. NATALIE WARD: It did occur to me earlier while we were speaking that there were some good officers who were doing some good work. We have heard of a couple of them and I am sure there were many who we have not recognised that did very good work in the area. I am pleased that you are able to acknowledge that. I am interested in the current situation and if there are recommendations that we can make to further assist. We have heard about the expansion of the gay and lesbian liaison officers [GLLOs] and further training for police. Are there other recommendations that have occurred to you, or would you like to take that on notice?

Dr GEORGE: I have seen a few of the people speaking here at the committee; they have made these points as well. I mentioned that in police headquarters, for lack of a better word, there could be the focus on the position that Sue Thompson used to hold, for example. It is not really known—I could not tell you if someone exists like that anymore.

The Hon. TREVOR KHAN: What would you want that person to do?

Dr GEORGE: What you would want them to do is to have a sort of watching brief. They do a number of things; they would watch reports that were coming in, if people were being bashed in parks in certain areas that were known beats they could organise that and observe it, they could speak to police officers on the ground to find out whether these bashings are going on and get some information. They also have a strong liaison with the LGBTIQ community. They are also involved in doing education for police officers, going down to Goulburn and speaking—this is what Sue Thompson used to do. It is now part of courses—how much of a course is focused on learning about LGBTIQ issues I am not sure about—and also part of education programs and that general going to events, being seen in the community.

If you go back to the late eighties, early nineties, Sue Thompson and a fellow named Bruce Grant from the anti-violence project were often at launches; there are photographs of the two with police officers, members of New South Wales Parliament et cetera. It was very noticeable and it appeared widely in the *Sydney Star Observer*. So the issues around violence against gay and lesbians were quite well-known. Also, when I was talking with Sue Thompson about it, she had quite high-level links—I think Steve Tomsen mentioned yesterday about "What floor are you on in the building?"; she was relatively high up and she could have the ear of people that could try and get things done.

The Hon. TREVOR KHAN: Because it is quite a different management or organisational structure within the NSW Police Force.

Dr GEORGE: It was a service in those days. This is not my area, the history of police, but I have touched on that in some of the writing I have done.

The CHAIR: Have you done some research on contemporary violence?

Dr GEORGE: Not at the moment, no.

The CHAIR: Any intelligence on what may be going on at the moment

Dr GEORGE: I tried to have a quick look because I knew that I was coming here and I could not really find any reports that were being done. The closest that I came to was the ACON report that you know of. That was focused primarily on killings. I think they mention that ACON is still taking reports from members of the

community about violence, but I do not know of any larger systematic study since about 2003, but I could be wrong on that—I would have to take that on notice.

The Hon. TREVOR KHAN: But things have changed a lot even since 2003, have they not? The mobile phone has made a tremendous difference to these things.

Dr GEORGE: Yes, exactly. The last report that I know of, a large-scale one, was the Attorney General's department, and that was done in 2003, so it is quite a while.

The CHAIR: We might get you to table that one.

Dr GEORGE: The report?

The CHAIR: Yes, the 2003 report.

Dr GEORGE: I can give you the title of it. I am not sure if I actually have a physical copy of it.

The Hon. NATALIE WARD: Can I just follow through on one of those questions? There are two points, one is that it is fine to do initial training with new recruits, but one of the issues that has arisen is ongoing management throughout the police. I do not know if there is ongoing training in the police force—like lawyers have to do continuing professional development.

Dr GEORGE: I do not know about that.

The Hon. NATALIE WARD: It might be one thing we look into, not to see initial training but ongoing training. My question was more to the criminal justice system in the courts and are there impediments that you are aware of to following through with some of the charges or claims or the procedural processes after the initial complaint?

Dr GEORGE: Not that I am aware of, but remember quite a few people that do experience violence do not report it so it never ends up in the court in the first place. But the court process itself, other than being drawn-out, I have not heard any comments about it.

The CHAIR: I wanted to just touch on transgender. Have you done any work around or seen any work around violence to transgender people?

Dr GEORGE: The reports that were conducted in the nineties and early 2000, of which there are five main reports, for transgender people they do appear in a very small way in what was called the "Count and Counter" report. The police one, "Out of the Blue", I do not think any transgender people were included in that.

The CHAIR: That is 2000?

Dr GEORGE: "Out of the Blue" was 1995, that is the police report that was done.

The CHAIR: Really irrelevant now in terms of contemporary transgender—

Dr GEORGE: The 2003 Attorney General report "You shouldn't have to hide" does have a few transgender.

The CHAIR: Today what was a hidden community is emerging and I am aware of violence. I am just wondering if that is an issue that—

Dr GEORGE: I would think so. Of course, it was prevalent before, but it was probably even more difficult for someone who is transgender to go to police then.

The CHAIR: And experience discrimination within the gay community as well.

Dr GEORGE: Exactly.

The Hon. GREG DONNELLY: Thank you for coming along today. I listened closely to your opening statement and some of the words that were used in explaining some matters. You talked about in the seventies and before the moral stigma—you used the word "stigma" deliberately, which, as I understand it, was the view that there was a stigma generally held by society towards same-sex behaviour, and you talked about a moral stigma. Then you say in more contemporary times—I guess you mean currently now in this decade—you gave emphasis to there being a religious stigma towards same-sex behaviour. Move from the broad moral, or what I interpret as a broad moral stigma, to now a religious stigma. Two questions: First of all, going back to the notion of moral stigma, which was an older one predating the religious stigma, what do you mean by "moral stigma"?

Dr GEORGE: Moral stigma I meant as in morality based, and often the church is very much part of that as well, of course, and I used that because it was more broad. If you go back and look at Australian society, people in the forties and fifties and into the sixties will tell you that religious influences were a lot stronger. If you look at newspapers you will often see reports where a priest is quoted about moral issues et cetera. When you get to the seventies and eighties this really declines, you do not notice it as much.

The Hon. GREG DONNELLY: Which really, if you track religiosity in terms of people who have an adherence to a particular faith attending and articulating that they believe in a particular faith, that really follows the same trajectory, does it not?

Dr GEORGE: Yes, and also changes to the Family Law Act with no-fault divorce and then divorce rates expanding et cetera. So you can see that.

The Hon. TREVOR KHAN: They expanded for a while, but they dropped back. It has been not as dramatic as people thought.

Dr GEORGE: And people living together et cetera.

The Hon. GREG DONNELLY: Across a range of issues.

Dr GEORGE: Yes, exactly. What I was also trying to allude to was that there were three major discourses, three groups involved: morality, the law and the medical profession—homosexuals are mentally ill. I was referring to those three. The medical one has almost disappeared entirely and the legal one has now disappeared as well. I am now emphasising, particularly after the marriage equality postal survey, that religious-based opposition to homosexuals in regard to the use of anti-discrimination law and exemptions to anti-discrimination law is the issue of the moment.

The Hon. GREG DONNELLY: Following on from that, people of religious faith, and even of no faith, who may object to same sex behaviour or other types of sexual behaviour, but do not seek to stigmatise, they have a moral objection, do you make a distinction? To stigmatise any individual or individual group has a particular meaning. But to have a moral objection, you are not conflating the two, are you? Or do the two come together in your analysis?

Dr GEORGE: If the moral objection translates into discriminatory behaviour, then yes, that is what I am referring to. And stigma in a sense can be a process of applying a label to a certain person, and it is also a larger notion, it is also creation of an out-group, an outsider, and they have a stigma, one could argue. I am using some of the old sociological terms. I am a sociologist.

The Hon. GREG DONNELLY: If the two are completely conflated in the way you seem to be suggesting, that wipes out the possibility for an individual or a group within society, whoever they might be, to morally object to a particular type of behaviour.

Dr GEORGE: People can morally object. People can disagree with a particular type of behaviour. But, if it starts feeding into not treating people in an equal manner or in a discriminatory manner, that is a problem.

The Hon. GREG DONNELLY: What does that mean, to treat in a discriminatory manner?

Ms CATE FAEHRMANN: It is more than just behaviour.

The Hon. GREG DONNELLY: I am asking the question.

Dr GEORGE: To stop someone, for example, getting a promotion at work, to treat someone differently because it is believed that they are gay or lesbian. In the past I wrote a paper on a gay male couple who wanted to get family cover from nib Health Funds, and that was blocked. The other point is that when there are these discussions, there is a flow-on effect that can happen that a broader notion is in place that these people are not acceptable, and we were talking about before. It can add to that. You cannot measure that, that can be very difficult, it is not possible, but it can add to it.

The Hon. GREG DONNELLY: I follow your argument, your position is there should not be an ability to talk about it and assert an opposition.

Dr GEORGE: No, I am not saying that at all. I am not saying that you should not be able to talk about it, but it is the way that—

The Hon. GREG DONNELLY: And assert a moral position about a particular topic.

Dr GEORGE: If you wish to assert a moral position, that is fine. But you should keep in mind what effects that could have.

The Hon. MARK PEARSON: Are you saying that it is possible that a religious stigma could become immoral?

Dr GEORGE: No, I am not. I think we are getting hung up on the use of the word "stigma".

The Hon. GREG DONNELLY: You introduced it.

Dr GEORGE: Yes, I know. Okay.

The Hon. MARK PEARSON: It is a simple question. What do you think?

Dr GEORGE: Could you repeat the question?

The Hon. MARK PEARSON: Do you think it could occur, or maybe it is occurring, that some religious stigmas could be seen by the community as now immoral?

The Hon. TREVOR KHAN: Before that is answered, I am going to take the point of order that I did before. This is well and truly outside our terms of reference. What we are dealing with is particularly men, but also women, getting beaten up in a whole variety of circumstances and the police response to it. I do not really give a rats as to the underlying circumstances of, in a sense, 200 years of Australian history. I think we should concentrate on the nuts and bolts of this, otherwise this Committee will split into a thousand pieces and we will achieve nothing.

The Hon. MARK PEARSON: It is a simple question, and it is asking a question about the underlying—

The Hon. TREVOR KHAN: Let me just add, I have had arguments with my school over their position, and I have been on radio and whatever else. I have a position on this, but it does not help this inquiry and I think it is really dangerous.

The CHAIR: You have made your point.

The Hon. MARK PEARSON: To the point of order: Mr Khan is not the witness. This witness is an expert and I am asking a very simple question, which I think strikes at the fabric of our society and how society mores change. It is a simple question about that particular point, flowing on from the Hon. Greg Donnelly's question.

The Hon. GREG DONNELLY: I am following on from Ms Fachrmann's question.

The CHAIR: Mr Khan is entitled to raise a point of order about the question. I uphold the point of order. We are going well outside the terms of reference. I think all members have explored quite a bit outside the area. We will come back to the specifics of why you are here today regarding your research on violence.

Dr GEORGE: Thank you.

The CHAIR: Our time has now concluded and that is the end of that very informative session, we appreciate it. You took quite a few matters on notice.

Dr GEORGE: Yes, I did. Hopefully, there is a list that will be provided to me.

The CHAIR: You will have a day or two's work to do for us.

Dr GEORGE: I have some homework to do.

The CHAIR: The secretariat will be in touch with you about what you took on notice, you do not have to remember it. You have 21 days to get that information back to the Committee. You may receive some supplementary questions, of which we have to approve. Thank you for coming in, we appreciate the work you do.

(The witness withdrew)

WILLEM de LINT, Professor in Criminal Justice, College of Business, Government and Law, Flinders University, before the Committee via Skype, affirmed and examined

DEREK DALTON, Associate Professor, College of Business, Government and Law, Flinders University, before the Committee via Skype, affirmed and examined

The CHAIR: Before I welcome the next witnesses, I remind everyone watching that today's hearing will contain information about violent crimes committed against the LGBTIQ community. This may be distressing and if people need assistance I encourage them to seek support from counselling services such as QLife, ACON, and Lifeline. Contact numbers for those can be found in the brochures at the back of this hearing room or on the inquiry's website. Would either or both of you like to make an opening statement to the inquiry? We have your submission.

Associate Professor DALTON: I will go first. I will say a couple of things and then Professor de Lint will also contribute a few points. I would like to start off by reflecting on the ACON report that had, as part of its title, "pursuit of truth and justice". I would like to respectfully remind the Committee that ACON do not have the monopoly on these two important concepts. Our report was also conducted in pursuit of these two very important ideas—truth and justice—and we feel this is not properly acknowledged by some of the sentiments that are circulating post-Operation Parrabell.

Secondly, I would like to stress that these deaths weighed very heavy on our minds as we were conducting this report. We had to live with being immersed in very traumatic and confronting material. We took it profoundly seriously. We took an awful lot of time and energy to prepare our report. I would stress, just as a matter of clarity and not in any way to berate the NSW Police Force because they had a very limited budget, that for every hour we were payed, we spent approximately an additional eight hours putting our report together. It was a very lengthy, very onerous process.

Professor de LINT: I would like to add that generalising across a period of 40 years is a perilous undertaking. The Committee will be aware that there have been many social and cultural changes over that period of time. There have been many transitions in police and policing, in law and legal instruments, and so it is quite difficult to try to generalise across a period of that enormity.

The CHAIR: You make that point in your submission to us and thank you for that. Certainly, we appreciate the weight of what you have had to do. We are going through the same process as an inquiry in terms of the gravity of the situation of what we are dealing with. Just to be clear, you critiqued Operation Parrabell or you offered it?

Professor de LINT: We did a review of the cases. Looking for evidence or confirming evidence of bias: That was our brief. It started out as 88 cases but actually we looked at only 85 because a few of them were excluded. We looked at them to determine whether or not the attribution of bias that was provided made sense to us.

Associate Professor DALTON: To add something additional to what Professor de Lint said, it is also true, Shayne—I guess you are right—to construct this as the police prepared an initial document in consultation with us and then, at some point, a line in the sand was drawn and we responded to their initial document, if that makes sense.

The CHAIR: Is your work incorporated into the Operation Parrabell report?

Professor de LINT: If you look at the report, there are two reports. The first part of the document is theirs. They have a report that ends, if you look at the bound copy, at page—

The Hon. NATALIE WARD: Forty-six.

Professor de LINT: Forty-six, correct, and ours starts at 47.

Associate Professor DALTON: Might we say, and once again this is not in any way to disparage the police, we always knew that they would write some sort of text that would come before our report, but we were a little surprised, if we are honest, when the report came out that their section was actually so lengthy and included graphs and all sorts of information; we thought it was going to be much more concise.

The CHAIR: Thank you for that information and clarifying that for me in terms of your role with that report.

The Hon. TREVOR KHAN: Good morning. What was the process? Were you provided with the documents that the police had access to in assessing these 88 cases? What were you given?

Associate Professor DALTON: We were provided with lengthy case summaries that ran off into many, many pages that would summarise relevant documents or items that the police had consulted from the archives. They might have been statements from witnesses, forensic pathology reports, comments from detectives, crime scene photographs, although they proved to not be relevant. They were summary documents but what sat behind those summary documents was a process where the police extracted relevant information from their archive boxes that were full of material.

The Hon. TREVOR KHAN: Or perhaps not full of material. At least my impression was that in many cases the documents that were available to them were quite scant in terms of—

Associate Professor DALTON: No, I would challenge that and say in some cases that was true but not in many; I think "some" would be a more accurate description.

The Hon. TREVOR KHAN: Right. Are you able to give an assessment as to how many of them appeared to be deficient in terms of their documentation?

Associate Professor DALTON: Can you elaborate on what you mean by that? We are happy to answer but—

The Hon. TREVOR KHAN: You have characterised it as "some" as opposed to "many". I suppose I am asking you to take an educated guess and say what percentage of the 88 were deficient in terms of their documentation? Let me just preface this: I know that the way police kept records and what they actually recorded back in, for instance, the 1980s was very different from how it was in—

Associate Professor DALTON: Yes, in contemporary times.

The Hon. TREVOR KHAN: —2011 when I ceased practice. The volume of material was much less in the early days.

Professor de LINT: I interject here and say that the brief for us that we were going to take the information—There were two stages: the investigation and then the Operation Parrabell team would develop summaries. We analysed from those summaries. We did not look at whatever level of cases in terms of information, whether they were boxes on just a couple folders.

The Hon. TREVOR KHAN: I accept that.

Professor de LINT: Right. That was established early on with respect to our terms of reference.

The CHAIR: How did you go about identifying gay bias in the historic assessment of those crimes, recognising that gay bias would be a cultural thing inside the organisation. I would not imagine it was documented. How did you identify it or not identify it?

Associate Professor DALTON: That is right, in terms of whether it was documented. That is crucially important factor because an archive, as I said in our report, can yield only something that was counted or identified and noted. We both looked at what the police had to say but we devised our own instrument. Of course, it was fascinating because often despite having pages and pages of information, it was very difficult, of course, unless there had been some particular sentiment written or expressed.

Professor de LINT: We were not there to determine whether or not the police were ignoring some form of graffiti on a wall on a crime scene, which suggested that the perpetrator was homophobic. In other words, if there was such a wall at a crime scene with that graffiti on it and it was not recorded or reported by the investigating officers, we would not know that.

Associate Professor DALTON: Yes, I agree.

The CHAIR: Let us talk about the Scott Johnson case. We know documentation that there was gay bias there but the assessment of that it was a suicide within hours and the crimes—

Associate Professor DALTON: Can I interrupt? The Scott Johnson matter, as we all know, had three coronial hearings. It was excised from our process because it was sequestered to the coronial jurisdiction. It was removed from the pile. We never received any files. No doubt, if we had it, they would have been the thickest because of the amount of information but it was not formally on the table due to the coronial process.

The Hon. TREVOR KHAN: Yes, but it is a reasonable example to use, because it is one where, if you were given the original box of documents, going back to those developed shortly after his death, what would you have had available to you that would have allowed you to draw a conclusion of bias or otherwise? All you would have had—this is not a criticism of you; it is just, in a sense, the process—was a recording of a pile of clothes found at the top of a cliff, and a conclusion reached by a senior constable—

Associate Professor DALTON: With all due respects, we would have had much more than that. We would have had a case file summary that would have run to many—perhaps dozens or 100-odd pages—that would have had all sorts of other information in it that would have been similar to the other case files that we read. So it would have been much more than just some information about whether the folding of the clothes related to suicide.

Professor de LINT: I think what you are trying to get at here is whether or not there was some errors or omissions, or even gross negligence or whatever, on the part of the police with respect to these cases. We would not be able—

The Hon. TREVOR KHAN: No, I am not asking you to draw that conclusion, but if Scott Johnson had been a case where there had not been a brother and family with a lot of money and a lot of tenacity, all there would have been, I tell you, is an original investigation which would not have gone to multiple boxes. Because all the evidence suggests that it was disposed of summarily.

Associate Professor DALTON: With all due respects, I do not think you can speculate about how many boxes they have for that case unless you have asked them.

The Hon. TREVOR KHAN: All right, fair enough.

The CHAIR: The point I was getting at is—

Associate Professor DALTON: Can I be clear about one thing from the outset. This is very important. We were not conducting a forensic audit of the content of their evidence cardboard boxes.

The Hon. TREVOR KHAN: I know that, because that was the first question that I asked.

Associate Professor DALTON: To perform that task would have required a team of, potentially, 10 people and a budget of many hundreds of thousands of dollars.

The Hon. TREVOR KHAN: You are misunderstanding why we are asking the questions. We are not seeking to be critical of the task that you undertook—far from it—but what we are seeking to determine is, in a sense, the limits of Parrabell, in terms of the police end of it, and yours. It is not a criticism of you. It is trying to work out what we have.

Professor de LINT: Can I just interrupt for one second? As I said before, if there is a methodology to determine whether or not there was, at certain times—this is too long a period of time; we are talking about 40 years and we are not capable of thinking about how that could possibly be done, with, first of all, the changes in the police force that would be relevant at the time—to ferret out whether or not there was a pocket in the police which was responsible for hiding, obscuring or un-recording or not investigating some homicides because they involved gay bias, that methodology is not in our brief. If it was possible to do that kind of methodology it would be very difficult. We would have to talk quite a lot about how you would have to go about doing that.

Associate Professor DALTON: And one would question whether it is feasible, to be honest.

Professor de LINT: Yes.

The Hon. TREVOR KHAN: I do not think that that was what I was asking. Again, this is not a conclusion by others. The nature of a bias in terms of a police investigation may not be a deliberate intent to hide. It just may be, in a sense, that they do not care. If somebody is getting rolled in a known beat the coppers may have a view, in a sense, "If you go into a beat, that is, essentially, the outcome. You take your chances." That does not involve a conspiracy by coppers. It just involves a subtle bias of uncaringness, if there were such a word. I do not your investigation would disclose that, but nor would your investigation disclose, in the case of the cases that you looked at, the level of enthusiastic forensic assessment, or lack thereof. That was partly why I was inquiring as to what you were provided with.

The CHAIR: I think you were unlikely to find a smoking gun.

The Hon. TREVOR KHAN: That is right, because there probably is not one.

Professor de LINT: I would like to add one thing. We are talking about something that changes over time. Even when you think about what "bias" means, that concrete reference is very difficult to stipulate across a number of years. It may seem that it has a constant value, but it actually does not.

The CHAIR: I accept that.

Ms CATE FAEHRMANN: Good morning. Referring to your submission to the inquiry on page 2, at 1.2, you talk about a potential further investigation:

The requisite expertise and materials required to evaluate if police have properly and diligently investigated each case would be very hard to marshal and deploy.

The last sentence of that paragraph is:

We have found the NSW police to be open to such a review taking place.

Could you expand on that, please, in terms of the type of investigation you are referring to and how the police are open to it.

Associate Professor DALTON: It was interesting because Mr Crandell mentioned to me that he would be open to performing such a task, but then we had a long, complicated discussion about it, I explained to him how we really did not have the skills, or perhaps even the time, to perform such a task. My take on this is that you would need to find a pool of people—of detectives, really—potentially from another jurisdiction, very well versed and very familiar with processes, to examine the evidence boxes or the processes, with some sort of cultural insight or knowledge of what police force investigations should or should not do. They would need to take a long, cold, hard, forensic look at it and make some determination.

The tricky think is that police officers get old, they retire, some of them die, unfortunately. The idea that we could go back in time, find the relevant officers and ask them, "Did you or did you not do X, Y and Z?" "Did you not take whatever seriously?" Otherwise, there is nothing in the archives that will reveal the answer to that question.

Ms CATE FAEHRMANN: Some of the witnesses have come before us urging something like a royal commission into this.

Professor de LINT: A royal commission could go a long way. It is up to the people that have the funding and interest to do that. It is a possibility. The problem is that I think the terms of that kind of royal commission would have to be much more stipulated than the one that you have.

Ms CATE FAEHRMANN: Yes.

The CHAIR: Can I go to the Ross Warren case? Did you look at that one?

Associate Professor DALTON: Yes.

The CHAIR: How did you approach the huge amount of correspondence from the mother, with no responses from the police about her missing son?

Associate Professor DALTON: Off the top of my head—it is complicated for us because we are being asked questions in real time and there is a transcript—I do not recall, in terms of the case file and what we had to do, there being much of a mention of that sort of investigative detail. I do not necessarily see, in terms of how we are to determine whether bias was involved, the relevance.

The CHAIR: You would have to presume either incompetence or bias that the correspondence was just ignored for years.

Associate Professor DALTON: We cannot comment because we do not know. That was not part of our brief. That may well be true but we do not know, sorry. We cannot help you with that one.

The Hon. TREVOR KHAN: My understanding, from a meeting that I attended with police—and a bevy of others—was that, in essence, the competence of the investigation was not what Parrabell was about: that its terms, essentially, were limited to seeing if bias could be determined on the basis of what was there.

Associate Professor DALTON: That is a fair assertion, yes.

The Hon. TREVOR KHAN: I hope so. If that is the case, again we go to the question the Chair asked in regards to what you were asked to look at. In the sense of the Warren matter, you were only given part of the story.

Associate Professor DALTON: No.

The Hon. TREVOR KHAN: No?

Associate Professor DALTON: This is very difficult in real time without having seen the questions that you would put to us. There was a lot of information in the case file relating to Warren—information that would be relevant to helping us determine bias—but that information about a relative making inquiries or assertions about police inactivity would not be.

Professor de LINT: This goes back to what I was saying before with respect to the case summaries.

The Hon. TREVOR KHAN: Yes.

The CHAIR: Yes.

Professor de LINT: We are given information by the police. The police have their own team, the Parrabell team. They are separate from the investigators who were involved so this is another layer. The assumption—we will call it an assumption; it is an assumption; and it is an assumption that you might be right to contest—is that when we received that information the Parrabell team also was concerned whether or not there were missing pieces or gaps that suggest there may have been lapses, that suggest that there was bias that was there that was not otherwise discovered. In other words, we are taking from that information. We are not investigating behind it.

The Hon. TREVOR KHAN: No.

Professor de LINT: Certainly, if you had a royal commission or whatever, you could investigate behind that, or if, as we mentioned in our report to you on the point that you just raised, they could have investigators from another police service or what have you look into these matters.

The Hon. MARK PEARSON: Did you ever become suspicious that information was actually being withheld from you?

Professor de LINT: No.

Associate Professor DALTON: No.

The Hon. TREVOR KHAN: You see, I suppose I am not being critical of the police who prepared the summaries because, again, my understanding is that their direction was to look at the issue of bias in the crime, not the quality of the investigation, which may have in fact reflected another bias; that is, the bias of the cops.

Professor de LINT: That may be or it may not. I think we have to really think about it. We made reference to it in our report. Often times in homicides there is a bit of a hand-off between different players or actors. You have a person who comes across the scene and then it is handed off to somebody else, and then there is a homicide investigator that comes into the picture. In that you have to think: How is the bias maintained across those hand-offs? It may well be that the bias is maintained; the bias is covered up, or the original non-recording of an investigatory item that could suggest bias was not provided—

Associate Professor DALTON: Or overlooked.

Professor de LINT: —or overlooked. That is a possibility.

Associate Professor DALTON: I am sorry to interrupt, but I have just been thinking about some of the cases. I know certainly Warren. There is a whole lot of them that are extremely controversial and there is almost a bit of a cloud of mystery that hovers over them, but I would like to stress to the Committee in terms of the cases we have read, there are also many, many other cases where they were fairly cut and dry in the sense that there was no real mystery to them. I am not comfortable giving you examples off the top of my head, really, other than I can allude to one case where the court found that the homicide was self-defence. It was one stab wound, I recall, after a sexual advance was not welcome. There was no real sense or any suggestion anywhere that that was anything other than what it was—self-defence, not a gay hate homicide. If one was to conduct some sort of royal commission there would be a whole lot of cases that—

Professor de LINT: Can I make a point here? We are not looking at all of the other homicides in New South Wales in this period. With respect to how diligent the investigators may have been with respect to causes of the act or the motivations behind the actors, in order to suggest that there is a differential regard for elements of the crime with anti-gay homicides versus other homicides, we would need to know something about those other cases. We would need to compare the level of diligence or the kind of investigations or the nature of the

investigations against those other cases. That is not something that we have done or the police have done, or any investigator that I am aware of has really done in terms of all of these cases.

The CHAIR: That is a very valid observation in terms of getting an academic approach to understanding what happened there.

Professor de LINT: Yes. In other words, making observations about this particular cohort—

The CHAIR: In isolation.

Professor de LINT: —and making any kind of generalisation about what the police were doing with this particular cohort is almost impossible outside of understanding what they are doing in all the other cases.

The CHAIR: I accept that. I think one of the issues here is that expectations were raised quite significantly in terms of this report being a reinvestigation.

Professor de LINT: Which is wrong. It never was that.

Associate Professor DALTON: It was never construed as a reinvestigation.

The CHAIR: I think community expectation was different.

The Hon. GREG DONNELLY: Gentlemen, thank you for making yourself is available. Thank you for your detailed submission, which we have in front of us. Do you have your joint submission close by or in front of you?

Associate Professor DALTON: Yes.

The Hon. GREG DONNELLY: Can I take you to page 7, which is towards the end of your concluding comments. I will do it altogether—your 5.4, 5.5, 5.6 and 5.7.

Associate Professor DALTON: I have 5.7, yes.

The Hon. GREG DONNELLY: No. It is page 7.

Associate Professor DALTON: Yes. We are on page 7.

The Hon. GREG DONNELLY: It is point 5.4, 5.5, 5.6 and 5.7. I will wrap them all up together. It might just make it a bit easier. Do you want to elucidate on any aspects of what you say in those points? You obviously make particular and rather clear comments and views, but is there anything you wish to add to what you have said in those four points?

Professor de LINT: Yes. In terms of 5.5, we do not have any information of any comparative study with respect to Sydney and comparable cities in terms of the level or extent of anti-gay bias homicides. If someone has that, it would be news to us. We have not actually seen that. The reason that that might be, if what I am saying is true, is that it is very difficult to do any kind of comparison because, first, you have to have the same kind of measure in terms of trying to attribute a bias crime to an event. As we discussed in our report, that can be a really problematic undertaking. Secondly, of course, there are differences in legislation and in culture that will have relevance to the attribution of bias.

The Hon. GREG DONNELLY: One witness before this inquiry either on the first day of the second day made a very unequivocal statement: That they believe the number of homicides was well above the 85 or 88 that we were talking about in the course of some exchanges we had during their evidence. Is it your evidence that there is no evidence?

Professor de LINT: Yes. In terms of how many cases of anti-gay bias homicide there was in that whole period that you are talking about, we cannot deduce. There is no evidence that supports any number.

Associate Professor DALTON: Because the million-dollar question is: How many outliers are there? How many homicides between that period, that were not included in the list of 88, might be gay bias related? And that number is—one would have to speculate.

Professor de LINT: The police did not go through all of the homicides in that period to look at whether or not there was a chance of some of the whole number needing to be included in terms of anti-gay bias, so we do not know.

The Hon. GREG DONNELLY: Time is running out. The second sentence in point 5.6 reads:

Not all of this is related to homophobia; some of it is related to lifestyle and proneness.

Can you elucidate on those two points?

Associate Professor DALTON: To be very clear, and that is why we put the footnote in our report, we are very aware that people use the term "lifestyle" in a very pejorative way like the "gay lifestyle" and very nasty, but what we meant here is—and it relates to kind of the routine activity theory—one might be a person who leaves a pub or a venue late at night, walks back through the inner city, perhaps a little bit intoxicated as anyone could be who has been to a pub, and therefore is in a position of vulnerability where a potential gay basher, et cetera, might assail them. It is not about victim blaming; it is just to account for, you know, if you are another person in the suburbs who is home in bed at 9 o'clock at night, you are safe from such predation.

Professor de LINT: In other words, in certain urban areas where there are congregations of young men who may or may not be intoxicated, those are lifestyle values and proneness values in terms of assault and crime. We know generically speaking that there is going to be a lot more—

The Hon. GREG DONNELLY: That is tied into your second sentence in point 5.7 that reads:

If that assumption is made, it is still open to find that those homicides may also be related to lifestyle as well as or instead of bias.

Professor de LINT: Yes. You have to try to disaggregate the proneness to violence in being in a particular place at a particular time because we do know there is a relationship between violence and crime and time and place.

Ms CATE FAEHRMANN: I am particularly interested in your research around why you have separated anti-gay bias and paedophilia. You suggest there were 17 or 20 attacks that were anti-gay; however, you are not including in that paedophilia. Although, of course, in the 1980s and 1990s, as we know, it was largely an accusation thrown at all homosexual or gay men that in fact they were paedophiles. Why would you not include the attacks on people who were alleged to be paedophiles and that is why they were attacked?

Professor de LINT: Can I just answer that quickly?

Ms CATE FAEHRMANN: Yes.

Professor de LINT: We were saying as a matter of public policy there is a distinction between someone who has an animus towards someone because they think they are a paedophile and someone who has an animus towards someone because they think they are gay. That to us is an important public policy.

Ms CATE FAEHRMANN: I understand that as an important policy point for 2018; however, this is looking historically. You could imagine—"imagine" is not a good word to use—in say 1989, if a man coming out of a beat was set upon and murdered and the attackers said they thought he was a paedophile, would you not have expected that that would be a reasonably common view by some of the perpetrators that all gay men were paedophiles at that time, regardless of the public policy?

Professor de LINT: It may also be a question whether the perpetrators in these cases, whether those individuals themselves were abused by adults as adolescents or children. The research suggests that quite a few individuals do get molested. Where people are drawing animus from—in other words, what kind of experience individuals are drawing animus from—is a very live question and it is difficult to attribute.

Associate Professor DALTON: We always had to look for evidence that that was the case because I think we could all agree as a generalisation that the further back in time you go the more likely it would be that a man would perceive gay men to be also synonymous with paedophiles, rock spiders or whatever euphemism you want to use. But to assume that all men back in that period would be very dangerous because for some men they would just go, "A homosexual man is a homosexual man period" and there would be another class of person who would say, "A homosexual man is synonymous with a paedophile, rock spider" or whatever the term is, that would be related to their individual characteristics, education, background, class and all sorts of things. To be very clear, we only were keen to disaggregate the idea of the anti-paedophile if we saw evidence of it in the case files, and often there was. We did not think it was helpful to just go, "Okay it is one and the same as anti-gay bias. Let's just count it as anti-gay bias." We thought the distinction was worth preserving.

Ms CATE FAEHRMANN: So there was enough evidence, I think you say, in 12 of 29 cases in which you found motivation on a categorical bias that the offenders expressed animus towards gay paedophiles.

Associate Professor DALTON: To be clear, expressed animus to what they perceived to be gay paedophiles. You know, whether or not these men in fact had been convicted of paedophile offences or were factually paedophiles is a matter of summation, but what was important was what was motivating the hatred. As we know, there were some terrible cases where that was the logic at play. Does that help?

The CHAIR: There is plenty of evidence from people who survived bashings that part of that process was being called a paedophile.

Associate Professor DALTON: I think we can all agree on that, yes.

Reverend the Hon. FRED NILE: Have they ever tried to separate the cases that were based on a misunderstanding?

The CHAIR: That is what Ms Faehrmann's question is about. Gentlemen, can you hear Reverend the Hon. Fred Nile's question?

Associate Professor DALTON: No, sorry. It was not very loud.

Reverend the Hon. FRED NILE: In trying to establish the motivation of the people who attacked a person, has anyone ever tried to say that some of these attacks were based on the mistaken idea that they were a paedophile, not just a homosexual?

Associate Professor DALTON: Yes, the case files—

Professor de LINT: We were not aware of this before, sort of the morning of the press air, that the police themselves now have in one of their tables "motivation".

Associate Professor DALTON: Yes, they did, from memory.

Professor de LINT: On page 37 they have got 8 per cent that they have attributed to paedophile revenge.

Ms CATE FAEHRMANN: Where it says "motivation", if motivation is from the perpetrator, they say to the police at the time, "I thought he was a paedophile"—

Associate Professor DALTON: They might not say it that directly but there would be some sort of sentiment expressed or—

Ms CATE FAEHRMANN: I want to finish my question so it is really clear. Have you removed those from the anti-gay bias because they have referenced paedophilia or did there have to be evidence that in fact the victim was indeed charged with paedophilia?

Associate Professor DALTON: No, we did not. If the sentiment was, "You're a rock spider, you're a paedo", whatever the term was, that was it. The secondary question of the validity of that assumption was not relevant.

Ms CATE FAEHRMANN: And they were removed from the report. In terms of your numbers, therefore, they are not in the anti-gay bias numbers?

Professor de LINT: The people that are in the anti-gay bias numbers are those perpetrators who we thought demonstrated beyond a certain threshold that they had an anti-gay bias as opposed to an anti-paedophile bias. That is stated in a few of the cases.

The Hon. MARK PEARSON: But in the police summaries in the report, they would distinguish quite often that it is not a gay-bias crime and then conclude it is a paedophile-bias crime.

Professor de LINT: No, I do not think the police were doing that to a large degree.

The Hon. MARK PEARSON: Would you repeat that?

Professor de LINT: They were providing us with summaries which included comments as Associate Professor Dalton just mentioned.

Associate Professor DALTON: In fact, I am trying to be very accurate here because it is important to be accurate. My sense is the police would often, for argument's sake, identify a case that involved the paedophile sentiment as bias. We came along and we pretty well said, "Yes, we agree it is bias but we think it's a slightly different category of bias, hence the anti-paedophile." Does that make sense?

Reverend the Hon. FRED NILE: No.

Associate Professor DALTON: To be clear, to try to be accurate about this, you could almost really say our anti-gay category plus our anti-paedophile category get collapsed and for the purposes of what we did they were both counted as forms of bias.

Professor de LINT: There is a problem with bias that comes up. I do not know how many of the perpetrators but a number of the perpetrators had at least a question mark in terms of whether they were themselves gay or not. It is very difficult for us to know motivation but the bias literature discusses the problem of bias against one's own—

Associate Professor DALTON: Conflicted sexual identity.

Professor de LINT: Yes, basically a conflicted sexual identity.

The CHAIR: Did you exclude motivations like robbery and assault?

Professor de LINT: There is another problem.

Associate Professor DALTON: Robbery gave us so many headaches. There is a long footnote in our report that you can refresh your memories and read later about robbery. We quoted some literature from America. We had constant discussions with the police about it because for police purposes often if robbery is the intrinsic motivation some of these other factors are somewhat secondary. You can imagine how complicated it gets. You rob someone in the middle of Centennial Park and they happen to be Asian. Is that robbery because you are after their goods and their money or is it an anti-Asian sort of crime? Unless someone says something expressively— I wrote in our report that robbery is such a problematic concept that it just really muddies the waters.

Professor de LINT: In other words, we were much more comfortable where we saw associated proactive actions in terms of the offenders, or perpetrators, where the offender has gone out of his way to put himself in a situation where he can subordinate some other person on the basis of their perceived identity.

The CHAIR: It goes to your point about lifestyle. We had evidence that rolling gays in a beat was equivalent to going to an ATM to get cash: they are soft targets and they are not likely to go to the police.

Professor de LINT: That is right. It is a very difficult one because what happens there is: is the primary motivation related to an anti-gay bias or is it a question of proneness and vulnerability? As you just said, these are the softest targets for this particular crime.

Associate Professor DALTON: Of course, the further back in time we go the more likely that was to occur, particularly prior to decriminalisation or when there was a period when being outed would cause more problems. We could all agree that a lot of the victims of those men were not exactly going to present themselves at the police station to make a report.

The CHAIR: Our time has ended. It has been very informative to have this discussion with you. Thank you for your time. You may have taken some questions on notice.

Associate Professor DALTON: Our sense is we did not take anything on notice.

The CHAIR: We will check that. If you have, you will have 21 days to respond. The secretariat will let you know. We appreciate the work you have done and the time you have given us today.

Associate Professor DALTON: We appreciate the opportunity to contribute too. Thank you.

(The witnesses withdrew)

(Short adjournment)

The CHAIR: Welcome back to the inquiry into gay and transgender hate crimes between 1970 and 2010 being conducted by the Standing Committee on Social Issues. I now welcome our next witnesses, Dr Andy Kaladelfos and Associate Professor Shirleene Robinson. Thank you for taking the time to come here today to give evidence. Before you are sworn in, I remind everyone watching that today's hearing will contain information about violent crimes committed against the lesbian, gay, bisexual, transgender, intersex, queer [LGBTIQ] community that maybe distressing. If you need any assistance I encourage you to seek support from counselling services such as QLife, ACON or Lifeline. The contact numbers for these services are available on pamphlets at the back of the Committee room or on the Committee's website.

ANDY KALADELFOS, Lecturer in Criminology, School of Social Sciences, University of New South Wales, affirmed and examined

SHIRLEENE ROBINSON, Associate Professor, Honorary Research Fellow, Discipline of Modern History and Politics, Macquarie University, and Historian, affirmed and examined

The CHAIR: The Committee has received your submission, No. 19, which we appreciate. Would either or both of you like to make an opening statement to the inquiry?

Dr KALADELFOS: Thanks. We have a statement here; we will do it together.

The Hon. TREVOR KHAN: Line by line.

Dr KALADELFOS: Line by line, that is right; in a round. Firstly, I wanted to thank you for asking us to present this testimony to you this morning and to expand on the issues that are included in our submission. I will give some background about me, Dr Andy Kaladelfos. I am an historian, a criminologist and a lecturer in criminology at the School of Social Sciences. I am an expert on research into sexual and gender-based violence and criminal justice processes.

Associate Professor ROBINSON: I am Dr Shirleene Robinson. As I noted, I am an historian who co-authored *Speaking Out: Stopping Homophobic and Transphobic Abuse in Queensland*, which was the largest study of homophobic and transphobic abuse conducted in any jurisdiction.

Dr KALADELFOS: The issue of LGBTIQ hate crimes is a very serious one for our community. Both of those are members of the LGBTIQ community and our allies and of course the wider public. We commend you first for calling this inquiry and for taking these issues very seriously.

Associate Professor ROBINSON: I would like to emphasise the importance of understanding as fully as we can the scale of homophobic and transphobic abuse in New South Wales' past. Homophobia and transphobia have significantly marred the lives of too many people in this State and indeed across Australia. We are speaking today because we know that hate crimes have led to lives being lost and grieving relatives and families being denied justice. We know that prejudice still continues to blight the lives of many LGBTIQ people today, but there are steps that can be taken so that the historic impact can be assessed.

We emphasise that a wide range of studies in Australian jurisdictions have shown that LGBTIQ people are less likely to report instances of abuse to the police. Therefore, to fully understand the scale of this issue, there is a need to conduct a large-scale survey of the LGBTIQ population across New South Wales to consider just how substantial the issue of underreporting of abuse to police has been and continues to be. Such a survey should consider both abuse experienced personally and also take into consideration the accounts of those who witnessed abuse but did not report to police for a variety of reasons, including a distrust or fear of police.

Dr KALADELFOS: In our estimation this inquiry could have at least two really important outcomes. The first is what Associate Professor Robinson has been noting about addressing the historical injustice, which is the core business of this inquiry about investigating deaths and other hate crimes that have not previously been examined with the rigour that was needed or the acknowledgement of the harms done to gay and transgender people in the past.

The second question is: What do we do from there if we acknowledge those wrongs? How do we right those wrongs in the past? We make a number of recommendations in our submission about that. How do we provide restitution for victims of hate crimes, their families and communities? Secondly, thinking about the contemporary relevance, how do we mend the relationship between police and LGBTI communities that have so clearly been strained by past and present injustices or the cultural memory of that injustice? Given that people

from those communities, as Shirleene noted in her points, and most worryingly young people in those communities who were surveyed say that many of them will not report offences to police for fear of homophobia and transphobia.

What we describe in our submission and what I have read in some of the other submissions is the experience of marginalisation of queer communities, of past criminalisation of those communities and of contemporary consequences. We have a chance to make a lot of positive changes in that regard so that we do not have to have another inquiry in 30 years time because today's victims are feeling unsafe or feeling unsafe using our current justice mechanisms.

The CHAIR: Thank you for your opening statements. Professor Robinson, historically, have we failed to capture data on transphobia and violence against transsexual people?

Associate Professor ROBINSON: Yes, I think there are two issues. There is an issue of under-reporting, for reasons we can expand on. But members of the LGBTI community quite broadly are far less likely to report instances of abuse and that has been the case historically. There is also a related issue that when abuse has historically been reported, it has not perhaps been labelled as hate-motivated crimes and investigated properly in that particular way. There is a need to make sure that we remedy those errors of the past. The study that I did in Queensland found that 72 per cent of people from the LGBTI community had experienced homophobic or transphobic abuse, yet 75 per cent of people who had experienced that abuse did not report it. That survey was conducted and published in 2010, so very recently we are seeing there is that reluctance to engage with the reporting process.

Dr KALADELFOS: I did some research for this Committee on the reporting of transphobic violence and the experience of transphobic violence. The first government report that I found was one by Roberta Perkins in 1994. That was the first government-funded report and she was obviously the creator of the Gender Centre. She found very high rates of sexual violence among transgender women and the report distinguished between transgender women who were sex workers and those who were not sex workers. She found 46 per cent of those who were sex workers had experienced sexual violence and 26 per cent of transwomen who were not sex workers had experienced sexual violence. That shows us that at least since 1994 there has been some level of government knowledge about this problem amongst transgender populations. There have been a number of other studies thereon. I would say most of them are in the realm of health or mental health. That is where we find a lot of the reported statistics rather than in criminal justice studies, which is part of the problem why we do not know what we need to know about that population.

The CHAIR: I recall one transgender sex worker in east Sydney being murdered about a decade ago. Would that have been recorded as a transgender hate crime or would it have gone into the category of a sex industry-related murder?

Dr KALADELFOS: I think that is one of the issues of hate crimes and the intersectionality of these communities. I am sure Shirleene can speak to this too.

The CHAIR: We had that conversation about categorising crimes with representatives from Flinders University.

Dr KALADELFOS: The definition of "hate crime" is so broad, as is the definition of gender violence. This is the issue. When we are dealing with a marginalised community, especially like transgender people, there are so many different intersections that can be occurring in those communities. They could also be of Aboriginal background or other types of background that make them more vulnerable to violence. You found the same thing in the Queensland study.

Associate Professor ROBINSON: Absolutely. We found in the Queensland study that the transgender community was most likely to have experienced abuse. For example, 92 per cent of transgender people had experienced abuse in their lifetime, which is a staggering statistic when you take that into account.

Dr KALADELFOS: It is the ceiling level in most studies.

The Hon. TREVOR KHAN: It is chilling. I am not being critical, but you are using the term "abuse". Andy, you are using the term "violence".

Dr KALADELFOS: Yes.

Reverend the Hon. FRED NILE: That was going to be my question.

The Hon. TREVOR KHAN: Sorry. There is a difference. Certainly I would perceive it as different. I hate the term, but are you able to drill down into what you identified? For example, calling somebody a "poof" on the street, I do not think they are going to run off to Darlinghurst police station and complain; you are unlikely to get a very positive response. But an assault on Oxford Street is worthy of being reported. Are you able to give us greater detail in respect of what would be a reportable crime that was unreported?

Associate Professor ROBINSON: Yes. I can provide full statistics later. As part of a survey we did go through a comprehensive scale of, as you say, verbal interaction, which could be quite commonplace, I imagine, for a lot of people to have experienced.

The Hon. TREVOR KHAN: I am not belittling them.

Associate Professor ROBINSON: As you say, there is an issue. Most people would not feel they would go to the police station to report that. As we go through such things as physical attacks, sexual attacks, there was still a reluctance on the part of our respondents to report that and we compared it to other non-LGBTIQ populations. There was a difference in that willingness to report what we would consider to be quite serious crimes. The book *Speaking Out* goes into some detail and separates that data, so I can provide further statistics to the Committee.

The Hon. TREVOR KHAN: It is clear that in respect of LGBTI youth they are likely to suffer more levels of violence, including in the school environment. Again, the likelihood of reporting in the school environment is low for a variety of factors. Are you able to differentiate youth from adults in respect of exposure to violence and reporting?

Associate Professor ROBINSON: Yes. The study that I am referring to, the Queensland one—Andy may draw on other data from New South Wales—

Dr KALADELFOS: I have the stats here.

The Hon. TREVOR KHAN: There we go.

Associate Professor ROBINSON: Fantastic. For the Queensland study we only interviewed people or took responses from people over the age of 18. It was a population of people talking about abuse they had experienced in the last two years and then over a course of a lifetime as well. We were able to draw quite distinct conclusions.

The Hon. TREVOR KHAN: I am not being negative about the research.

Associate Professor ROBINSON: It is good to clarify that. They are very good points. It is good to talk about the distinctions of the types of abuse people can experience as well as investigate a path forward, which is what we are keen to do.

Dr KALADELFOS: Much like "hate crimes", the words "abuse" and "violence" have a wide variety of meanings. Even the word "bullying" in the school environment could involve a physical altercation that could be classified as bullying. The statistics that Associate Professor Robinson referred to in *Speaking Out: Stopping Homophobic and Transphobic Abuse* relate to physical violence. That is, 46 per cent of transwomen in the study and 36 per cent of transmen had experienced physical assault with a weapon, and 46 per cent of transwomen and 45 per cent of transmen had experienced sexual assault without a weapon. They are just two of the statistics. In the other trans studies, nationally and uniformly at least 20 per cent of transpeople report having experienced physical violence in the past year, which most of those studies cover.

Reverend the Hon. FRED NILE: We are focusing on violence and how people have been bashed and so on, and you keep using the word "abuse".

Associate Professor ROBINSON: We talked about that a little. Dr Kaladelfos just provided some statistics.

Reverend the Hon. FRED NILE: But is abuse at a lower level?

Associate Professor ROBINSON: Not necessarily. There is certainly verbal abuse, but we can separate that data. I am happy to do that and I think Dr Kaladelfos' statistics provide that indication. The levels of physical abuse that members of the transgender community experience are vastly out of line with what members of the heterosexual community experience. It is quite a notable difference. Even if we really get down and start talking about levels of sexual and physical abuse and so on, you can certainly see things that we would define as a crime

under New South Wales law are much more likely to impact on the transgender community and other members of the LGBTIQ community.

The CHAIR: Is that research contemporary?

Associate Professor ROBINSON: Yes. The statistics that Dr Kaladelfos was talking about from the work I did relate to research conducted in about 2010.

The CHAIR: We are looking at historical trends in hate crimes.

Dr KALADELFOS: Yes.

The CHAIR: The figure for under-reporting in that community, the trans community—which was very marginalised then and it is still marginalised today—would have been even larger then.

Associate Professor ROBINSON: Absolutely.

Dr KALADELFOS: And that is certainly what Roberta Perkins found in the original study. That is the difficulty with some of the early studies: they do not necessarily separate out transpeople's experiences from general LBGT experiences.

The Hon. GREG DONNELLY: In reference to the terminology, are "transgender", "transsexual" and "transvestite" all conflated into a single definition of "trans", or do you have a particular definition that you use for your research?

Dr KALADELFOS: It depends on the period you are talking about.

The Hon. GREG DONNELLY: I am talking about the research referred to in your publication. I am trying to clarify how the interviewees were invited to identify or agree to a definition they would accept.

Associate Professor ROBINSON: People could identify however they chose to identify. The statistics that I have quoted are from people who identified as transgender. They could then separate that further as transmen, transwomen or as people who did not identify with gender binary. We had significant data from that population.

The Hon. GREG DONNELLY: So the definition you use for the purposes of research is "transwomen" for men to women, "transmen" for women to men, and then non-binary?

Associate Professor ROBINSON: Yes, but there were some respondents who did not identify with that distinction.

The Hon. GREG DONNELLY: Is that the universal definition? Are there any other components? I am trying to determine the precise definition. It has three component parts; is that what you are saying?

Associate Professor ROBINSON: People who self-identified as "transgender" was the definition we accepted, which would be the working model used in social science research.

Dr KALADELFOS: The other words you used are older words that are no longer used in the transgender community. "Transsexual" is the word that Roberta Perkins used. "Transgendered" is another older word.

The Hon. GREG DONNELLY: What did that mean?

Dr KALADELFOS: It just means transgender people; it simply had "ed" on the end. It is an older type of terminology in the same way that we used to call gay men "homosexual". Those words are generally subsumed under the "trans" umbrella. Sometimes other words are used. The Victorian study we referred to in our submission used the terminology "sexual and gender diverse" people. Bianca Fileborn also contributed to the submission. That is another formulation of LGBTIQ communities that takes into account the range of gender diversity, which is what Associate Professor Robinson was talking about.

The Hon. GREG DONNELLY: It is a matter of self-identifying; that is, individuals are invited to identify against the definition. I am trying to understand. To ensure the integrity of the research, were people invited to identify against the definition you were using?

Associate Professor ROBINSON: We had ethical clearance and we went through a variety of different processes to ensure that people were not compelled to participate.

The Hon. GREG DONNELLY: No, it was all voluntary.

Associate Professor ROBINSON: It was targeted towards people from the LGBTIQ communities. If they felt that that described them, they were invited to describe their situation and experiences and how they would describe themselves. We followed that up, apart from online data collection, with in-person data collection. We also had a range of focus groups from Rockhampton to Brisbane and the Sunshine Coast. I think there was a total of eight. We did it in a variety of ways.

The CHAIR: The bottom line is that there is a contemporary experience of assaults, and historically it was probably even worse.

Associate Professor ROBINSON: Absolutely. You touched on this. There was a great deal of stigma surrounding homosexuality and being transgender in Australia's past. Obviously, as many people have said, it was not until 1984 that male-to-male homosexuality was decriminalised in New South Wales. Therefore, if someone was attacked on the basis of their sexuality or, indeed, their gender identity, they would be much less likely to raise the issue because they would feel they would not be treated with respect and might be putting themselves up for a range of other sanctions and punishments.

The Hon. TREVOR KHAN: We have jumped a bit. That is where I would like you to go. Did you do an assessment of why people have not reported and whether there is some form of historical data on that? We are dealing with the period up to 2010. I am interested in whether there is data indicating why people did not report then and why they would not report now. If you know of that material—

Associate Professor ROBINSON: We asked people in the Queensland study—Dr Kaladelfos might like to talk about other studies—why they did not report. Was there a reason for this under-reporting? It largely related to a distrust of interaction with the police. That was the primary factor; people were reluctant to come forward or to report their experiences because they felt they would not be treated with respect, and it would be not worth the personal and social costs of raising it with the police given the somewhat troubled and fraught history.

The Hon. TREVOR KHAN: Is it now an issue of perception? I refer to pre-1984. Reporting to the police might have resulted in the victim being charged, or there would have been a clear expectation of an unsympathetic response. From 1984 until some time in the 1990s, attending a beat and getting beaten up had the problem with making the disclosure that you were engaging in activities that would be unlikely to attract sympathy. Beats as frequently used now—the nature of the interactions is different with mobile phones—have a different dynamic. Is it the behaviour that discourages people from coming forward or simply an historic perception that the coppers are uncooperative?

Dr KALADELFOS: It is both things. The issue with the beat or the issue with public sex was that it could still be classified as criminal. You may have had an interest in not reporting or been fearful of the personal repercussions of reporting. Particularly in the period immediately post decriminalisation, there would have been a very significant fear of that amongst gay men and transpeople who were in those public spaces. Dr Bianca Fileborn, in her Victorian research which we discussed in our submission, they asked why did people not report offences and it was because of fear of either homophobic or transphobic sentiment amongst police. Young people were the most likely to hold those sentiments. Those people said they would like to report to a LGBTIQ liaison officer. That is the solution to some of those cultural beliefs. And there was a real belief and amongst some vulnerable communities that that belief is still pertinent to lack of trust of police.

The Hon. NATALIE WARD: You say in your submission that is particularly the case with younger people, that they are least likely to report. It refers to whether they deem it to be serious enough. Then you go on to say that is the case still; it is not the case of people living through past injustices, it is now. Can you comment and expand on that? I see your recommendations at the beginning of your submission. I am particularly concerned about young people.

Dr KALADELFOS: I think it is extremely worrying why young people hold those views. I do not know. Given the amount of outreach the police have done, I think perhaps it is not reaching the right places. That the outreach has been done with older communities who now do have a different relationship with police, maybe we need a different type of model for outreach that targets the younger communities.

Associate Professor ROBINSON: Some of the other people who have spoken have talked about the need for further training with police. The training they do receive can be quite limited. There is a need for ongoing training. But the way that young people often socialise or the spaces that they go to can be quite heavily policed spaces generally as well.

The Hon. TREVOR KHAN: That is a problem. If that is what is causing the problem—perish the thought they get involved in it—but if the interaction is essentially getting searched outside Parliament, sniffer dogs and the like—

Ms CATE FAEHRMANN: Is that a recommendation?

The Hon. GREG DONNELLY: Not from this Committee.

The Hon. TREVOR KHAN: That is a problem because whilst—I will use a shortened term—gay youth might be a subgroup of young people, it is the exposure to the more community-wide policing issue that creates the distrust as opposed to sexuality, is that right?

Dr KALADELFOS: I think that was a Victorian study and my understanding generally of the queer community in Victoria is that it is located in far more spaces in Melbourne than you would have here. It is not the one location of Oxford Street. The point you are raising is important to the wider practices of policing and how young people are perceiving those, particularly young people within marginalised communities perceiving those.

The Hon. MARK PEARSON: Did the study reveal that people feel unworthy? As part of their self-esteem: "I am not worthy of reporting that to the police. Maybe I deserved it."

Dr KALADELFOS: The shame aspect to it. I cannot recall in Dr Fileborn's study if they looked at that particular issue. They definitely looked at the issue of minimisation. You said before that people did not think the crime was serious enough.

The CHAIR: They blame themselves.

Dr KALADELFOS: Blame themselves or blame the circumstances. I think there are a lot of parallels, to be honest, between this and sexual assault and the way that people internalise shame in relation to experiencing violence.

Ms CATE FAEHRMANN: With respect to the LGBTIQ awareness training, we had a number of witnesses who have suggested that needs to be far more wide reaching and perhaps all of the force, and also longer and perhaps more in depth. I want to go back to trans experiences and transphobia within the Police Force. You have not focused on that. Are you aware of the contents of the training and whether there is enough even for the gay and lesbian liaison officers [GLLO]? First, could the existing training around transphobia be improved?

Dr KALADELFOS: I am not aware of the content of the training. I know amongst trans communities there is much fear of police. For example, the Transgender Day of Remembrance celebration the other week, in the community there was much talk about why police were there. People did not want to attend because they were fearful of police. That problem is very much still contemporary in that community.

Reverend the Hon. FRED NILE: You made a comment about differences between Melbourne and Sydney. Has there been any research in comparison; you have mentioned Queensland. Is there variation between Sydney, Melbourne, Brisbane? Is Sydney especially more violent than anywhere else in the Australia? Have we got special problems in Sydney?

Associate Professor ROBINSON: I think there would need to be a national study. I think that is one of the things we would like to see happen. People ask different questions at different times. It would be difficult for us to draw conclusions, given the data came in at different points and different methodologies. The study that we did used Victorian methodology to some extent with a Queensland population and found that Queensland, unfortunately because I am from Queensland, did have a higher rate of transphobic and homophobic violence. A national study would need to be conducted at the same time with the same questions for us to answer that properly.

Dr KALADELFOS: I agree. When I compared Associate Professor Robinson's stats to what else I could find from around Australia, Queensland looks like the highest, particularly amongst trans communities and also generally in the community.

The Hon. TREVOR KHAN: In terms of that study, was there an attempt to differentiate the south-eastern corner Queensland from the rest of Queensland?

Associate Professor ROBINSON: Yes. We did ask people for their postcode so we were able to map where people were most likely to experience violence. Actually, it was an interesting conclusion. It was in spaces like Fortitude Valley in Brisbane, which is a very gay-identified space, was one of the areas where people were most likely to be attacked. The Darlinghurst area as well has a history of people coming into areas and attacking community members. Certainly day-to-day life for people in areas like Rockhampton, for example, came through

as very difficult with constant fear of attack. Areas that were perceived as gay were spaces where people were more likely to be physically attacked in the Queensland research.

Reverend the Hon. FRED NILE: Whether the level of violence was higher in Sydney compared to Brisbane?

Associate Professor ROBINSON: It was dependent on the population. More people who identified with that community did live in particular postcodes of Brisbane. Certainly, I think most people experienced violence in Brisbane but that was because most people lived there. If you look at the demographic data of Queensland, the south-eastern corner is where most people live.

Dr KALADELFOS: Some of the other studies—and I cannot recall which one so I will have to supply that data later—actually showed no difference between rural and urban experiences. That is more to the point of why we need a national study. I do not think these are particular Sydney experiences or New South Wales experiences, they are national experiences.

Reverend the Hon. FRED NILE: There is a higher level of gay murders in Sydney than anywhere else in Australia.

Dr KALADELFOS: I am not sure of that issue.

Associate Professor ROBINSON: Sydney, in the time period that is being focused on, was a city that had a reputation as a haven or an area where openly gay men could come and find a community. I think that meant that it was a unique environment in many ways and you could extrapolate that there was a higher rate of violence that was experienced here. There was a more visible population, and that is reflected in the data from ACON and so forth. It makes sense when you consider that migrating population.

Dr KALADELFOS: I think that is possibly what is happening in Queensland too. Those areas you talked about are havens for people that have left the rest of Queensland.

Associate Professor ROBINSON: Yes.

The CHAIR: Thank you for your submissions and evidence and the work you are doing in this area. We will process it as part of the inquiry. There were questions you took on notice.

Associate Professor ROBINSON: The separation of data.

The CHAIR: You have 21 days to respond and the secretariat will assist you.

(The witnesses withdrew)

(Short adjournment)

STEVE PAGE, Former NSW Police Force Detective Sergeant, sworn and examined

The CHAIR: I welcome Mr Steve Page. I remind everyone watching that today's hearing will contain information about violent crimes committed against the lesbian, gay, bisexual, transgender, intersex and questioning [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 these services are available at the back of this room or on our website. Mr Page, would you please state your position or title in the context of why you are here?

Mr PAGE: My occupation is as a security manager. I am a former detective sergeant with the NSW Police Force and I led Operation Taradale.

The CHAIR: I invite you to make an opening statement to the inquiry.

Mr PAGE: If I can I will refer to some notes, just so I can keep everything in context.

The CHAIR: That is fine.

Mr PAGE: About March 2001 I started Operation Taradale. At that time I was working as a detective sergeant from the Rose Bay Local Area Command. The investigation started off initially as a result of a file that I received on my desk and attached to it was a letter from Kay Warren asking if an investigation was being conducted into the death of her son Ross. Ross had gone missing in July 1989. To this day his body has not been recovered. I could feel the emotion in the letter that Mrs Warren had sent to us. Attached to it were numerous other letters that had previously been forwarded through to various areas of the NSW Police Force asking for assistance to help her with closure with that matter. There was correspondence from a detective sergeant—I will not name him—saying, "I've received your letter. It's a serious matter. We'll give it some attention." And unfortunately nothing was really done in relation to Ross's matter.

I started to ask around because I believed that in 2001—and this was a disappearance in 1989—I questioned whether I was the right person to even lead that investigation. It was probably more appropriate to go back and find out who the police were that were originally involved, if they were still around in the police service, and hand it back to them. They had knowledge of the matter and could put it back before the coroner and finalise it. I managed to find an occurrence pad entry, which is how we recorded incidents back in that era. It outlined the disappearance of Ross. Interestingly, the flavour of the occurrence pad entry was such that it appeared to have been created after there were some media headlines in relation to the disappearance of Ross, so almost a response to the attention that it was getting back in that era.

With an occurrence pad entry, the left-hand column has the time, date, place that it was created and the number, and on the right-hand side you will outline the actions that have been taken, together with details of all of the police that are involved in that matter. It was a detective sergeant back then that created this occurrence pad entry, and several other police were nominated as assisting him with this investigation. I went to them and they had no knowledge of the matter whatsoever. My concern with that one was that it had all the appearances of being a full and proper investigation with all these police listed—

The Hon. TREVOR KHAN: But it was bodgied.

Mr PAGE: Yes. That was my take on it. And it appeared to have been created as a result, I suppose, of the newspaper headlines that were around in that era. I figured at that point in time I needed to start having a look at the disappearance of Ross and started to make inquiries in relation to the policing back in that era, just with the fact finding. I managed to find that there were other deaths and assaults back in that era. We had the death of John Russell in November 1989. Ross Warren was July 1989. His car was found parked beside Marks Park at Tamarama. His friends reported him missing to police, but again I do not think they were that confident with the response from the police back in that era so they started to do their own searches.

The Hon. TREVOR KHAN: Were these reports made to the Bondi police station?

Mr PAGE: I am not sure where that particular one was reported. My recollection is it was Paddington. Actually, it would have been Paddington because Paddington police was where the occurrence pad entry was created. So his friends drove around. They attended that beat. They found Ross's car. They did more of a search and they found Ross's keys in what can best be described as honeycombing in the sandstone at the bottom of the cliffs there—there is a cliff and then a rock platform which is used by rock fishermen and the like. One of Ross's

friends found the keys. That was then escalated back up to police. Ross was well and truly missing and really we do not know much more about what happened to him to this day.

November 1989 you have John Russell who is found deceased at the bottom of the cliffs at Marks Park. John was leaving the Bondi area. He had been out celebrating the night before. He did have alcohol in his system. He was found deceased at the bottom of a cliff. He had just come into some money with an inheritance and he was looking at moving up to his father's farm at Wollombi and building a cottage up there and he had a lot to live for. Ross Warren also was going places. He was in the media in Wollongong and was going through the process of potentially getting jobs in mainstream media in Sydney. So they did not appear to be people who were struggling and that I would have thought that suicide was potentially the most likely scenario in relation to how they came to be at the bottom of the cliff.

With John Russell's death it was left with probably the most junior member of the detectives' office at Bondi, so it certainly was not investigated as a homicide back in that era. I managed to get hold of crime scene photographs in relation to John and we could see that there was hair adhering to his hand. I thought, "That's great. There's a potential for solvability here with that." But it was lost and had been lost the best part of a decade previously. What also happened in that Bondi area, I think you may have heard evidence from David McMahon in relation to his assault in December 1989—

The CHAIR: Yes, we have.

Mr PAGE: July 1990 there was a Thai national, Kritchikorn Rattanjurathaporn. He is at the beat with a fellow by the name of Sullivan. He is assaulted by three teenage boys that I call the Tamarama Three. As a result of the assault, Kritchikorn ends up deceased at the bottom of the cliff. That is the Bondi series of events with regard to the crimes that occurred there. During my investigation I went back to David McMahon. We did a video re-enactment. David walked us through and talked through the crime that happened to him. He took us to a point on the cliff and said, "This is where I struggled and broke free." The offenders said to words to the effect of, "Let's throw him off where we threw off the other one." Unless he saw the recovery of John Russell, I do not know how he would have known about this. He was directly above where the body of John Russell was found. We are starting to get a lot more suggestions that it was not an accident and that there was foul play in relation to the death of John Russell. To escalate the investigation back in that era, I had a forensic pathologist review the crime scene photographs—

The Hon. TREVOR KHAN: Can I just stop you there? In terms of Mr McMahon, he did report the matter to the police. There appears to have been some statement taken off him. You might know that there was some issue with how he was held at the station and the like. But a statement was taken and I think he was quite positive about the officer who took the statement off him. There were not too many people going off cliffs around Bondi. Why did that not elevate a further investigation in terms of John Russell or Warren at that stage? Do you have an answer to that?

Mr PAGE: No, I do not have an answer to that.

The Hon. TREVOR KHAN: Would you have thought, "Geez, there certainly seems to be a bit of a pattern here in the immediate vicinity"?

Mr PAGE: It absolutely should have been identified back in that era. Admittedly, the cases were fractured in that one police area; the Paddington police area was doing the investigation down in Bondi. But you would think that the Bondi detectives would have and should have known about that one.

The Hon. TREVOR KHAN: They would have seen it on the news at the very least.

Mr PAGE: Then there was the death of John Russell and the assault on David McMahon. While it was fresh back in that era, they had the potential opportunity with that hair. It was obviously a significant factor at that crime scene because they took a zoomed-in photograph of the hair. It was not as if I had a broad photograph and I zoomed in on it; it was a detailed photograph of the hair.

The Hon. TREVOR KHAN: And that would have remained in the exhibit room for some period of time at the station, would it not?

Mr PAGE: That I cannot answer.

The Hon. TREVOR KHAN: There is an exhibit register, is there not?

Mr PAGE: Ordinarily there is. But this was a different process with the crime scene unit coming out and investigating that matter. It is probably more usual for them to get exhibits, bag them up, take them away and

get them straight to the labs. It should have gone into the exhibit system but it did not. There is a dispute over where the hair went. The police investigating say that scientific police ended up with the hair and the scientific police say that they would have handed it back to the officers in charge.

Reverend the Hon. FRED NILE: Is this hair he has pulled out of someone's head?

Mr PAGE: Yes. It was stuck to the back of his hand. Those who looked at it said that it was not consistent with the colouring of John's hair. We had a forensic pathologist review the photographs and the positioning of his body was not consistent with a forwards motion fall. It looks like he has gone off backwards.

The Hon. SHAYNE MALLARD: And grabbed the hair as he has gone?

Mr PAGE: Yes. From all accounts from his family he was a bit of a brawler and he probably would not have gone easily.

The Hon. TREVOR KHAN: He would not of gone quietly?

Mr PAGE: Yes.

Reverend the Hon. FRED NILE: Especially when they are heading towards a cliff.

The Hon. SHAYNE MALLARD: Continue with your statement.

Mr PAGE: Yes. Three juveniles were charged in relation to Kritchikorn Rattanjurathaporn's murder.

The Hon. TREVOR KHAN: That was the Tamarama Three?

Mr PAGE: Yes. There were several other homicides, which I am sure you have touched on, including the Alexandria murder with Johnson and the eight youths. What we were able to find with Taradale was that gangs were fluid and would move around. They would not necessarily just go to one beat and have only one fishing stop. If there was nothing happening at one beat they would go to the next. There appears to have been some crossover of the gangs. Some of the guys who were in the Tamarama Three knew the guys who were in the Alexandria Eight. Intermingled with that, there was the local gang at Bondi, the Bondi Boys. They may have mixed in with the others. Interestingly, with the assault on David McMahon, it was not just males; there were females in the group as well.

Looking back at it, the motives for the gangs were varied. With the Tamarama Three, one of the three was the victim of paedophilia as a younger child. He just could not differentiate between a paedophile male and a gay male. I think the other two from the Tamarama Three were just evil. They enjoyed inflicting pain on people and for them it was a sport. Then there were the Bondi Boys who visited the beat. Ultimately, back in that era, assaults against gays at beats were massively under-reported and it was almost a victimless crime. Predatory gangs would go up and assault victims, looking to get \$10, \$20 or \$30 to buy some alcohol and have a good night out. We certainly saw that later on in relation to some persons of interest in the Scott Johnson matter.

The Hon. TREVOR KHAN: With regard to evidence we received earlier today, how would you classify those crimes? Were the crimes motivated by robbery or were they crimes motivated by a hatred of gay men?

Mr PAGE: I think they were robberies but they were robberies of a class of people that they detested. In my eyes, it was not robbery; it was gay hate crime. It is just further victimising the victim.

The Hon. TREVOR KHAN: I think we all agree on that. Or is it robbery that takes place because there is an expectation that the men who were involved would not report because they were at a beat?

Mr PAGE: I think there were so many factors in it. There is that alpha male piece, where they are territorial and just want to be tough, they do not like gays, and it was an easy earn. There are so many things that were probably involved in those matters.

Reverend the Hon. FRED NILE: You mentioned paedophiles and a hatred of paedophiles?

Mr PAGE: Yes.

The Hon. SHAYNE MALLARD: Mr Page, have you finished your statement or have you got more to go?

Mr PAGE: I will just have a quick run through. That was it. There were policing matters that were, looking back at it with 20/20 hindsight, very unimpressive in relation to the way these cases were done. With Taradale, I did have some support from good cops back in my era, including Dick Adams, Terry Dalton and the

like. Taradale would not have existed if I did not have that backing. With Taradale, the brief of evidence was in the vicinity of 2,500 to 3,000 pages. It was quite voluminous. We are making the most of a lot of strategic opportunities to gather our evidence. One thing that we did do was I went before the management committee of the NSW Crime Commission. That was taken on and given the Wellington reference. That is something that is still available for hate crimes and they would not have closed that down. That gave me access to a lot of electronic surveillance that I would not have been able to get through traditional policing opportunities.

Ms CATE FAEHRMANN: What is the Wellington reference?

Mr PAGE: Each category of offence that goes before the Crime Commission gets its own reference name. The Wellington reference is what was given for gay hate crimes. During a re-enactment of Taradale, using the Crime Commission, I had telephones off trying to generate some talk between some suspects. We had a dummy thrown off a cliff and it was the lead item on the Sunday night news. There was no forensic value; we were just trying to generate some conversation. I did not get anything from the persons of interest, but I got a phone call from a fellow by the name of Jacques Smuzi, who said, "My boyfriend and flatmate and I lived at Bondi. Overnight he would go walking through Marks Park with his Sony Walkman. In 1995 I came home and his spray jacket was gone and Sony Walkman was gone and I never saw him again."

That was reported to police and I think it may have even been Paddington police station again, but he has walked in, reported his partner missing, it did not appear on any database at all; no records of that occurring at all. This was a missing person that had been gone for the best part of 20 years that we did not even know about.

The CHAIR: He was a foreign national, was he?

Mr PAGE: Yes, a Frenchman. Interestingly and quite disappointing, Gilles Jaques Mattaini was a gay man who went missing we believed at a gay beat. I have taken it on with Taradale.

The CHAIR: Was that in 1989 as well?

Mr PAGE: 1985.

The CHAIR: Earlier.

Mr PAGE: Earlier, yes. We had a detective sergeant at Rose Bay—I will not name him, but not someone I respect as an investigator, but he was senior to me. He came into the office and heard about this brief that we were starting in relation to Gill Mattaini. He said, "No, this has gone on long enough. You're not doing this one. This can go to Bondi", and he literally grabbed the brief and drove it down to the Eastern Suburbs Local Area Command and handed it over to them.

The Hon. NATALIE WARD: Do you know that he did hand it over?

Mr PAGE: Yes, it is electronically recorded in the COPS system.

The CHAIR: He took it off the Taradale operation? He extracted it from your hands and said, "This is not part of Taradale"—

Mr PAGE: Yes, he said, "This will go on forever. You're not looking at this one", and took it over to the police at the Eastern Suburbs LAC.

Reverend the Hon. FRED NILE: What reasons did he give? He just said it would not go any further?

Mr PAGE: He said, "This will go on forever. The terms of reference for your job are Russell, Warren, McMahon", and took it. I did not really accept that decision so I contacted the investigations manager at Eastern Suburbs. I said, "Look, I'm doing this. I've got knowledge of it". He said, "Yeah, you're the best bloke for it." So, literally underhanded, he gave me the investigation back. I incorporated it into the coroner's brief. Jacqui Milledge was the Deputy State Coroner and knew it was coming and we went to inquest for the three. In relation to Ross Warren, he was a missing person, never been reported deceased to the coroner. With what I had been able to put together in relation to the climate of violence against gays back in that era, we were able to come up with a coronial finding of murder in relation to his death. In relation to John Russell, that had previously gone to the Coroner; I am not sure whether it was a finding of suicide—

The Hon. TREVOR KHAN: Or open.

Mr PAGE: —or open causes, I do not recall at the moment. But, again, that finding was overturned; it came up with a finding of murder. There was commentary in relation to Gill Mattaini that whilst they believed it likely to be murder there was not sufficient evidence to support a finding of that, so it was left as open causes. So

we had two missing persons that had never been reported, one there was no record of, one never been reported to the coroner. You have ended up with findings like that through the coroner system.

The Hon. TREVOR KHAN: In those days, at the front desk there was a pad, was there not, where at least some recording was made of complaints like missing persons?

Mr PAGE: Yes. A couple of things that you would have had back in that era was a PIR, a police incident report, I think they called it the P40 form, a carbonised form. So out with the old manual typewriter and you would type that up, a copy would be retained at the station, a copy would go off to the missing persons unit; and there would be an occurrence pad entry and there would also be a wireless message circulated, "We've got a missing person reported" at a particular station.

The CHAIR: A telex.

Mr PAGE: A telex pretty well. That certainly had not happened with Gill Mattaini, nothing.

Reverend the Hon. FRED NILE: With the bodies that were found, was there ever an autopsy?

Mr PAGE: Definitely there was an autopsy in relation to John Russell. His injuries were extensive and consistent with a fall from height.

Reverend the Hon. FRED NILE: No bashing, no broken—

Mr PAGE: No, and that is the thing with evidence of assault when there is a fall from height. I am no medical practitioner but I have been involved in the fight game as a trainer and coach for the best part of 20 years, so I know the damage that hands and feet will do. And being a police officer in the eastern suburbs I have attended one or two falls from height from The Gap et cetera. So I know the catastrophic damage you get from a fall from height and I know the damage you will get from hands and feet. I am of the view—and so are forensic pathologists that I spoke to—that it is quite easy to mask injuries from an assault with a fall.

The CHAIR: When did you join the force?

Mr PAGE: In 1986.

The CHAIR: The senior police in charge of Bondi police and Paddington police at the time of the crimes that did not add bits together, would you say they were a different generation of police to you?

Mr PAGE: Absolutely. I think they have probably been around in an era where gays were targeted. We have seen what happened with the first Mardi Gras with the animosity that appeared between police and the gay community. I think the community has evolved since then and I think policing has also, because ultimately the police are drawn from the community. I think whatever feelings are in the community you are going to find the same thing probably proportionately in the police service.

The Hon. TREVOR KHAN: But when you joined, was there any targeting of members of the gay community then?

Mr PAGE: No. When I joined, I started at Blacktown and Mount Druitt and I was literally driving around in a police car and we might as well have had a box trailer on the back with domestic violence brochures because you were just going from job to job with that. There was no targeting of gays. My first real exposure to a gay beat was literally this job.

The CHAIR: What I wanted to get at with my line of questioning is that it was a different generation of police, different training, and society had different attitudes that were changing back at the time of the murders. You came along in 2006, was it?

Mr PAGE: 2001.

The CHAIR: A different generation of policemen. Is that the reason why Steve Page is the hero of this story in terms of going back in time to re-examine these crimes and put the pieces together—because you are a different generation of policeman, different training, different cultural awareness?

Mr PAGE: No, I do not think so because there were guys before me—Detective Sergeant Steve McCann, who was in the Homicide Squad back in the late eighties. Steve had also given a red hot go in relation to solving gay hate crime. He was involved in the prosecution of the Tamarama Three, the Alexandria Eight. So it is not something that just started recently. There were police back in the early era that were tolerant and were having a go but there were also others that were not.

The Hon. MARK PEARSON: When you came into your office you said that the brief of that potential murder was on your desk. Who put it there?

Mr PAGE: Are you talking about the letter from Kaye Warren or the Gill Mattaini matter?

The Hon. MARK PEARSON: The Kaye Warren letters.

Mr PAGE: It was just correspondence that had arrived at the police station and it arrived in the normal manner, that is, it has arrived with an admin. assistant.

The CHAIR: She wrote to you or to the station?

Mr PAGE: She wrote to the commander at Rose Bay police station.

The Hon. TREVOR KHAN: Do you know why she wrote to Rose Bay?

Mr PAGE: In the late 1980s you would have been divisions and then we have become patrols and then we have become local area commands. What has happened is that subsequently the Paddington area has become part of the Rose Bay Local Area Command, if that makes sense. That is why it has ended up with Rose Bay LAC.

The Hon. NATALIE WARD: When you were giving your opening statement you started to speak about the forensic pathologist. I am not sure if you finished that point. Was that just about the hair on the hand or did you have another point to make? I think we interrupted you at that point.

Mr PAGE: I think I went back to it. The forensic pathologist had a look at the photographs of John Russell—and there was a Dr Alan Cala—and he was of the view that it was not consistent with a forwards motion fall. That was Taradale in a nutshell. I will touch quickly on the motives that we discovered with the offenders back in that era. Taradale was my last job with the NSW Police. I decided to move on.

The Hon. MARK PEARSON: Why?

Mr PAGE: It was burnout. I had just gone from major job to major job and I had enough. Prior to this the investigation was Michael Kanaan and all the shootings in Kings Cross.

The Hon. TREVOR KHAN: That is a blast from the past.

Mr PAGE: I suppose in some respects with Taradale it made me match fit in relation to definitely covert policing techniques, which helped me with Taradale. But Taradale I made a decision, that is it, I have been doing it for 17, 18 years, time for a change. I have left, and I was contacted by a journalist, and I cannot recall who at this point in time, but Steve Johnson had reached out to them. The Taradale story had found him in the States and I was just asked, "Will you speak with Steve?" So I touched base with Steve. Steve told me his version in relation to the death of his brother, and looking back with 20:20 hindsight, he was at a gay beat, he was naked, and he is deceased at the bottom of a cliff. I knew that there had been gay hate crime on the northern beaches. I thought with the benefit of hindsight, let's get it back into Manly Police Station, that is the appropriate body to investigate this matter. He came out to Sydney. I have gone with Steve, and it was a pre-arranged appointment, met with the crime manager at Manly.

The CHAIR: You were still a policeman at this point?

Mr PAGE: No, I had left. The Bondi investigation was pretty well known but I said, "Look, this is me. This is what we had in the eastern suburbs. No reason to disbelieve it hasn't happened here. Can you guys have a re-look at the death of Scott Johnson?"

Reverend the Hon. FRED NILE: Who was the crime manager?

Mr PAGE: I know his face. His name escapes me at this point in time. But, disappointingly, rather than doing an investigation, which you would expect, there was basically just almost a desktop review. I think Steve Johnson may have touched on that. There was a couple of page reports put in with a summary that there is nothing further to justify any review. I think there was commentary in there that—

Reverend the Hon. FRED NILE: That is why I ask the question, there seems to be a lockdown at the Manly Police Station which was running that.

Mr PAGE: And there was commentary in there, "This report should not be shared with the family." It has been put back to the Johnson family subsequent that, "That can be quite common for us to do that in reports." I spent a lot of time in major crime, spent a lot of time in the NSW Police, and I have never, ever seen that in any other report. There was a desktop review that was closed down. That kind of peaked my interest, and Steve said,

"What do we do next?" And he was prepared to fund an investigative journalist to come out to Australia and have a bit of a dig. I said, "What you need to do is first of all just let them know you are going to do it. You don't want to be going behind their back."

But I met up with the investigative journalist, Dan Glick, came up with a strategy, "This is what we have done with Taradale. This is what you need to establish to get some interest." So with that, it did not take that long to find evidence of gay hate violence over on the North Shore, northern beaches. It was put back to the NSW Police. Rather than doing an investigation a second time around, they did a review. The review was limited to the information they were given, which in my mind did not seem to be the best strategy. The police officer that did that review did a great job but he was limited to the degree he could push it.

The Hon. GREG DONNELLY: Sorry to interrupt, who made the decision—if you know; if you do not, say so—to proceed down the review path as opposed to the investigation path?

Mr PAGE: I do not know but it would have been senior management at Manly at that time.

The Hon. TREVOR KHAN: Is that Manly Police Station, or is there a Manly area command.

Mr PAGE: It would have been a Manly area command. It has since merged with the Dee Why local area command and I think it is now the Northern Beaches police area command. The review was done, suspects were identified. Rather than treating it as I would have—as a major crime, and you would use whatever overt and covert strategies were available for closure—it was simply at the end of it, which was disappointing, going to the main suspect, knocking on his door, putting the allegation to him, giving him a caution, "Did you do it?" He said, "No." Then that went before the coroner.

The Hon. TREVOR KHAN: "Thank you very much, sir. Off you go"?

Mr PAGE: All it has done is put him on notice. You could not have put the flag up any more than that. Subsequently there was a Task Force Macnamir. It has gone back before the coroner, the original finding of suicide was put aside, a finding of open causes came out of it. As a result of that, it has gone back into the unsolved homicide team for them to do a review. I know there were some issues in relation to Mike Gallacher appearing on the ABC and allegations put against him. I am totally supportive of the support he gave the Johnson family because, when it was all said and done, he was just trying to cut through the crap. I think it was quite unfair that he was thrown under a bus for assisting a family. And you would not want that to happen if it was one of your loved ones. The Macnamir investigation has been conducted in many areas. There was a lot of information that was gathered. There was some commentary in the Macnamir brief of evidence that was unimpressive, suggesting that people who assisted the Johnson family were almost there on a cash-for-comments basis. My assistance for the Johnson family was totally non-financial; I did not get a cent from Steve.

The Hon. TREVOR KHAN: But you were the subject of criticism on that basis, were you?

Mr PAGE: There was collective commentary in relation to people who were supporting the Johnson family.

The Hon. TREVOR KHAN: You were collectively smeared?

Mr PAGE: Collectively smeared. I was certainly offered to come on board as an investigator, but I declined. I had a job. More than happy to assist, meet up, give them strategies and work through with that job. Steve Johnson, to his credit, did donate to a couple of charities that I put forward. So Bear Cottage and Soldier On both did quite well from donations from Steve. Macnamir appeared to me in many respects—look, there was a lot of information gathered, but it also seemed to be running like it was a defence case in preparation for some sort of civil litigation. There was a lot of depth that the police have looked at with the Johnson family.

In relation to Scott Johnson, he had visited the Macquarie Ice Rink. Twenty years later they jump in a car, they drive to the Macquarie Ice Rink, "Does anyone here remember Scott Johnson?" That is a meaningless kind of inquiry in my mind. There were versions of events from Steve Johnson describing interaction with Scott at his unit and there were contacts by the police to the current occupants asking them to draw mud maps of the unit to try to test whether the evidence was correct. That is how deep they went into focusing on the Johnson family.

When we look at the theory of foul play in relation to what went before Macnamir, there were a couple of calls that have gone into Crime Stoppers nominating persons of interest and the Macnamir report said no such person exists. We have looked at national databases, and bearing in mind that their investigation was examined by the New South Wales Crime Commission, and said, "No, we find no areas of investigative opportunities." I

got in there using the internet skills of your average 12-year-old. There were two persons of interest that were put forward through Crime Stoppers. Found them with casual Google searches, they both existed. One of them was serious enough to get called up and put before the inquest. He had a tattoo of a grim reaper on his body, and surprisingly he had a Facebook profile and he was friends on Facebook with the commander of the Manly Police Station. Probably totally unrelated, but to the casual observer who had seen that—

The Hon. TREVOR KHAN: Describe it as awkward.

Mr PAGE: Quite awkward.

Reverend the Hon. FRED NILE: What was his name?

Mr PAGE: I would rather not say his name.

Reverend the Hon. FRED NILE: I know some of them, I just want to know.

Ms CATE FAEHRMANN: What year was that, when you talk about going to his Facebook profile?

Mr PAGE: I suppose three or four years ago now. But I have gone back, had a look. I have had a look through the Macnamir statements going, "Yes, we have had this caller come in and nominate this fellow was involved in the bashing of gays." "We have had a look. No such person exists." And there were two of them. One was nominated as being a student at Balgowlah Boys and another one—I had first names, surnames, and it was not that hard to find. I am just trying to put that in context that they will drive to Macquarie Ice Rink to try to find the background of Scott Johnson but something as simple as a casual search for a Crime Stoppers piece of information, when someone has thought it was serious enough then to pick up the phone and pass over that piece of information.

The Hon. MARK PEARSON: Did you become aware of a culture in the police service, if not overt, that these were people who deserved to have these assaults and possible murders done to them?

Mr PAGE: I would not say that "they deserved this" but I think that they were not as worthy a class of victim as others. One strategy I have with Operation Taradale was—

The Hon. TREVOR KHAN: That is, "if you hang around beats you get what you deserve" sort of thing.

Mr PAGE: Put it this way, I think if it was young children or people more newsworthy—the beautiful model going off the cliff, that kind of thing—it will occupy the media's attention for a long period of time and that would get a lot more attention than the gay victim, who is probably not as newsworthy and not as worthy. That became a pattern. I think the grabbing back of the Gilles Mattaini investigation from me and it being driven down to the Eastern Suburbs Local Area Command saying, "No, you guys do this one", rather than sitting with Taradale where it always should have—bearing in mind the guy who did that is also the guy who wrote back to Kay Warren and said, "Yes, we take your matter seriously" and did nothing with it—

The Hon. MARK PEARSON: Do you think it would go as far as some officers aided and abetted or coerced?

Mr PAGE: I did not see that but I just do not think they were terribly worried by a lot of the violence. Like I have said before, there were some officers like Steve McCann who went over and above the investigation of hate crime, but there were definitely some officers who probably would not as robustly investigate a crime against a gay victim as they would against another member of the community.

The Hon. TREVOR KHAN: That explains the initial powerless investigations. But the problem subsequent to that is after this file has been stamped "complete" or whatever, it then becomes more of a culture of protection of, in a sense—

The Hon. GREG DONNELLY: Past behaviour.

The Hon. TREVOR KHAN: —yes, protecting what had occurred before. It is no longer the cultural thing but more defensiveness—"We cannot have done the wrong thing all those years ago". Is that what then takes over?

Mr PAGE: I think one of the biggest problems is that the New South Wales police may not quickly come up and admit its mistakes and it will—

The CHAIR: "May not"?

Mr PAGE: —defend its position. That is why potentially the Macnamir brief may have been swayed to more robustly, in my opinion, pursue the avenue of suicide. It is what it is. It has been before the coroner. The coroner has come up with a finding of murder and most of the factual evidence that swayed the coroner was stuff that we found. But it is often the Johnson family that have actually put up before the police to—

The Hon. NATALIE WARD: Can I pick up on that exact point? Earlier you alluded to the potential for civil proceedings. Do you think that also played into it—the fear of the Johnson family commencing civil proceedings?

Mr PAGE: Yes, I think so.

The Hon. NATALIE WARD: You said it read almost like a defence case. They were trying to prepare for a defence?

Mr PAGE: That is my take. In my mind an investigation should be factual. You grab everything you can; inculpate or exculpate, who cares; it is what it is at the end of the day and you see where it goes. To more robustly investigate one side or one potential outcome than the others, I was not comfortable with that. Because when it is all said and done it is going to be suicide, accident or foul play. They are really the only three heads that you could look at. Getting back to what I said before about the gays not having as much currency and not being as worthy as other victims, this will probably put it in context.

I would imagine most people here would have heard of the killing of Daniel Morcombe and the strategies that we used to get the confession out of the suspect. Before that had occurred, it was a lesser known covert technique known as the Canadian model. You would introduce an undercover police officer to a principal suspect. They would build a rapport. There would be staged crimes that they would do together. The police service would rent a house, they would do a break and enter; the criminal would actually think that he has made it to the big time. Then you would encourage—you would drop a one-liner and you just try and get some conversations going, which is pretty all what happened with Daniel Morcombe. So you cannot just have an undercover cop walk up to a suspect, random, off the street, and get that dialogue going. You really need to understand who your target is, where they go, what they smoke, the whole box and dice, so that you have got that—

The Hon. GREG DONNELLY: Intimacy.

Mr PAGE: —yes, intimate knowledge of that person so that you can use that to your advantage. This was back in my day, before you can actually kick off that strategy, the undercover unit needed two weeks worth of solid surveillance of the person of interest. They would study those surveillance logs and then they would move to the next phase. They were not prepared to do it without the background history. I put it upstream that I wanted surveillance support to build a profile on one of my main persons of interest with Taradale, give an undertaking, "Yes, you've got the surveillance unit". I had them for probably two or three days—an absolutely insignificant period of time in relation to what we needed.

There was an inspector at a regional office and one of the teams that reported to him was this surveillance team. I got in touch with them and said, "What are we doing?" and they said, "No, we've been taken off your job". So I have gone to this inspector and said, "I need this for this strategy that I am doing", and he said, "I'm going to use him on something more contemporary". That was what I got. What was the kick in the guts was the "more contemporary" job was investigating licensing breaches in relation to a well-known Kings Cross identity. Weigh that up. What is more important—investigating breaches of the liquor act or trying to solve a cold case homicide?

The CHAIR: But "contemporary" is not gay bias. "Contemporary" is him suggesting—

Mr PAGE: Something that is current.

The CHAIR: —something that is current that they need to deal with as opposed to historical. I am not defending it but that is not a—

Mr PAGE: The decision-maker there was also the commander at Manly Local Area Command that went for a review instead of investigation—

The CHAIR: I withdraw my question.

Mr PAGE: —and was also friends with a person of interest on Facebook, so it is the same—

Ms CATE FAEHRMANN: I have a question to the Chair of the Committee about whether it is appropriate or whether he would do it and maybe we can keep it confidential. Mr Page, you said you would not

comment to the Committee now about the names that you were referring to, but whether we should request them to remain confidential—

The CHAIR: Or you can take it on notice if you want to provide those to us.

Mr PAGE: I would rather not; I would rather talk about the game than the players. I think it is not so much about finding fault, it is about what we can do going forward so that we do not go down this hole again.

Ms CATE FAEHRMANN: I am not so convinced from the Committee's perspective, that is all.

The CHAIR: You are talking about—

Ms CATE FAEHRMANN: The individuals.

The CHAIR: The alleged perpetrators.

Mr PAGE: When you are talking about the persons of interest?

Ms CATE FAEHRMANN: Yes.

Mr PAGE: I have got the coroner's brief of evidence. I am happy to share that and their names.

Ms CATE FAEHRMANN: No, if there are actors, if there are senior figures within the Police Force who are actively preventing investigations like this going forward, I think the Committee could and should ask who these individuals are and have a commitment to obviously keep all of that in confidence for our deliberations.

Mr PAGE: If I can I will take that offline later, if possible.

Ms CATE FAEHRMANN: Yes, that is what—I just did not want to—

Mr PAGE: But at this point in time I would rather not name names.

The CHAIR: You can take it on notice.

Mr PAGE: I am outlining the challenges that I have had.

The Hon. GREG DONNELLY: I think you have been most cooperative.

Reverend the Hon. FRED NILE: You focus on what you think is important for you. We do not have the virtue of—

The Hon. TREVOR KHAN: I think you want to say something before I ask you a question.

Mr PAGE: I think one real benefit across all class of victims is there is a victim support group but there is no real victims advocacy. You have got senior police out there making decisions that are based on financial or other motives and they are not really held to account. It is the poor old case officer who still has got to put the brief together. He is the one who cops the flogging at court whereas it is someone senior up the tree going, "We're not going to go that way". The example would be the snatching of the Mattaini brief and going over to the Eastern Suburbs. It does not appear anywhere in the coronial brief but that was a major—

The CHAIR: Influence.

Mr PAGE: —strategy blocker. The inspector who says, "No, you're not having your surveillance" and let them go and do something more contemporary. There needs to be a process that when there is management interference that is likely to impact the strategy of a major crime—

When we serve a brief of evidence all the statements go up and you have to give the DPP notice in relation to other material that is available that is not in the brief. It should almost be the case that if you are a senior copper and you are making a decision that is impacting the strategy of an investigation, you should be in a statement within the brief. You should be made available. If it is not relevant you will not get called, but you should have to justify yourself in the witness box why you have made that decision.

Unrelated to this inquiry, while I was working at Rose Bay there was an attempted kidnapping. It was a really horrible crime scene. The victim fought back and there was blood everywhere. I was driving on my way to work and I got a phone call from the duty officer, "We've had this kidnapping overnight. We need you to go straight to it, don't go to the office." It had happened many, many hours before. I said, "Why didn't we get called out?" "Didn't want to cop the overtime." They did not want to leave a guard at the crime scene, either. The crime scene was at the back of a duplex. He goes, "Don't worry, I've closed the gate, it's all fine." He did not tell the other householder in the duplex.

The Hon. TREVOR KHAN: I suppose it was all contaminated.

Mr PAGE: They hosed it off. They have come out and seen all this filth and they have hosed it down. This is the kind of stuff that cops are dealing with—

The CHAIR: That is incompetence.

Mr PAGE: —poor management decisions that are impacting investigative strategies. That could be quite helpful, I think. If you are going to come up with a strategy that is going to impact the direction of an investigation, you need to articulate it.

The CHAIR: We have to wrap up, Mr Page. I am sorry to rush you but some of us have to go.

The Hon. NATALIE WARD: I have a very quick question on that point. One of the submissions—I am sorry, I do not recall exactly which one—spoke to that point about how quickly an investigation is undertaken at the crime scene and its direct impact on the run rate of convictions. I am paraphrasing. Would it be a recommendation of yours that that be improved, because it seems that the outcome will be determined by how quickly we get there and investigate it?

Mr PAGE: Promptness in any investigation is critical. You really need to have your expertise there, up-front, so that information and evidence is not lost.

The Hon. TREVOR KHAN: Can I just show you this piece of paper. You may or may not know that this is purportedly an office on the upper floors of College Street. Did you ever visit College Street?

Mr PAGE: Only, I think, when I went for my interview to join the police and I think once or twice for dropping off a file or something like that.

The Hon. TREVOR KHAN: So you never went to the upper floors.

Mr PAGE: No, I was not in the inner sanctum.

The CHAIR: You never rated that level?

Mr PAGE: No.

The Hon. TREVOR KHAN: Then you are probably not going to be able to assist in terms of who you think would occupy an office of that sort of size with harbour views.

Mr PAGE: It certainly would not be a junior commissioned office. It would be a quite senior commissioned officer.

The Hon. TREVOR KHAN: Like the levels from inspector up? Is that the sort of level?

Mr PAGE: I would be thinking Chief Superintendent, back in that era, upwards. An inspector would not have an office like that.

Reverend the Hon. FRED NILE: You thought it was internal affairs, did you not?

The Hon. TREVOR KHAN: I thought it might be internal affairs. We were just trying to find out who it might be.

Reverend the Hon. FRED NILE: We need our own little police force. Can we hire some officers?

The CHAIR: I think we have got him. Did Kay Warren get closure out of your work?

Mr PAGE: I never met Kay.

The CHAIR: Really.

Mr PAGE: I spoke with her. Kay was in Queensland and I was in Sydney. I had guys on my team visit Kay, driving it. But I stayed in contact with Kay all the way through. I think she is very happy with what we were able to give her.

The CHAIR: It was heartbreaking.

The Hon. TREVOR KHAN: Can you offer us the brief, in terms of—

Mr PAGE: I can definitely get you that.

The Hon. TREVOR KHAN: I think that might be useful.

The CHAIR: Which brief?

The Hon. TREVOR KHAN: Taradale.

The CHAIR: Of course. I think that the service you did for Kay, let alone the other victims, is very admirable. Thank you for coming in today and giving evidence. You have taken quite a bit on notice. Janelle and the team will get in touch with you to get that information back to us. We may give you some questions on notice, as well, if more questions come to us. You are our last witness for the current session, and we really appreciate your coming.

The Hon. TREVOR KHAN: It has been great.

Ms CATE FAEHRMANN: Thank you.

The Hon. NATALIE WARD: Thank you for your great work, Mr Page.

The CHAIR: That concludes today's hearing.

(The witness withdrew)

(The Committee adjourned at 13:23)