

REPORT ON PROCEEDINGS BEFORE

STANDING COMMITTEE ON SOCIAL ISSUES

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

CORRECTED

At Macquarie Room, Parliament House, Sydney, on Friday 13 November 2020

The Committee met at 10:20.

PRESENT

The Hon. Shayne Mallard (Chair)

Ms Abigail Boyd

The Hon. Ben Franklin

The Hon. Rose Jackson

The Hon. Taylor Martin

Reverend the Hon. Fred Nile

The Hon. Mark Pearson

The Hon. Natalie Ward

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The CHAIR: Good morning. Welcome to the Standing Committee on Social Issues inquiry into gay and transgender hate crimes between 1970 and 2010. The inquiry was re-established following the Committee's work in the last Parliament. The inquiry is continuing to investigate whether there were any impediments within the New South Wales criminal justice system that impacted the protection of LGBTIQI people and whether they have been effectively addressed by current policy and practices. We will also continue to examine the delivery of justice to victims of LGBTIQI hate crimes and their families. Before I commence, I acknowledge the Gadigal people who are the traditional custodians of this land and any other Aboriginal people who are joining us around the State via social media or the internet. I also pay my respects to Elders past, present and emerging of the Eora nation and I extend that respect to other Aboriginal people. Today we will hear from a number of stakeholders, including ACON and the NSW Police Force. I thank everyone for taking the time to give evidence to this important inquiry.

Before we commence I will make some brief comments about procedures that apply to today's hearings. Today's hearing is being broadcast live via the Parliament's website. A transcript of the hearing will be placed on the Committee's website when it becomes available. Today's hearing will contain information about violent crimes committed against the LGBTIQI 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 or Lifeline. Contact numbers for those services can be found in the brochures that are available at the back of the room and on our website. Importantly, I also give notice that, given the nature of this inquiry on hate crimes, strong and offensive language may be used in evidence. We have resolved not to suppress that. In accordance with the broadcasting guidelines, I remind media representatives that they must take responsibility for what they publish about the Committee's proceedings. Whilst parliamentary privilege applies to witnesses giving evidence today, it does not apply to what witnesses say outside of their evidence at the hearing. Therefore, I urge witnesses to be careful about comments you make to the media or to others after you have completed your evidence.

Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. In that regard it is important that witnesses focus on the issues raised by the inquiry's terms of reference and avoid naming individuals unnecessarily. All witnesses have rights to procedural fairness according to the procedural fairness resolution adopted by the House, which can be made available to witnesses if they do not have it. If witnesses are unable to answer a question today and they want more time to respond, they can take the question on notice. Written answers to questions on notice must be provided to the Committee within 21 days. If a witness wishes to hand up documents, they should do so through Committee staff. In terms of the audibility of the hearing today, I remind Committee members and witnesses to speak into the microphone. For those with hearing difficulties who are present in the room, please note that the room is fitted with induction loops compatible with hearing aid systems that have telecoil receivers. Finally, could everyone please turn off their mobile phones or turn them to silent for the duration of the hearing.

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

BRENT MACKIE, Associate Director, Policy, Strategy and Research, ACON, affirmed and examined

The CHAIR: I welcome our first witnesses from ACON to the hearing. It is good to see you again. Would either of you like to make an opening statement, recognising that we have your submission?

Mr PARKHILL: We welcome the opportunity to present evidence to the Standing Committee on Social Issues inquiry into gay and transgender hate crimes between 1970 and 2010. In our previous evidence, given on 9 November 2018, we outlined the history of ACON as a community-led organisation which responds to the health needs of sexuality and gender diverse people and communities in New South Wales and, more recently, across Australia. We reiterate that the issues being explored in this inquiry are not a relic of the past, but continue to affect our communities today, both through the lived experience and trauma that affect our communities and the violence that has been perpetrated against us in the past, but also in the perpetration of that violence against our communities in the here and now.

We are pleased that the Committee has chosen to continue its investigation into these shameful acts and the responses to them. We are hopeful that this current iteration of the inquiry can seek to further understand the issues at hand and diversify the voices contributing to the discussion, especially in relation to people who live in rural and regional communities. We note with a solemn optimism that the effects of continued pressure in this space have been fruitful. The arrest of a man in relation to the murder of Scott Johnson in May this year was an emotional time for many. We echo the sentiments of Scott's brother, Steve, who said of the arrest:

I hope the family and friends of the other dozens of gay men who lost their lives find solace in what's happened today.

Since this inquiry last met, ACON has continued to work for justice through several mechanisms. We sit on the Australian Hate Crime Network and recently attended the first meeting of the LGBTQI hate crime forum, after invitation from Chief Inspector Tony Long from the NSW Police Force Engagement and Hate Crime Unit. At a community level, we continue to work with Waverley Council and community partners to erect a memorial to the victims of hate crimes at Marks Park in Bondi. After considerable community consultation, a design has now been chosen for this important place of reflection and honour. Waverley Council has committed \$100,000 to its establishment, and we have also received a very generous \$66,000 donation from two community members for its construction. Construction on the monument is expected to begin in March 2021.

Research continues to suggest that our communities experience poor health outcomes, poor interactions with health services and poorer mental health. In major research that is being released today by La Trobe University, known as the Private Lives 3 study, it has been found that participants—which I note included a sample size of over 6,000 LGBTQ Australians—reported high levels of violence and harassment, with more than one-third reporting verbal abuse, one-quarter reporting harassment and one in ten reporting sexual assault in the past 12 months due to their sexual orientation or gender identity. Despite efforts towards preventing and addressing stigma and discrimination of LGBTQ people in Australia, including enhanced legal rights, these findings show an increase in violence and harassment since the survey that was undertaken in 2011.

In addition to the many social impacts on the lives of those who are victimised, experiences of discrimination and violence are commonly associated with poorer health. Previous research in Australia has found that verbal abuse and physical assault were associated with higher levels of feeling suicidal among gay and bisexual men. This iteration of Private Lives found that, of those surveyed, 57.2 per cent were experiencing high or very high levels of psychological distress, while 41.9 per cent reported thoughts of suicide over the past 12 months. Many researchers posit that the ongoing impact of discrimination, violence and systemic homophobia and transphobia may contribute to these health outcomes. A commitment to the principles of justice is one way to work towards addressing these health inequities.

Before we answer your questions today, once again we vocalise our utmost respect for those in our communities whose lives have been lost or affected by the issues we are discussing today. We thank those who have come forward with their stories and respect those who continue to feel too afraid to do so, noting the enormity of personal sacrifice that sharing such personal trauma requires. We seek to improve the lives of those people by contributing to a sense of justice, reducing the likelihood of these events happening again and reminding people that they are not alone and that we walk with them through this process. Again, we thank the Committee for its part in that journey.

The CHAIR: I will start with questions. Welcome back. Before we started the meeting we were looking back at the time line and it was two years ago, in November 2018, that we were taking evidence in this very room on this issue. A lot has happened since then, including Scott Johnson coming to a point of justice now that someone has been charged. But at that time I made commentary in the media that there are at least 30 unsolved murders

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and this gives hope to families, friends and lovers that there is still a chance to get justice. That is very important about this inquiry. Thank you for your submission. It was a little critical of our report, which I welcome. We are strong and robust enough to take some criticism. Do you want to outline where you feel the first interim report needed to go further, for want of a better word?

Mr PARKHILL: I should clarify. I feel that the report was an excellent piece of work in that it absolutely documented the context within which these crimes were committed and the broader societal issues that were playing out at that time. As a piece of policy work, it is incredibly valuable that that history and the history of New South Wales and what has happened to our communities has been documented in such a way. Where I think there are gaps in the report, noting that the report did recommend the recommencement of the inquiry, was the limitation in the recommendations that were put forward. I guess that is understandable, given that the overarching recommendation was the ongoing nature of this Committee.

The CHAIR: But what would you have liked to have seen? You say there were limitations.

Mr PARKHILL: Given the amount of evidence that has been presented to the Committee, given the amount of recommendations made both in the Strike Force Parrabell report and in ACON's *In Pursuit of Truth and Justice* report, and given the recommendations we made in our initial submission to the first inquiry, picking up some of those recommendations and providing more detailed recommendations in a report about what could be addressed or what could be done to address the situation would be useful, along with some recommendations around the accountability of those recommendations back on the New South Wales Government and, indeed, also back to the community about how those recommendations, if they are adopted by the Government, are being progressed. One of the other criticisms that we saw was not so much with the report itself, but with the Government's response to it.

The CHAIR: We have that here.

Mr PARKHILL: We absolutely understand that the Minister responding was responding on behalf of the Government, yet most of the references were in relation to the work of the NSW Police Force. The issues that are addressed through this whole process are not just limited to the NSW Police Force, but to the broader judicial system and the health system. It would have been appropriate to have had a more detailed, whole-of-government response to it, and also some context into the issues that were being discussed within the Government's response. As you can often expect, it was a very dry, bureaucratic letter. The issues that we are talking about are not dry and bureaucratic. They absolutely touch on people's lives. They touch on issues such as violence, trauma and ongoing grief. Some acknowledgement from the Government in response to the inquiry's work would have been appropriate. It just seemed somewhat tone-deaf to some of the issues that are being talked about and the experiences that have been accounted for.

The CHAIR: I have not nailed you down on the specific recommendations. You have talked about the broader policy approach, which I appreciate. What were the specific recommendations that you felt we should have made last time and that you think we should make this time? I know of one that the Committee is talking about, which ACON has submitted, which is that we should recommend a judicial inquiry to take over the work that we are doing, because we are limited. We are not an investigative body and we cannot compel evidence. But the next level would be a judicial inquiry to look at those 30 unsolved murders and look at some of the background to them. Is that one of the areas?

Mr PARKHILL: Absolutely, that would be one of the recommendations that we would look to see come from this inquiry, recognising that that recommendation is shared, not just by ACON, but by a whole set of LGBTQI community organisations and, indeed, individuals. As the interim report of the inquiry reflects, Alex Greenwich stated that, "If there were any other cohort of our society, which had been victims of murders and crimes that have remained unsolved to this degree, there would have been an independent process established to examine and investigate those and to seek justice." We understand the limitations of this inquiry and that you cannot compel evidence or witnesses. Indeed, I think that is what is required to take the pathway for truth and justice forward.

The CHAIR: I have two more points. You mentioned bringing in other rural and regional voices. Can you assist us further with that? We tried to entice and invite those voices, but they are fairly quiet. We advertised, we did social media and I did interviews on rural and regional media. We only received one or two submissions. That is why we are not doing a trip that we thought would be necessary. If you can assist with getting those voices heard even just in submission form, that would be good.

Mr PARKHILL: Absolutely. I would be very keen to work with you in any way that we can to assist that giving of evidence. As we touched on in our submissions, there is still a real hesitance and resistance to people coming forward to share their stories because of the vulnerabilities that they experience.

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The CHAIR: Absolutely. People just get on with their life. They draw a line under it and get on with their life. Although I have had very emotional phone calls from people. This has reactivated their memory of being bashed, and they include senior people in business. It has just brought it all back to them. The second point was the Scott Johnson outcome, which demonstrates that it is not too late to get justice. The alleged perpetrator is late middle-aged and that would be the same for most perpetrators. We heard evidence in the last inquiry about the gang at Bondi. Police identified who they were, but they just cannot lay a finger on them over evidence. That is where a judicial inquiry would probably have much more power to investigate and compel.

On the other side of the ledger from the perpetrators is the justice system at the time. The police who were involved in the justice system at that time are now retired. I would not think any are now left in the force. We heard evidence at the last inquiry about the cover-ups by police at the time. By the way, all of the evidence from the last inquiry is readmitted as evidence to this inquiry, so all of that is valid in terms of our report. Do you think there is a role to look at or to probe in the other direction at the attitudes of individual police officers in that period?

Mr PARKHILL: Absolutely, without a doubt, I do.

The CHAIR: Do you think the judicial inquiry should be looking at that as well?

Mr PARKHILL: Without a doubt.

The CHAIR: So it is both sides, perpetrators and the justice system?

Mr PARKHILL: Absolutely, because what we have seen, through the evidence that has been submitted, through documentaries that have been made and through books that were written by former police officers, is that there were inherent problems with the justice system in seeking truth and justice. Whether that was from apathy or whether it was from something more sinister like homophobia, what that needs to be unearthed. What we have seen, though, is an acknowledgement from the NSW Police Force to say that at the time their practice reflected community norms and at that time the community norms were very negative towards members of our communities.

The CHAIR: Murdering people has never been a community norm that I know of.

Mr PARKHILL: Exactly. There is something more that is playing out other than just reflecting community norms and that needs to be examined.

The CHAIR: We know from evidence to the last inquiry that the policing background to the Scott Johnson situation has been appalling, though it was made up for in some small way with the current approach and the rewarding outcome, but before that it was just appalling.

Ms ABIGAIL BOYD: Thank you very much for coming along today and for your detailed submission. When we look at that letter of response from the Government to the last report, you mentioned how the one page from one Minister was tone-deaf in terms of responding to a body of work that was so detailed and covered so many aspects of society. Can you talk about how a response like that impacts on the community and on reinforcing the damaging norms that may have led us to this place? Can you talk more about those impacts, when the Government only responds with that one page?

Mr PARKHILL: It would be hard to say at a community level, because that is a private, confidential letter. At an individual level, at a personal level and certainly at an organisational level, it feels like we are not being listened to or we are being dismissed. The work that so many others are also doing is being dismissed and the bravery of people who have come forward to share their stories has been dismissed. It feels as though it speaks to a pattern of disengagement, disbelief, not owning what has happened before and not taking the appropriate steps to try to heal or work towards resolution.

It comes across as dismissive or kind of like, "go away", rather than doing any meaningful work. There is very little acknowledgment there about what has transpired—the stories and the system failures that have been so well articulated in the interim report. There is no reflection of that there. It is almost business as usual and that can be upsetting and frustrating and can feel as though you are being your head against a brick wall.

The Hon. MARK PEARSON: Would you say that what seems to be lacking is a spirit of sorrow that the Parliament and this governance has been a part of what has happened? You cannot say that this is a different government to what was there—or governance—but the dismissal is not a recognition of the dreadful sorrow that has happened over that period time. Is that what you are saying?

Mr PARKHILL: I think that would be one way to phrase it, absolutely. Having said that, I think there are some great leaders within the Parliament and within the NSW Police Force who absolutely understand what has happened, who feel regret and are very engaged in the issues and willing to engage in difficult conversations

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about that. But collectively and, perhaps at that most senior level, that lack of appreciation, empathy and sorrow—I think that the way you have phrased that is absolutely how it feels.

Mr MACKIE: If I may add, having worked in the sector for some time and getting responses from the Government on a range of issues that appear to dismiss so much work, including the work of this Committee and of a range of people and community activists who have devoted an enormous amount of energy in this space, it was very—you could add to sorrow "insulting", in some ways.

The Hon. MARK PEARSON: It strikes a chord, in a sense, similar to us facing the Stolen Generations. Reverend the Hon. Fred Nile was on that committee as well and we also had to grapple with that sense of having all the evidence and the facts and all of that but then suddenly there is a realisation that we have seriously failed over time. There is a general responsibility for that, even though we were not directly involved at the time.

Mr PARKHILL: Absolutely. That response, if I think back to the former question, plays into an ongoing mistrust and engagement with the NSW Police Force. Things have improved and, without doubt, the NSW Police Force has been doing a lot of work to improve relationships with the community, particularly at the grassroots level. But at that leadership level to get a letter like that does not reflect that. That is one of the things that we could be looking at.

The Hon. ROSE JACKSON: I wanted to ask about the third dot point in the Government's response in relation to the first inquiry. In your submission you request—or encourage—us to talk to the police a bit more about what that training is, the content of it and who is delivering it, which we will have an opportunity to do later. But whilst you are here, I want to ask for your views on what best practice would be. What would you love to see in that training that is being delivered and has been listed as one of the key points in the Government's response? How can we best ensure through our recommendations and questioning of police that that is meaningful and making a difference?

Mr PARKHILL: We know that the NSW Police Force is undertaking a range of training initiatives—everything from their Gay and Lesbian Liaison Officers [GLLO] program, through to other initiatives with more senior police officers and ACON's pride and diversity program, which works with companies and organisations about what good internal human resources practice is around diversity inclusion. The NSW Police Force is very engaged in that process, including the commissioner himself, which is great. What we do not have an understanding of, though, is an audit, if you like, of what that training looks like—how many people are accessing it, what modalities are being used. We know about the pride and diversity work because we are involved in the delivery of it, but what other programs are being undertaken?

I have also been advised that some training is being undertaken by the Hate Crime Unit of the NSW Police Force, as well. I think there are a number of components to that training that need to be looked at—unpacking what we mean by LGBTQI and all of that kind of stuff. What are the particular issues? Because people think of us as one, homogenous community but we are very different and diverse. The experiences of a 65-year-old gay man living in Lismore are going to be very different to a transgender girl who is 18 and living in Marrickville. Those are vastly different experiences. So we need to unpack all of that kind of stuff. I think the training that needs to occur with the police—and it has been referenced in the interim report—is that there needs to be a focus on the historical context of what has occurred and why policing with our communities needs to look different and work from that historical base to shift what that practice looks like.

It is a very unique relationship. For a long time the police have recognised that and were one of the first government agencies in New South Wales to appoint a standalone position to engage with our communities. So they understand that there are historical and cultural tensions. It is really important that that is understood—by new recruits all the way through to the commissioner—and why practice needs look different in our community and how to go about it. That needs to be a central component of that training.

The Hon. NATALIE WARD: Thank you for your submissions and assistance with the Committee today, and for all your advocacy work so far. It is wonderful. I have two points. The first is in relation to this Committee receiving evidence, particularly from regional and rural people who have not been able to come forward. I note for the record that witnesses are able to give evidence in camera. For the sake of anyone watching or listening, they can do so confidentially and we can resolve that those submissions not be published so they can be assured of confidence and confidentiality in this Committee process. If you could emphasise that to your stakeholders and network that would be wonderful. We would love to hear from them.

It is important that we have spoken about acknowledging wrongdoing and the identification of it. Part of this Committee's work and your work does exactly that, but I am interested in what we can be doing going forward. Part of our terms of reference is not only that the extent of past impediments are identified but also how effectively they have been addressed by current policy. One of the initiatives in your recommendations—I think it is

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number 6—is that a project be funded to be conducted jointly by ACON and the NSW Police Force to look at best practice models in partnership. I ask you to speak to that recommendation, particularly in light of the GLLO officers. We had evidence to the last inquiry forming part of this about the GLLO officers and the numbers of them around the State and the great work the police network is doing with those. Could you speak to your recommendation and how that might fit with the current practices and what we could be looking at, specifically going forward?

Mr PARKHILL: I am just looking at that recommendation. There are a number of components that I think we do have good practice already like the Gay and Lesbian Liaison Officers program and there was a commitment in the Minister's response that that could be expanded. There are a number of initiatives or programs that could add to that work. In the past but not so much recently there has been great collaboration between the NSW Police, ACON and other community groups doing community development and social marketing work that encourages our community to report to police. This sees us working together, putting on community forums to talk about particular issues and those sorts of things. That work has not been occurring as much and that is largely because of a resource issue.

Our work around safety and inclusion is not funded any more. That work was funded through South Eastern Sydney Local Health District not by the NSW Police and not by the attorneys-general so in terms of skin in the game NSW Police or attorneys-general are not putting any money directly into community organisations to strengthen those relationships and do that community development work. I think that is a real gap and collaboration could be enhanced with specific community engagement activities, social media campaigns that talk to our communities, that look to build up trust with them—with the police—so greater reporting can occur so our communities start to see a different face to NSW Police than perhaps what they have seen before. There is good work being done but often it is not seen at a community level. We might see it at an organisational level but certainly not at a community level.

The Hon. NATALIE WARD: Yes and of course there is a limit to funding as with anything. But it could be educational around, for example, just highlighting the existing work that is being done. A lot of people do not know that there are GLLO officers and the work they do and that they are available. Is that something you could partner with?

Mr PARKHILL: Absolutely.

The Hon. NATALIE WARD: It is not highly expensive but a higher educational and promotional campaign to promote what is being done what is available.

Mr PARKHILL: Totally. That is exactly the type of work we are thinking about here. In our first submission to the former inquiry, we gave examples of some of that work that has occurred historically. I think that needs to be regenerated and revitalised.

The Hon. NATALIE WARD: And it is not just victims and survivors, it is also witnesses or others who may assist with inquiries or might be aware of—even historically—coming forward.

Mr PARKHILL: That is exactly right. I also think work like that could focus on a number of populations, a number of calls to action to come forward with information and feel safe reporting to the police. It could focus on particular population groups who we know experience higher rates of violence like trans and gender diverse communities or it could indeed continue to challenge notions of homophobia and transphobia in the broader community which we have also partnered with police on in the past as with Homophobia: What are you scared of? Also activating and using high profile football celebrities to drive that message. That kind of work has not occurred over the last 10 years. It needs to occur and it needs to occur in a sustained way to make that long-term attitudinal and behavioural change.

The Hon. NATALIE WARD: And also in terms of the investigations into the 30 unsolved murders, that there is perhaps a window of opportunity for witnesses to come forward now before it is sadly too late.

Mr PARKHILL: Too late.

Mr MACKIE: That kind of work—both the community development style work and also the training work and other work—needs to be presented in a coordinated way so that it is linked through and people are aware of what is going on and can contribute in a meaningful way.

The Hon. NATALIE WARD: Is that something for which you could take some responsibility for—

Mr MACKIE: I think we could partner with the police but I do not know if—

The Hon. NATALIE WARD: —proactively assist us with?

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Mr PARKHILL: Once again, and as you say it is always a question of resources and funding and things like that and—yes. We absolutely see the need for that sort of work but as a NGO unless we are able to partner with government to do that work we scratch. Even the advocacy work we are doing around this is stretching the somewhat limited resources.

The Hon. NATALIE WARD: Understand.

Mr PARKHILL: We rely on pro bono legal advice and volunteers to assist us to do some of that work.

The Hon. NATALIE WARD: Thank you for the work that you are doing.

The Hon. BEN FRANKLIN: Thank you for your extraordinarily important work in this space. I am from regional New South Wales so my questions are around your new recommendation 19. Can I start with a question about the recommendation itself? You use the words particular concerns, saying "given the scarce resources and particular concerns of sexuality and gender diverse communities in these locations". What are the particular concerns that you think are relevant to regional areas? What do you mean by particular?

Mr PARKHILL: What we find for our communities in rural and regional areas is often they do not have access to what we would call community if you like. So an identified, visible group of LGBTI people coming together that they can identify with so those feelings of exclusion, social isolation and loneliness that you can feel when you feel like—pardon my language here and I do not mean to be flip—the only gay in the village, who you can go and speak to and get that support to affirm who you are, really plays out in some of those rural and regional areas. That then triggers a whole set of challenges if you like. Who you speak to? Where do you get support? Can you access a health service and disclose who you are so it will affect the intervention you are getting with a health service provider?

You might not be able to come out to your parents and you might not be able to come out to your colleagues at work. So those issues around homophobia and visibility can be more acute in regional and rural areas. So if you are a victim of violence or harassment then those issues about reporting just become magnified for those communities. Can I say though that I think over the last 10 years—and particularly since marriage equality—we have seen the emergence of social media and that is changing really quickly. Before it used to be that Lismore was the only regional area that would have a queer festival—if you like—with tropical fruits. Now we are seeing them in Hay, Wagga, Tamworth, Armadale, we are actually seeing LGBTI communities being built and visible and sustained in rural and regional New South Wales. We are not seeing the exodus of gay and lesbian people moving to the cities that we previously did—

The CHAIR: They were always there.

Mr PARKHILL: They were always there. They were just hidden and probably scared to come out and that is a really wonderful thing. Not only for them, that they do not have to leave their families and their social networks to be who they are, they can stay where they are. But it is great for those rural and regional areas as they are reflecting the diversity they actually have in those communities.

The Hon. BEN FRANKLIN: You talked about the differing challenges in regional areas, what is your view about the adequacy of support networks in regional New South Wales and what more can be done? Are there any specific recommendations that we can make in that space?

Mr PARKHILL: Commenting broadly on support services for rural and regional New South Wales, there is always more that can be done for the whole community. Certainly specific LGBTI services in rural and regional communities, there are hardly any there at all. We do have a branch in Lismore and a branch in Newcastle and we do run an outreach program from Sydney across the rest of the State and the demand for that is huge. So absolutely there needs to be greater investment in specific LGBTI positions or programs that can extend into those rural and regional areas. They are inadequate as they are at the moment. What we have seen though has been an interesting shift with COVID-19. As we have used greater technology—

The Hon. BEN FRANKLIN: That is exactly where I was heading next.

Mr PARKHILL: —online forums, Telehealth with our own counselling services. We have seen this extraordinary in-reach from those communities into those digital programs that we are now providing. So I think that will once again shift those service supports that organisations like ACON will be providing into the future.

The Hon. BEN FRANKLIN: Can I go to the heart of this inquiry and just ask about any potential concerns you have about the disparity between the regions and urban areas? For example, do you have a sense in the research you have done about if there have been either a higher proportion or number of hate crimes in the regions to urban areas or a lower or have you not done any work in that space?

Mr PARKHILL: I really wish we had the data, but we do not have the data to speak to that.

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The Hon. BEN FRANKLIN: That is okay. To go to issues around police, do you have a sense of whether there is a disparity in the training and the engagement of regional police compared to metropolitan police? Is that an issue that you think deserves some investigation?

Mr PARKHILL: I think looking at that is definitely worthwhile. While we would not have the evidence to back that up, anecdotally we hear that it can be harder for people in rural and regional areas to come forward to police in those areas over and above, say, a Sydney local area command or Kings Cross, if you like. I think that is worth exploring. I will preface that by saying that there is anecdotal rather than any hard data.

The Hon. BEN FRANKLIN: Yes, understood. If there were any specific recommendations that you believe this Committee should make regarding regional communities, now is your chance to speak on them.

Mr PARKHILL: Certainly there are those things that we were talking about earlier to the question around social marketing campaigns and community development initiatives. They need to be statewide. They should not just be city centric. There was the point made around support services for our communities in those rural and regional areas, because they are non-existent at the moment. There is also looking at building peer networks across rural and regional New South Wales, so those communities can be connected to each other as well.

Mr MACKIE: I would add to Mr Parkhill's earlier point. We can use some of those innovative technologies and ways and means that have come out during the COVID-19 time and have been so productively used. I know at ACON we have had some considerable success having community forums with large numbers of people in rural settings. That kind of activity did not used to occur. We can certainly look at that now.

Mr PARKHILL: I make one final point. The training that is being undertaken with the NSW Police Force should address within it what those issues look like for rural and regional communities and how that might be quite different for metropolitan LGBTI communities—so inclusiveness of that content within those training programs for police and certainly targeting rural and regional police in that training.

Reverend the Hon. FRED NILE: Following up the earlier reports about the long overdue charges of murder for that gay man—

The CHAIR: Scott Johnson.

Reverend the Hon. FRED NILE: It seems to prove the need for something stronger than this inquiry to deal with this issue. I would suggest a judicial inquiry. If there were a judicial inquiry, which I would fully support, how should that be structured so we do not go through the same problems again of having a judge appointed who does not have any sympathy for those who have been murdered, et cetera? I hope that would not happen, but it is quite possible. As to how that inquiry should be structured, should there be a three-judge inquiry and one of those judges nominated by ACON?

Mr PARKHILL: Absolutely. I think a process like that would be ideal to mitigate against the risk of perhaps having one judge who may have certain views that would go against the spirit of that commission and what it was looking to achieve. To your point, Reverend Nile, about the Scott Johnson case and the progress that was made on that after three coronial inquests, attention and focus and resourcing can absolutely lead to justice being delivered and the ability to unearth new information. For us, it was incredibly hopeful. Yes. I agree.

The CHAIR: The reward was increased to \$1 million during the period of our inquiry, when we were handing it down. Because Scott Johnson was specifically in the terms of reference—I am not taking any credit for it. There was focus on it from many sources, but this parliamentary inquiry certainly helped as well. There are other murders specifically in the terms of reference that are unsolved. We really need to reopen those, as Reverend Nile said, beyond our scope.

Mr PARKHILL: I could not agree more. The other point of difference with the Johnson case—as opposed to the other cases that have been documented in the interim report as well as the other 23 cases that remain unsolved that have been identified by Strike Force Parrabell—is Steve Johnson, Scott's brother. He was incredibly well resourced and motivated to bring about justice. He did not let it go. Many of the other families in these stories do not have the resources that the Johnson family have been able to bring about in applying and keeping this issue going. Some sort of special commission of inquiry would elevate those men's stories to a more rigorous form of justice.

The CHAIR: Indeed. And of course it was the police officer at the time, Steve Page, one of our witnesses from the last inquiry, who was not prepared to be shut up. He is a hero in this.

Mr PARKHILL: Totally.

CORRECTED

Reverend the Hon. FRED NILE: You talk about justice taking so long. There is a saying, "justice delayed is justice denied". A judicial inquiry will speed up the whole process and have a sense of urgency about it.

Mr MACKIE: I will add that having the powers of judicial inquiry of that nature would be absolutely essential in that process to be able to get the evidence and question the witnesses in a way that will bring a lot of that to light and to bear. That is incredibly important in this process.

The Hon. NATALIE WARD: I pick up on Reverend Nile's point. The urgency for this to occur sooner rather than later is that there is a limited window in which witnesses will be available. We do not have the luxury of waiting. Would you agree with that?

Reverend the Hon. FRED NILE: Definitely. That is the reason why I am raising it.

Mr PARKHILL: Yes.

The CHAIR: And one hopes that late middle-aged consciences kick in.

The Hon. ROSE JACKSON: I will pick up on a comment that you made in your opening statement. The communities that are affected here are not homogenous. We have talked a little bit about the particular challenges faced by gay and lesbian people living in rural and regional communities, but I wanted to draw out some evidence in relation to, for example, culturally and linguistically diverse [CALD] gay and lesbian people, who may face a whole range of challenges, some of them as simple as language barriers. But there may also be other cultural and religious barriers that might make it difficult for them to not only come out but identify their sexuality as a reason why they have been a victim of violence when talking to the police, even though they may know that that is partially what motivated an attack upon them.

I want to provide an opportunity to bring some of those issues into evidence and think about what we might do both in terms of giving justice to historical crimes that may not have been seen in this context because victims were not willing to be open about their sexuality but also in terms of what we can do in the future to provide those people with an opportunity to disclose what has happened to them.

Mr PARKHILL: I could not agree more. I think we understand that notion of the LGBTI community as being very diverse with much greater clarity now in 2020 than we did in the 1980s, where it was a gay and lesbian community. Then the kind of narrative and framing, even within the gay community to a degree, was gay and lesbian, Sydney Oxford Street, and HIV/AIDS, which was playing out. We now have a much more nuanced and mature understanding of what our communities look like and, indeed, the vulnerabilities that particular cohorts within that grouping have. CALD populations are critical within this, particularly those who come from faith-based backgrounds and who may be people of strong faith in themselves. How they then struggle with their sexuality or gender identity, feel isolated or ostracised from their family or church and their willingness to then engage with services or to connect with communities make them even more vulnerable.

It is definitely CALD populations. We only have to look at western Sydney to know, from the marriage equality plebiscite, that western Sydney voted no at a much greater rate than the rest of the country. There are a number of reasons for that, but western Sydney is an area that needs a lot of work in addressing people's attitudes towards gay and lesbian people. Whether that is culturally and linguistically driven, whether it is faith-base driven, there is still a disproportionate level of homophobia and transphobia that exists there. Along with CALD communities, trans and gender-diverse people are absolutely, through the data that we have, at the top of the list, if you like, in terms of vulnerabilities around violence, discrimination and harassment—to the point that it is at epidemic levels, if you like.

You only have to look at some of the suicidality data and mental health distress that trans and gender-diverse people experience to understand the level of ostracism and isolation that they can experience and the very real vulnerabilities that they face.

The Hon. ROSE JACKSON: You may be able to provide some information, but I was quite interested in the point that you made in relation to that Monash research, I think it was. Correct me if I am wrong, but I think I heard you say that there was an increase in violence and harassment since 2011. Do you think that is an increase in reporting—people being more comfortable and confident coming forward—or do you think that there could be something else driving genuine increased levels of violence and harassment? How do you explain that extremely concerning sort of statistic?

Mr MACKIE: I think that the research only came out today.

The Hon. ROSE JACKSON: Right, yes. You did mention that, too.

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Mr PARKHILL: It actually has not been—it is coming out at three o'clock this afternoon, so if the Committee likes—

The Hon. ROSE JACKSON: It is fresh.

Mr PARKHILL: —we will submit that research, because there is a section in it—

The CHAIR: Thank you.

Mr PARKHILL: —that looks at violence and discrimination and it breaks that down into different population cohorts as well.

Mr MACKIE: I think, also, it was from Latrobe University rather than Monash.

The Hon. ROSE JACKSON: I apologise.

Mr MACKIE: But it was quite disturbing, the level of increase. If I could just refer to a couple of examples, in 2011 when the study was last done some 25.5 per cent of participants reported verbal abuse, but today 34.6 per cent—that is a 50 per cent increase on the previous time the study was completed. Again, with physical violence or attack, it has gone from 1.8 per cent to 3.9 per cent—nearly 4 per cent—of people experiencing physical violence, which is a considerable increase. Again, it is a doubling, I think, which is very disturbing.

The Hon. MARK PEARSON: Do you think what Ms Jackson has said could be the case, where because of the change in society attitudes, police attitudes et cetera that actually more people feel empowered enough to go and make the complaint at the police station or at the hospital or wherever when previously they would have just gone home and just ridden it out without anybody being aware? I know the report has just come out and you do not know, but would you glean that that could possibly be the case?

Mr MACKIE: That may well be the case, but we also know that people have reported increased violence and harassment as a result of the marriage equality debate and a range of other major social discussions that have gone on. There may be a range of factors that have contributed to that.

The Hon. MARK PEARSON: If it is true, it is a serious concern.

Mr MACKIE: Yes.

The Hon. MARK PEARSON: I find it rather—I was quite shocked. I thought maybe I misheard.

Mr PARKHILL: I think there is probably a bit of both. People are probably more comfortable reporting, but we are also seeing a different environmental backdrop—things like marriage equality, where we know there was elevated expressions of violence towards our communities. You have religious freedoms playing out, both at a national level and here at a State level. Those public debates impact on the way our communities can be positioned. I think for people who perhaps have a predilection towards homophobia and transphobia those sorts of environments and debates give them the leverage to act it out, unfortunately.

The Hon. ROSE JACKSON: I am sure some commentary from some political leaders does not help as well.

The CHAIR: We are just about to conclude. Have any other members got a pressing question they want to ask or point they want to make?

The Hon. MARK PEARSON: Just one question, but I know the witnesses cannot answer it yet. Did this inquiry look into transphobia within the gay community?

Mr PARKHILL: This report, the Latrobe *Private Lives 3* report, does not. I am not sure what research exists around that. But I would say that anecdotally, from what we understand, there would be a cohort within the broader LGBTI community that would be transphobic. As I said before, the LGBTI community is very diverse. To say that transphobia does not exist within our own community would not be telling the truth. There is work for us as a community to do around that.

The CHAIR: As the community has had to do in the past around the relationship with the Asian community and with women, it has been no different to reflecting general society issues, is that not right?

Mr PARKHILL: That is exactly right, yes.

The CHAIR: I will finish up on this issue. In the last inquiry we talked about the "Grim Reaper" ad and HIV/AIDS being a major factor in assaults and murders—and, in fact, that that was actually expressed when they were being bashed, that it was about AIDS. Thankfully we have got a reduction now in HIV infection rates; we

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have got a new drug, PrEP. Are you still concerned around those issues? There is talk about compulsory blood testing of people involved in assaults for HIV. Is that adding to the narrative that there is still a problem?

Mr PARKHILL: Absolutely. I think the existence of stigma, discrimination and fear around HIV is incredibly common. I think within the gay community it would be accurate to say that we understand the contemporary science and what it looks like because the Australian and the New South Wales response has been very good at targeting, appropriately, the gay community about what it is that we need to do to protect ourselves and those we love. We have kept up with the science. The general community, though, has not been exposed to those education campaigns. A lot of people still have this notion around HIV transmission that is stuck back in 1985 that is based around the Grim Reaper. They still think that you can catch or get HIV from sharing a toothbrush or that sort of notion—

The CHAIR: Being spat on.

Mr PARKHILL: Or being spat on. They do not understand that the majority of people who are HIV positive are now on treatment, and if you are on treatment you cannot pass HIV on, and that if you are HIV negative you can take a pill to protect yourself. Because of these extraordinary advances in biomedical interventions we have seen significant decreases in HIV transmission. People with HIV live long, healthy lives—the expected lifespan of everybody else. It is a chronic manageable illness. Yet this fear, stigma and discrimination around HIV at the general community level still exists, even within some pockets of the health workforce. That feeds into notions of homophobia and the otherness of our communities.

The CHAIR: Compulsory blood tests for someone in an assault for HIV—the assault of a worker, a police officer or health worker or prison officer: What is your response to that? I know you have made a submission on that.

Mr PARKHILL: Compulsory HIV testing goes against the World Health Organisation and the Commonwealth Government's own *National HIV Strategy*. New South Wales has always resisted it. It takes away people's civil liberties. There has not been one case of HIV transmission in emergency service personnel in over 15 years. I think there may have been one case in New South Wales of a prison guard in the very early days of the epidemic. This notion that emergency personnel—and do not get me wrong: no-one, particularly our emergency personnel, should be assaulted, spat on—

The CHAIR: Hear, hear.

Mr PARKHILL: —or assaulted. That is absolutely appalling. But the answer to that is not enforcing mandatory HIV testing on anyone. Our real concerns with it is it will be used, potentially, by some NSW Police Force officers as a tool to target already vulnerable populations and those who may come into contact with the NSW Police Force—Aboriginal and Torres Strait Islander populations, homeless people, people with mental health issues, and people with drug addiction issues. It is an archaic step to try to criminalise what should be dealt with as a public health issue.

The CHAIR: I think because it is a segue into the social attitudes that we are trying to address here. Thank you very much for your evidence today. Your organisation is good at giving us important feedback and submissions. We appreciate the work that you do in the community and the Parliament. You may have taken some questions on notice. Mr Mackie has said that he would provide as a submission the La Trobe University study that is coming out today. We look forward to adding that into our evidence. That is really compelling information. Once you have seen that this afternoon, you might like to do a commentary of your own as part of that.

Mr PARKHILL: We will provide an overarching brief.

The CHAIR: That will be added to evidence within 21 days. Thank you very much for coming in today. We appreciate it.

Mr PARKHILL: Thank you all very much for your time, for the opportunity and for the important work that you are doing. We are very grateful.

(The witnesses withdrew.)

CORRECTED

GELINA TALBOT, Commander, Professional Standards Command, NSW Police Force, sworn and examined

The CHAIR: Welcome back to the Social Issues Committee's Inquiry into Gay and Transgender hate crimes between 1970 and 2010 - 57th Parliament. I welcome our next witness, Assistant Commissioner Gelina Talbot. Thank you for coming in today. Would you like to make an opening statement? We do not have a submission from you so we would welcome an opening statement.

Assistant Commissioner TALBOT: I would like to. Thank you.

The CHAIR: Please go ahead. We have an hour with you so take your time. I hear this is your first parliamentary inquiry, by the way.

Assistant Commissioner TALBOT: It is. I am not intimidated at all!

The Hon. NATALIE WARD: Welcome.

The CHAIR: This is a pretty soft inquiry compared to others. Do not worry; we will not maul you.

Assistant Commissioner TALBOT: I am not sure that takes away the nerves at all, but thank you very much. Firstly, I thank the Committee for extending the opportunity for the NSW Police Force to return to this Inquiry into Gay and Transgender hate crimes between 1970 and 2010 - 57th Parliament. Noting your terms of reference and having had an opportunity to read earlier from some evidence provided to this Committee, I acknowledge that being a witness in this inquiry on behalf of the NSW Police Force is valuable in contributing to your report and to the pending recommendations. It also allows me to highlight the changes and improvements undertaken by the NSW Police Force, especially since Assistant Commissioner Crandell appeared here in November 2018.

By way of introduction, I am Assistant Commissioner Gelina Talbot. I am the commander of Professional Standards Command. It sets and embeds the professional standards of performance, conduct and integrity for the NSW Police Force. I have held that position since April 2018. I am the NSW Police Force Corporate Sponsor-Sexuality, Gender Diversity and Intersex and I assumed that position following Assistant Commissioner Crandell in mid last year. He is a very hard act to follow.

The CHAIR: He is indeed.

Assistant Commissioner TALBOT: I am also the ambassador for the LGBTIQ employees on the NSW Police Force Inclusion and Diversity Council, which was established in 2019. I would like to rely on the NSW Police Force submission in 2018 and Assistant Commissioner Crandell's evidence when he appeared before this Committee on Friday 9 November 2018. They are detailed and reflective accounts of the work undertaken by the NSW Police Force to that point in time. They address past issues and highlight the progress made in relation to engagement and rebuilding trust with LGBTIQ communities. If the Committee is agreeable then I will start by addressing the one recommendation for police that came from this inquiry in 2018, which was to ensure that officers had the skills and knowledge needed to engage with LGBTIQ people respectfully and equally.

I advise this Committee that the LGBTIQ awareness mandatory training program was developed and delivered last financial year. It has been completed by 22,456 employees. A key aim of the Gay and Lesbian Liaison Officers program is to build the overall capacity and skills of the commands to better meet the needs of their local LGBTIQ communities. I believe that those initiatives, when combined with other initiatives undertaken by the NSW Police Force, are addressing the concerns from the LGBTIQ community and the recommendation made. There is a volume of training and education packages along with policies and guidance already implemented within the NSW Police Force around LGBTIQ issues, awareness, expectation, bias and hate crime. More are being developed. Students are exposed to training in their first and second years and undertake a presentation prior to their exit from the academy.

We have LGBTIQ awareness embedded in other training programs, including domestic violence and custody, and we remain committed to making sure that our officers understand the various issues faced by the many communities with which they are required to interact. The answer is not training alone. Yes, there should be ongoing awareness programs and all levels of our organisation must understand the history and the issues facing our communities. This is about the application of that training that we deliver. The NSW Police Force continues to deliver mandatory and self-sought training on a wide range of issues every year. This is about prioritisation and our capability given the volume of information that we are required to put out to police. This can easily turn into white noise if not well considered, and I think that is something that should be avoided at all costs.

CORRECTED

Awareness training should be about impact, delivery and the application of the learning objectives. We should make sure that our training is contemporary. It is about our supervisors, commanders and leaders standing up and holding our people to account. It is about ensuring that our investigation processes, systems and practices are robust and constantly scrutinised to ensure continual improvement in how we deliver our service to the people of New South Wales—whether that is engagement or investigation. We should be doing this because the people of New South Wales deserve that from us. We are committed to being a learning organisation that continues to take significant steps to learn from the past and make sure that appropriate change is undertaken, to ensure that the organisation is responsive to the needs of all of the communities that it serves.

We are, and should be, held to a higher account given our role to protect and serve. Everyone should be confident, when they can report a matter to the police, that it will be recorded and investigated where appropriate. I accept that we have not met that standard at times in the past. We now treat failures to investigate as misconduct matters, which are monitored by my command. I sit here today acknowledging the victims of the past and their families. I acknowledge the past inadequacies of the NSW Police Force in responding, recording and investigating hate crimes against the LGBTIQ community. Unfortunately I cannot go back and change that. What is important is that we learn from our failings and mistakes.

It is important that we ensure that we have robust systems, processes and governance in place that identify inappropriate behaviour and inadequate recording and investigations quickly so that corrective behaviour and action can be undertaken. It is equally important that our officers are held to account and perform their duties professionally. As stated by Ms Foy in the earlier hearings of this Committee on 9 November:

Any individual in ... this State should be able to deal with any New South Wales police officer ... with confidence knowing that they will be treated equally and respectfully.

It is for this reason that we cannot rely solely on GLLOs to build relationships with and take reports of matters from the LGBTIQ community. Every police officer must be able to deal with any member of the community with dignity, respect and care—it is just fundamental human right—and must be able to assist and investigate matters reported to them. I do not know what the culture looked like in 1970 and 1980, but I am confident as I sit here that when I joined in 1990 it was a culture that does not exist today. We are a significantly different organisation. But there are still parts of our culture that we will continue to have to work on. We will not reach utopia: No organisation will. But we must ensure that officers abide by their oath, by the *Code of Conduct and Ethics*, by the values of the NSW Police Force and what is expected of them by the NSW Police Force.

We are a diverse organisation, and we will continue to drive diversity and inclusion so that we are reflective of the community we serve, and our people can be their authentic selves in the workplace. I would like to submit to this Committee that COVID-19 has had a significant impact on us as an organisation to be able to physically engage with the LGBTIQ community this past nine months and it has made it difficult as the regions' Corporate Sponsor to be able to engage with all key stakeholders, but always the health and safety of that community was important to us and we have undertaken other ways of being able to engage using technology.

In closing my opening statement, I ask the Committee to accept that when and if I preface "the community" today, I am referring to all communities and the LGBTIQ community. Given the importance and desire to be accurate during this inquiry, and given it is my first one, I would like to refer to my notes at various times during the inquiry, if you do not mind.

The CHAIR: You are welcome to do that. Thank you for that opening statement, Assistant Commissioner. I am pretty sure you were reading a prepared statement, so I wonder if your office might be able to email that to our secretariat for Hansard so they ensure that they get all that accurately. That can be organised through the secretariat. Thank you for that.

Assistant Commissioner TALBOT: Thank you.

The CHAIR: Also I want to assure you that all of the evidence from the last inquiry from Inspector Crandell and his submission will be incorporated as evidence in this inquiry. All of that material has been brought forward so you can be assured of that as well. You probably did not get to hear much of the ACON discussion when we had from ACON for the last hour, but one of the areas we talked about was training and awareness in the Police Force. This was part of the evidence in the last inquiry as well. I think Mr Alex Greenwich raised it. We understand that police officers are given their training at the academy at the beginning of their career but there is no refresher or revisitation of training in terms of dealing with the LGBTIQ communities, specifically; hate crimes more broadly.

There have been suggestions that every three years there needs to be a refresher on that issue and also when police are promoted that may be is a good time to refresh on hate, and hate more broadly in dealing with

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LGBTIQ communities specifically for us in this inquiry. Would you like to comment on that in terms of the level of training and regularity of it?

Assistant Commissioner TALBOT: As I mentioned in my opening statement there is a lot of training and education that is being undertaken across the organisation. If we talk about promotion, we currently have a new promotion process that has come out. It has a number of training components within that. We do talk around the expectations of leaders across the organisation but I think it is important that, given that is a new process, I take that question on notice around our promotion process so that you can see what is the type of training that we are putting in place. We do have the LGBTIQ Ally training, which is for a range of officers. It is covered in our peer support officers course. It is covered in our domestic violence family course as well as custody, there are significant different ways that we put this training in and across the organisation.

We also have now, as I said before, that awareness training that was mandatory. It went out last year. Given everything else and all the other communities that we deal with, I think it is important that we are well measured when we do that training and that awareness training. But I do not disagree that awareness training is required.

The CHAIR: Because, I mean, I imagine that for some police officers, you leave the academy and you are out there at the coalface. After a few years you get a little desensitised to what is going on. I mean, it would have to be a factor of the engagement in some of these situations. Would you not think that a refresher of some of those core issues like hate crimes and dealing with the LGBTIQ community relationships should occur not just at the beginning but regularly through their career?

Assistant Commissioner TALBOT: On a regular basis, yes.

The CHAIR: All right. ACON's view—and they have always had a good or strong relationship with the New South Wales police, or not always but in the last decade or so they have had a very good relationship, on my understanding—is that they would like to see more transparency in the training and maybe some auditing of the training. I notice you mentioned how many officers had been through the program.

Assistant Commissioner TALBOT: The awareness manager training, yes.

The CHAIR: Was it 22,000 you said?

Assistant Commissioner TALBOT: Yes, 22,456.

The CHAIR: That is in the last—

Assistant Commissioner TALBOT: The last financial year. It was a mandatory training package.

The CHAIR: So 22,000 in the last financial year?

Assistant Commissioner TALBOT: Correct.

The CHAIR: Wow. And what is the size of the force?

Assistant Commissioner TALBOT: Can I take it on notice as to exact numbers?

The CHAIR: Broadly?

Assistant Commissioner TALBOT: Broadly, it is about 23,000.

The CHAIR: Okay. So it is nearly every officer?

Assistant Commissioner TALBOT: Or 22,000.

Reverend the Hon. FRED NILE: Approximately.

Assistant Commissioner TALBOT: Approximately, yes.

The CHAIR: So nearly every officer has been through that program?

Assistant Commissioner TALBOT: Yes. I could confidently state that about 99 per cent of officers have done that training and the 1 per cent who have not would be those who are not in the workplace.

The CHAIR: Can you explain that training to us? What is it—one day or half a day?

Assistant Commissioner TALBOT: It is an online package that is undertaken.

The CHAIR: Right.

Assistant Commissioner TALBOT: It might be good if I have that delivered to you.

CORRECTED

The CHAIR: That would be good, yes.

Assistant Commissioner TALBOT: You can then see that.

The CHAIR: Take that on notice as well. We will have a look at that. If that is not confidential, we can add it to the evidence, but let us know beforehand if there is some sensitivity about it. That is encouraging to hear that. Perhaps other members of the Committee have questions? We are fairly informal here, unlike other inquiries, I assure you. The Hon. Mark Pearson from the Animal Justice Party?

The Hon. MARK PEARSON: Thank you very much. We had evidence just this morning that it appears—so we have to understand it more because it is a report that has just been released—there is probably about a 10 per cent increase.

Reverend the Hon. FRED NILE: Could you speak into the microphone?

The Hon. MARK PEARSON: Oh, sorry. There is actually a 10 per cent increase, approximately, in assaults or harm to this community that this inquiry is about since the last report was provided. I think we are looking at probably about seven or eight years ago. I know this is new and it is new to us, but is that something that has come to the attention of the NSW Police Force over that period of time?

Assistant Commissioner TALBOT: Could I just clarify the question around what year it was? Is it a new report?

The CHAIR: It is the Latrobe study that has been released today so it is fair enough that you would not know about it. Its title is *Private Lives 3*. Six thousand community members have been researched about their experiences. Apparently there has been an increase. We got evidence from the last witnesses.

The Hon. MARK PEARSON: But I am not expecting you to be across that. I am just wondering if that is something that has come to your attention by information that the police themselves are seeing?

Assistant Commissioner TALBOT: So in respect of that report, I would have to take any question on notice around that. I have not seen that report. It is the first that I have heard about it except now. In regard to rates of reporting of hate crimes, if I could just talk to that.

The Hon. MARK PEARSON: Yes.

Assistant Commissioner TALBOT: Over the past 12 months the rate of hate crime incidents reported for LGBTIQ community members was 79 in our records. This accounts for 16 per cent of all recorded hate crime involvement, events and information reports are received by us.

The Hon. ROSE JACKSON: Is that an increase on previous years or a decrease? Do you have any information about whether it is about the same, or—

Assistant Commissioner TALBOT: I would say it is about the same, if I am being honest. For the period 2018 to 2020 there were 211 reported incidents so that is accounting for about 13 per cent of all recorded hate crimes. So we are not seeing what is suggested is that increase in spike.

The Hon. MARK PEARSON: Okay, I think that we will probably see that information more clearly as we study the report. At the moment, according to the NSW Police Force, we have 23 unresolved murders that seem to be directly related to hate crime, as opposed to other crimes. Considering that there has been an arrest undertaken in relation to the murder of Scott Johnson, have the NSW Police Force looked at what was put in place and how the investigation continued with the support of his brother, and therefore has got to a point now where a person has been arrested? Have the NSW Police Force turned their mind to what that process was, which got to the point of enough evidence to arrest somebody in relation to Scott Morrison's murder—

The CHAIR: Scott Johnson.

The Hon. MARK PEARSON: Sorry, Scott Johnson's murder, and is the NSW Police Force turning its mind to the other 23 unresolved murders?

Assistant Commissioner TALBOT: Yes, absolutely. Our State Crime Command and Unsolved Homicide Unit review those matters that are deaths on a regular basis. I have met with the commanders of the State Crime Command and the Unsolved Homicide Unit, and I am satisfied that they have a robust system in place to consider and review the power of all matters. Some matters have been reviewed and are listed as undetermined as to the cause of manner of death at this time, or are inactive due to there being no new identified suspects, witnesses or forensic evidence, and no new lines of inquiry available. But they will be reactivated if new and compelling evidence becomes available.

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With all homicide investigations, there is a team-based task force approach that is undertaken. I am confident that in every investigation that the commander of State Crime Command and others look at, they go back and review them on a regular basis, and if there is new and compelling evidence, the investigations are reopened and investigated.

The Hon. MARK PEARSON: How actively do the investigators pursue the new evidence?

Assistant Commissioner TALBOT: Every time those matters come up for review, they look for new and compelling evidence.

The CHAIR: But the whole problem is that historically so often they are misclassified as a misadventure or suicide—I think it was claimed that Scott Johnson's death was as a result of misadventure—and inadequate evidence collection takes place, so it is hard to find new evidence. ACON and others have suggested in recommendations to us that we make a recommendation for a judicial inquiry to investigate those unsolved deaths, but perhaps others more broadly, which would probe the events around the time as well. Would that give more—for want of a better word—muscle to drive outcomes for these murders if they are driven by judicial rather than police investigation processes that are ongoing. A judicial inquiry really puts pressure on these situations.

This would recognise, as we spoke about earlier, that the perpetrators are living amongst us today. Some of them are known to the police, as we heard that at the last inquiry, and they are getting older. The families and partners of the 30 victims, some of whom gave evidence at the last inquiry, are still wanting closure—for want of a better word—so we want to try to drive some outcomes and this. Does a judicial inquiry give more muscle to drive some justice in these situations?

Assistant Commissioner TALBOT: Not so much muscle but exposure. I note the trauma that has passed and the impact that has had on the individuals and their families. It is important that people get to tell their story in an environment where they feel safe and supported. If that is through that process, then that is through that process. Regarding any proposed alternate independent mechanism to reinvestigate historical LGBTIQ hate crimes, it would be difficult for me to provide feedback without further details on that, except yes—it does give exposure. However, we would be willing to provide the Committee any further assistance or feedback if it was requested.

The Hon. ROSE JACKSON: Thanks for coming along. I wanted to ask a little bit more about the training that you are rolling out. I was interested in two particular things at first. Firstly, you mentioned in your opening statement that the police need to be responsive to local needs and the local community that you are working with has particular needs that police need to be responsive to. I suppose a good example would be working in Kings Cross is quite difficult to working in Brewarrina, which is again quite different to working in Mount Druitt. That also plays out in this context. When you are dealing with LGBTI communities in those different areas, you are going to get very different experiences with people's willingness to come forward as gay and lesbian, and people's willingness to identify harassment or violence that they have been the victim of as linked to their sexuality.

Is that embedded in the training that police are receiving? Or is it very general—when someone says that they are a gay or lesbian person, this is how you respond? Are you going into the different lived experiences that community members across the State are going to be having, and how that might affect their interaction with police?

Assistant Commissioner TALBOT: Each operational commander—and when you talk about differences between regional, metro and rural, I worked in metro and regional and was the commander of the Barwon local area command, which covered 80,000 square kilometres in remote and special remote New South Wales. Each community is different, and it is the responsibility of commands to have an induction package that enables those new officers—whether they are recruits or people transferring into the command—have an understanding of the services that are in that community. We do have a sexuality and gender diversity and intersex induction package that is on our intranet site that people can use, but it is a general guide as to how to do it.

It is the responsibility of each command to be able to tailor it to their own communities. It is important for me to state that I have seven regional corporate sponsors that work with me. Their responsibility in those regional and metropolitan areas is to work with commanders to make sure that they are being responsive to the needs of those communities with regard to LGBTIQ.

The Hon. ROSE JACKSON: What is your sense of how that is going in terms of your commanders' professional standards? That is their responsibility in those areas. Do you think that is going well? Do you see lots of room for improvement? What is your sense of how well officers who are moving into different areas are understanding the particular LGBTI experiences and needs in those areas?

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Assistant Commissioner TALBOT: In metro areas it is easier, because we have a more open—if I can say that—less anonymous LGBTIQ community. Is it different in rural and regional New South Wales? It is different, because the communities are not so open and transparent in the sense of needing police or other services. So we could do that better.

The Hon. BEN FRANKLIN: In terms of the police officers themselves, rather than the differences between the communities from an urban and regional perspective, have you determined any differences between police officers? In the last session I asked a question about whether there was an issue from the ACON representatives, and if they think that some regional police officers may be less engaged and understanding in this space? The evidence that they gave was that there was some anecdotal evidence to that effect. Do you have a response to that. They were not strong and this, by the way. There was not a substantial criticism, it was just raised as an issue. Secondly, do you do anything differently in this area with regard to training and engagement for regional police officers compared to urban officers?

Assistant Commissioner TALBOT: Having lived experience of being out in rural and remote areas, I am not sure that is exactly right in the sense of the difference in the police. We have those regional sponsors, and they provide that regional and rural leadership. That is the first part of it. The second part is that we run the GLLO program. We went to our northern region in 2019, so there were additional GLLOs trained out there. I am going to Dubbo next week for a GLLO course that we are running with about 15 or 16 participants. If I can just talk about that one, because that it is important that I outline what that looks like.

The upcoming course will focus on specific challenges facing regional and rural LGBTQI communities, including First Nations LGBTQI people. We will have a panel which will be conducted that includes members of the NSW Police Force Aboriginal Employment Unit, our Aboriginal community liaison officer, a representative from First Nations Rainbow and a local GLLO. The aim is to discuss issues facing regional and rural LGBTQI communities relevant to police. We do hope that the ideas and suggestions that come from that helps us with that engagement out in the community and building trust with the community in rural and regional New South Wales. We also have a networking event at that course to encourage informal interaction and engagement between the new GLLOs and the local LGBTQI communities.

With that GLLO course, we have also converted it—and COVID has probably given us the opportunity to do this—into an online and interactive model, so that that content can be produced and available to officers to increase levels of awareness, training and knowledge across the entire organisation. So it does not have to be face-to-face at times that officers can actually go in and do this training. That is important when you look at regional and rural New South Wales. It is a significant impact on a command to draw police out and bring them to one location to do training. It takes police out of their local community and sometimes that can be for various days instead of—when in the metro—a couple of hours. There are different impacts on the organisation depending on where you do this training.

The Hon. BEN FRANKLIN: I take all of that as fact, but obviously there is nothing more important than building a face-to-face personal relationship as well.

Assistant Commissioner TALBOT: Sorry, with the community?

The Hon. BEN FRANKLIN: Yes.

Assistant Commissioner TALBOT: Yes, absolutely.

The Hon. ROSE JACKSON: One of the things that ACON thought would be useful as part of training is a really explicit understanding of the historical context. Is that something that is included? I think your words today were really important and really powerful in your understanding of the failings of the past and the reason that this is important. I can see why that is important because perhaps it is not just about saying that police represent the entire community and it is important that they are able to interact with everyone but that there have been specific issues in the past and this is what that looked like and that is the reason why it is really important that officers are responsive. Is that historical context discussed or included? Is there honesty and openness in the conversations that are happening with new recruits about what has happened in the past?

Assistant Commissioner TALBOT: Absolutely. It is the point of what we do. We have to acknowledge the past to make sure that we do not do it again. We have to make sure that officers coming through—who are from a different generation. When you talk about 1970, I was not born. Sorry I do not want to throw it out, I know I look young, but it is important to acknowledge that such a period of time has passed that we have to make sure that we are continually talking about that so that people understand the context and the reason and the drive of why we do what we do. It is probably at this time that I would like to mention to the Committee that we did a *Standing Together* film. I am not sure whether you have seen it or you know about it. *Standing Together* is the result of a call to action by a 78er at the NSW Police Force Commissioner's apology in August 2018.

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The CHAIR: For the purposes of the Committee, a 78er is someone who participated in what is called the first Mardi Gras, but what was actually a protest which was—

The Hon. MARK PEARSON: I think Rev. the Hon. Fred Nile might be one too, actually.

The CHAIR: For other reasons. I am sorry I interrupted you, Assistant Commissioner.

Assistant Commissioner TALBOT: No, it is alright. That film was a collaboration between—and please excuse me while I read it because it is very important that I explain it. It is a collaboration between NSW Police Force and a small group of 78ers to raise awareness and show how much has changed since the first Mardi Gras. The aim was to utilise this awareness to encourage young people in the community, LGBTQI in particular, to reach out and seek help if they are encountering homophobic or transphobic bullying or harassment. It was a collaborative piece of work with many community stakeholders like PCYC, Twenty10, Wear it Purple, PFLAG and a small group of 78ers.

That film was formerly launched within the NSW Police Force and on Facebook on Wear it Purple Day, so it had some significance. This video helps raise awareness among our own officers, especially to share the historical relationship with members of the LGBTQI communities, to assist them to better understand those community concerns. A number of police, including myself and Mr Crandell, were on that video talking about how we got it wrong and how we need to do it better. Importantly, it does show wonderful young officers who are coming through our organisation who are open and proud to be out in our organisation as LGBTQI and to work with that community. They are just phenomenal and I would really like to be able to send this Committee that link.

The Hon. ROSE JACKSON: Please do.

The Hon. NATALIE WARD: Yes, please.

Assistant Commissioner TALBOT: Equally important, too, is in early 2020, ABC journalist Monique Schafter approached us to produce a short video demonstrating how much progress had been made by gay-identifying officers. The result was an episode of *Generations Apart*, which featured a recently retired gay officer who joined the NSW Police Force in 1980 and a wonderful young officer who has always been out and proud as gay within our organisation. Again, I would like to share that. I think they give a good story about how we have changed over time and will continue to do so.

The CHAIR: That is very encouraging.

Ms ABIGAIL BOYD: Thank you so much for everything you have been doing to raise awareness within the organisation. With the online training that is provided, when you say online, do you mean a video link or a program with training modules?

Assistant Commissioner TALBOT: An interactive-type module.

Ms ABIGAIL BOYD: How long does it take to complete the training?

Assistant Commissioner TALBOT: Can I come back to your question for each one? Because there are different modules.

Ms ABIGAIL BOYD: Can you give a ballpark figure? Are we talking an hour, half a day or a day?

Assistant Commissioner TALBOT: Again, I do not want to mislead the inquiry, but each module would be about half an hour or 45 minutes and there are a number of different modules within that.

Ms ABIGAIL BOYD: What sort of monitoring is done to ensure that the people who have undertaken that are actually absorbing the information?

Assistant Commissioner TALBOT: As I mentioned in my opening statement, that is our greatest challenge. In everything that we teach, it is the application of the learning that we give, so that is very hard for me to answer. I guess, if I look at it from my current position as Commander of Professional Standards Command, that is very much reflected in the complaints that we receive around customer service, how we investigate matters or any that are LGBTQI-related. That is how I see it.

Ms ABIGAIL BOYD: What is being done to identify and support those people who just do not get it? It does not matter how much training they are given online, they need an extra level of support and training in order to not be homophobic and transphobic. Is there additional training of any kind that is offered?

Assistant Commissioner TALBOT: Yes, so, if I look at it in my space, if any officer comes before us in the sense that they have not met the standards that are expected of a NSW Police Force officer—if it is in LGBTQI, any customer service or failure to investigate—there are a number of management actions and

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reviewable and non-reviewable action that can be taken against an officer. Some of that is education and training. It can be a performance enhancement plan. It can be a conduct management plan, and they are monitored and have specific strategies to address behaviour. What they do is enable an officer to reflect on their behaviour and change, and if they do not then there is other management action that can occur.

Ms ABIGAIL BOYD: How many complaints have been received and how many of those complaints have led to an improvement? It would be really good to see the figures of how successful that behaviour management strategy has been. How many people actually had to be let go or put in a different role and how many were actually successfully managed through that?

Assistant Commissioner TALBOT: If you do not mind, I will take that on notice because there is a lot of work that is done and there are different management actions that are put in place, different plans. I guess the measure for me for success is that someone does not come back before me. Those that are given certain action will come before an internal review panel or the commissioner's advisory panel. If you are talking about misconduct matters that are related to LGBTIQ issues, I can tell this inquiry that in 2019 we received 16 misconduct matters where LGBTIQ issues were identified, and in 2020 we had 20 misconduct matters that we received where LGBTIQ issues were identified. If I can explain to the Committee, that is internal and external complaints that are lodged with the NSW Police Force and some of those are still the subject of current investigations.

Eighty-one per cent of the incidents that were reported to police in 2019 came from an external source and 50 per cent in 2020. So I am not sure whether that is a measure of success in the sense of less complaints from the community, but again, I can only base it on the figures that I have. If you look at fail to investigate allegations, so if we are here talking about investigations—and take out that I cannot break that down into whether it is LGBTIQ-related or hate crime—we sit around, for this year, 422 fail to investigate out of around between 5,000 and 8,000 complaints a year.

The Hon. ROSE JACKSON: I accept that you are unable to identify the suggestion that fail to investigate occurred, but is that not something that might be a useful measure that you were able to undertake if there was some capacity to look back on, okay, there were 420 suggestions that an officer failed to investigate and that we are able to identify that a certain number of them or none of them was because there was a suggestion that the officer was biased or homophobic?

Assistant Commissioner TALBOT: That can be done, but I cannot give you that here in the inquiry. It is about the capture of that information at the time that it goes in, but each investigation that is done is reviewed entirely through the investigation process and looked at by the delegate or the commander that has that matter. It is hard to break that down here now.

The Hon. ROSE JACKSON: Are you able to provide that information to us on notice or is that something that is simply not available?

Assistant Commissioner TALBOT: I cannot give you the answer to that specifically at this time. So I will take that on notice as to the breakdown of those complaints.

The CHAIR: We will move on to Reverend Nile.

Ms ABIGAIL BOYD: Sorry, I was interrupted.

The CHAIR: Then Reverend Nile and then the Hon. Natalie Ward.

Ms ABIGAIL BOYD: Back to my original question. What I am trying to get at is out of those people who have had complaints made against them, some of those will have been dealt with in different ways. I am interested in the data showing how effective that is, how many of those went into further training, how many were disciplined. You said that the measure of success is they do not come back before you, and I accept that that might be true in a number of cases, but given how hard it is to identify homophobic and transphobic attitudes within the force, are there any other measures taken to ensure that those people, once identified to have had a lack of awareness, were actually able to improve in their behaviour and attitudes?

Assistant Commissioner TALBOT: If I give the example if you are put on a conduct management plan, that can be for a period of time—it can be three months, it can be six months, it can be 12 months. Once they come off that plan they have to successfully complete that plan to come off it. In the sense of effectiveness, yes, for me, it is about they do not come back before me. That tells me that the command is monitoring that person and that hopefully they have reflected on their behaviour and they have changed. But there is a wide range of education and training, there is formal counselling, advice and guidance—there is such an array of management action that can be taken and I can provide the management action taken—and we make sure that it is proportionate and consistent in what we do. But effectiveness, for me, is about that they do not repeat the behaviour. If I can put

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this to the inquiry: what has really significantly changed is 211F of the *Police Act*, which is about a positive obligation that you must report misconduct.

Ms ABIGAIL BOYD: Because that is what hinges on, I guess, the effectiveness. When you say that they do not come before you, that is not necessarily that they are not repeating the behaviour but that the behaviour has not been notified to you. So I guess what I am getting from your answer is that that is something for the direct management to be monitoring.

Assistant Commissioner TALBOT: Correct, and all investigations are monitored. Back if we say from 1990, when I joined, the different types of reporting then, which was paper-based, is completely different now to what we have got in place as an organisation and there is that review monitoring and verification of events. If we look at hate crime, they are also now monitored by the Engagement and Hate Crimes Unit, so there is an extra layer of supervision that now sits over the investigations.

The CHAIR: I am going to go to Reverend Nile because there are 10 more minutes to go.

Reverend the Hon. FRED NILE: Thank you again for attending our inquiry. I raised this question earlier with the AIDS Council of NSW witnesses, of the need for a judicial inquiry following up this inquiry because this is a political parliamentary inquiry and we lack a lot of the powers that a judicial inquiry would have. I am just wondering if there is any view on that proposal to have a judicial inquiry headed by, say, three judges—one nominated by ACON, one by the Bar Association and one by NSW Police Force—to ensure neutrality as far as possible for those three judges. Do you have any opinion on that?

Assistant Commissioner TALBOT: As I said, we would just be willing to provide any inquiry with information and assistance as required. As I said before, I think it is important that the trauma of the past is discussed and families are allowed to tell their story in an environment where they feel safe and supported, but I think it is difficult for me to provide that feedback outside. If it gives exposure it is an important process and it is open and transparent.

Reverend the Hon. FRED NILE: That is mainly in regard to those 23 unsolved murders. As you probably know, two of my sons served in the NSW Police Force and found it a very positive experience—Stephen and David.

Assistant Commissioner TALBOT: So do I, sir.

Reverend the Hon. FRED NILE: I note in the earlier background material we had that the hate crimes coordinators had a very uncertain situation or position. It was disestablished in 2009, re-established in 2012 and then it has gone through a number of transitions—different titles and so on. Whether it is just my observation, but it gives the impression that the position was sort of downgraded in its importance. Would that be a wrong assumption?

The CHAIR: Reverend Nile, I am just checking if you are reading from the police submission at the last inquiry.

Reverend the Hon. FRED NILE: Yes.

Assistant Commissioner TALBOT: I never want to tell you that you are wrong, sir, but we do consider that hate crime is a serious issue. The hate crimes portfolio has been established and is overseen now by the Engagement and Hate Crimes Unit. The Bias Crime Unit only had four officers in it before; this new unit has 12, with three extra resources that will come online. It does have now a Senior Intel Analyst and is led by an experienced Chief Inspector. So I think that shows that we have put the resources into that area.

Reverend the Hon. FRED NILE: It has been upgraded.

Assistant Commissioner TALBOT: Absolutely, and that is located within our Counter Terrorism and Special Tactics Command. That unit—if I could just explain what it is doing now, if you would allow me?

The CHAIR: Yes, of course.

Assistant Commissioner TALBOT: That unit conducts monitoring and analysis of hate-motivated incidents that occur in New South Wales and it provides support and advises the NSW Police Force on hate-motivated crime. I was recently invited, as Corporate Sponsor, to the LGBTIQ hate crime forum, which was hosted by that unit and it had representatives from ACON, the Gay and Lesbian Rights Lobby, the University of New South Wales and Dowson Turco Lawyers. This was a really productive meeting. We spoke about, obviously, that unit, but the importance of community engagement, beats, and working collaboratively to develop LGBTIQ hate crime educational resources so they have a very big educational drive for our organisation. I am advised that

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that unit receives, or it has disseminated to them, all those incidents that are hate crime-motivated that are flagged on our Computerised Operational Policing System [COPS].

They get them and they make the decision or determine if the incident is wholly or partially motivated as bias or hatred on specific protected grounds. So there is that extra oversight that this unit can now do and has more resources to do that. They also provide advice to affected commands. They support brief preparation, ensure incidents are recorded, assessed and disseminated appropriately and provide feedback on hate crime trends. They disseminate a range of intelligence products, operational briefings and risk assessments. Hopefully I have shown you there is actually a real drive in that area and a commitment by the organisation.

Reverend the Hon. FRED NILE: Good. Thank you for that.

The Hon. NATALIE WARD: Thank you very much for coming along today, Assistant Commissioner. It has been very helpful—

The CHAIR: Absolutely.

The Hon. NATALIE WARD: —and most impressive for your first occasion.

Assistant Commissioner TALBOT: Thank you.

The Hon. NATALIE WARD: You have been an extremely helpful witness. If all witnesses were as prepared as you, it would be amazing. We appreciate all of their input. Thank you for all you are doing. One of our terms of reference is to look at the extent to which past impediments are identified in relation to the criminal justice system and at how effectively those have been addressed by current policy and practice. On my part at least, it is fair to say that you have been extremely reassuring in some of the things that have been done. It is incredible that we have the police now represented and marching at Mardi Gras. We have a 78er here and we have Reverend the Hon. Fred Nile. How things have changed! That is one very visual, very public way of representing just how much the police are doing, so thank you for that.

I was not aware, though, of two aspects—my questions are about those—that demonstrate that you are dealing very seriously with these issues. The conduct management plan is a very serious demonstration of just what you are doing in this space. But also prior to participating in these inquiries I was not aware of the GLLOs—their existence, what they do and their role. I wondered—and I put this to ACON earlier—if you might consider working with ACON perhaps to give some promotion to just how much you are doing in this space: the existence of the GLLOs, that they are available. One of the things we have heard about is the reticence of people to report crimes still today. Do you want to comment on that and on whether that is a possibility? Because I think you are doing a lot of good stuff that even those of us who think we are aware of it clearly are not across some of the things that you are doing.

Assistant Commissioner TALBOT: Can I be honest that I think we do not promote enough of what we do. I think that sometimes come forward; that people think that we are not doing a lot of work. I will get to your question, if you do not mind. I am supported by a very small but wonderful group of people. Even in preparing for today, the amount of work that has been undertaken and the commitment by my organisation towards trying to make sure we do not make the same mistakes, working closely with the LGBTI community, but also our stakeholders—ACON are phenomenal. They have been wonderful to work with, even in just the short time that I have been in this role. I have no objections to working closely with them because they are knowledgeable. Their history and their knowledge and their connection to that community and other key stakeholders is vital for us. The GLLO program—I do have a number and, I apologise, it has just dropped out of my head, if you could excuse me for two seconds.

The Hon. NATALIE WARD: Is this the number of officers? I think we have received some information about that.

Assistant Commissioner TALBOT: You have received that?

The Hon. NATALIE WARD: At least in the previous inquiry I had some numbers.

Assistant Commissioner TALBOT: If I could throw—230 GLLOs across the State, and including allies as well. We have allies that are trained. And they come to—when you talk about Mardi Gras, the excitement of being involved and being part of the community. But it is not only just GLLOs; it is any officer who is LGBTIQ. They love coming to Mardi Gras because it enables them to link in with the community and be proud of what they do.

The Hon. NATALIE WARD: The visual of that is so impactful.

Assistant Commissioner TALBOT: Absolutely.

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The Hon. NATALIE WARD: For everyone.

Assistant Commissioner TALBOT: Thank you.

The Hon. NATALIE WARD: I thank you so much for your work. If there is anything else—you might want to take it on notice if there are other things that you think the Committee could be assisted with in terms of what you are doing or what you might potentially consider. I know you have others to consider running that through but if there are other suggestions you have for what you might be able to do or that you would like us to recommend or consider recommending, we would appreciate those on notice also.

Assistant Commissioner TALBOT: No, thank you very much. I just want to reassure this inquiry. I cannot think of more than what we are doing now. It is a portfolio for me but it takes up a significant amount of work as well because it is that important and the commissioner is really driven by it

The Hon. NATALIE WARD: I am not waxing lyrical. There is more to do.

Assistant Commissioner TALBOT: Absolutely.

The Hon. NATALIE WARD: That is why we are. There is far more to do. We are not glossy-eyed about it and we appreciate that you are on board to walk alongside us to do that.

Assistant Commissioner TALBOT: Absolutely.

The Hon. MARK PEARSON: Were you in your position when the plebiscite was occurring?

The Hon. BEN FRANKLIN: The marriage equality plebiscite.

Assistant Commissioner TALBOT: I do not—was that 2017?

The Hon. ROSE JACKSON: It was 2017.

Assistant Commissioner TALBOT: No, I was not.

The Hon. MARK PEARSON: Okay. I was going to ask a question about how—you probably can answer the question. How do the police prepare themselves for a situation or an event that is likely to incite violence or harm to a group of people, whether it be people for or against, which I think was the case in the situation.

Assistant Commissioner TALBOT: That is very much about us linking in to our key stakeholders in the community to make sure that we are looking after them. So it really is about that. That is the first—the most important part is knowing things are going to happen. It is about linking in with that community to make sure that they know that we are there for them. It is a bit like what we have done with COVID in the sense of the communication that we put out around that, and our concern that maybe there was going to be domestic violence increases. So it was about that awareness and making sure that they knew that we were going to be there.

The Hon. MARK PEARSON: I have one final question. Did you work in the Barwon local area command?

Assistant Commissioner TALBOT: I did, from 2013 to 2015.

The Hon. MARK PEARSON: So you were not there when *The Adventures of Priscilla, Queen of the Desert* was shot?

Assistant Commissioner TALBOT: No, I was not.

The Hon. MARK PEARSON: I was going to ask: What was the community response to that? You do not know?

The CHAIR: No.

Assistant Commissioner TALBOT: It is a very accepting community.

The Hon. MARK PEARSON: Thank you.

The CHAIR: Assistant Commissioner, unfortunately that is the end of our time with you. I thank you for your frank and candid evidence today. It has been really—

The Hon. NATALIE WARD: Impressive.

The CHAIR: —impressive, for want of a better word. During your opening comments you said you had big shoes to fill for Assistant Commissioner Crandell. From what I have seen, there is no issue there at all. We look forward to working with you going forward.

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The Hon. BEN FRANKLIN: Hear, hear!

Assistant Commissioner TALBOT: You are very kind, thank you.

The CHAIR: The first inquiry that I was thrown in front of as a member was the inquiry into Operation Prospect, where we had about 30 police. It was pretty tough. So this has been a very easy introduction for you into upper House inquiries. You have taken quite a few questions on notice. I ask that your office provide answers to those questions within 21 days. Members may submit additional questions before then. Thank you very much for coming today, for being so well prepared and for informing us so well.

Assistant Commissioner TALBOT: Thank you, Chair, and thank you, all.

(The witness withdrew.)

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DUNCAN McNAB, author, journalist and former NSW Police Force detective, affirmed and examined

The CHAIR: Welcome back to the inquiry of the Legislative Council Standing Committee on Social Issues into gay and transgender hate crimes between 1970 and 2010. Our final witness before the lunch break is Mr Duncan McNab, who is an author and journalist and former NSW Police Force detective. Mr McNab also gave evidence in the last inquiry. You can understand that your evidence from the previous inquiry and your submission from that inquiry is now incorporated as evidence to this inquiry. Its weight carries forward.

Mr McNAB: Thank you.

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

Mr McNAB: Just by way of declaration at the beginning, I am currently working for a member of this House temporarily.

The CHAIR: That would be Mr Harwin.

Mr McNAB: It would be Mr Harwin's press secretary, I think we used to call them anyway.

The CHAIR: Yes, there is no conflict of interest there.

Mr McNAB: No, I just thought I would get that out of the way. For me, this is about the events that happened in the, shall we say, about late seventies through to about 1990, 1991—an utterly appalling period in our history and, for me, a dreadful stain on this State because it was very much focused in Sydney. I suppose I will give you where I started, where I first realised there was a horrific problem. As a very young detective—and I emphasise "very young"—I was called to what may have been a murder in Collaroy in about 1981 or thereabouts; '81, '82. A gentleman had been found by someone, a member of the public, who had called 000 and then departed quickly. He had been found face down, horribly beaten in a urinal at a Collaroy surf club, "Nice, genteel Sydney northern beaches.

We don't get much of this stuff out there. We're well-behaved," which was complete nonsense, as I later found out. He had been assaulted around the body. His head had been beaten substantially. His eyebrow was torn off by impacts with the aluminium surface. We turned up the next morning because there is not much you can do in the middle of the night and treated it as the possibility of a murder. His condition was so bad, the assault was so violent, that we thought if he survived 24 hours he would be fine but if he did not, the probability of survival was not all that great. And a point to make, just when you are thinking about gay hate or hate crimes and attacks on people, is that the difference between a murder and a serious assault can only be a very thin line in most cases. When you set out to attack somebody, just to bash them or something or other, the possibility that they could die is probably something most thugs do not consider.

But the reality is that some people will die, and they will die through misadventure. They might, for example, be hit and fall off a cliff. They might bash their head against something substantial and they will die. So you have suddenly got a murder on your case. You may not have set out to kill them but that is a consequence of your actions. This bloke survived, and a couple of days later we drove up to Royal North Shore Hospital to interview him, treating it, once again, not as a murder, fortunately, but as a deeply serious assault. And what struck me that day and it still sticks with me—and I can remember him lying swathed in bandages at the hospital—was that he was more terrified of us, the detectives, than he was of the assailants that had beaten him to death that night. He was terrified. And he was terrified, I think, for a couple of reasons.

He told us that he had absolutely no memory, nothing whatsoever. He could not remember why he went there. He could not remember what happened. He could not remember the assailants—nothing. With all due respect to him, I did not believe a word of that because I think he had a fairly clear view, as I later found out he did through various sources years and years later. But what struck me, and it struck the detective I was working with, who was much older, was that this guy was terrified of us. And the consequences of that—I think it was probably a confluence of circumstances. First of all, he was a middle manager at the Australian Tax Office. His colleagues had no idea that he was gay. This is 1981. That was not uncommon. So he was terrified of the social consequences. He was terrified of his employment consequences. And at that stage we had not decriminalised much either. So that was one problem.

On the other side was the appalling reputation of the New South Wales police throughout the gay community—violence. For example, and I do not think it is unreasonable, a lot of gay men reported they would go into Darlinghurst police station to report an assault and, on occasions, they would be thumped by the coppers in the police station: How dare you report this! Now go home. So this man has always lingered with me. A couple of years later I was working at the CIB, Criminal Investigation Branch, and we were tasked to clean up

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Kings Cross, which, as some people may remember, went through a dreadful period: kids, usually between 12 and 18, prostitution rife—both male and female—drug abuse, all sorts of things, and predators hovering through the Cross. It was a dreadful moment and we were tasked to clean that up. And what struck me then, it was a couple of things I suppose: kids reporting the violence that they had had at the hands of the police; kids talking to me about some clubs where they were being taken to and the police were just turning a blind eye to it; and disturbingly—and I think this is a point that will resonate with what I have got to mention later on—one refuge that we were supposed to take them to where they were being sexually abused, they alleged, by the proprietor.

As a curiosity, and why these commissions are important to shine lights on what happened years ago and how it can be resolved, is that in June this year the alleged predator who was running that refuge in Sydney and a well-supported refuge too, I might say—he had great public relations skills—was arrested last year in December. And in July of this year in Rotterdam has been—will be extradited to Australia as soon as it is safe to do so to answer for the crimes he allegedly committed 40 years ago. So these things can be done, and they are done because the witnesses back in those days—the kids who were being assaulted—have finally started talking. And just as a curiosity, this is how these things can work. I interviewed one of the victims six months ago, I suppose, and he said to me, "I remember a really young copper and his mate turning up with a couple of kids one night, taking one look round the place and taking the kids straight back out again.

And we were too frightened, because we didn't trust the cops, we didn't trust the bloke running the place, to tell them what was going on." It was this bizarre moment because I was the copper. This came completely out of the blue. So part of the reason in giving evidence—

The CHAIR: Sorry, you said you were the copper?

Mr McNAB: Yes. Again it is one of those strange moments. The building is still there. It is in Darlinghurst opposite Bills restaurant if anyone wants to pop by. I can remember walking in that night, seeing the bloke who was running the place and his offsider, and the hairs on the back of your neck literally stand up. And my colleague was of the same view. We just thought, "No way known we are going to leave the kid with you." Of course, we got a bit of flak over it, but it happens. So that is where, I suppose, my basis comes from. I observed firsthand how upset the gay community was—it was the gay community in those days and that is the focus of my interest—with the New South Wales police. And they had genuine problems, years of abuse. The NSW Police Force have a pretty—until recently, a pretty shabby relationship with the gay community.

Back in the 1950s one of the commissioners Colin Delaney said that being homosexual was, in fact, the greatest scourge in Australia. That thinking by him lingered on to the seventies and eighties as officers rose through the ranks and came to positions of power. That stench still lingered. Moving forward to the eighties, the period that interests me, where we had this series of murders that happened: Bondi particularly, around the inner east, as far west as Alexandria and on the northern beaches. The beacon case for all this, the one we all remember, is the case of Scott Johnson, who, as recently, almost—he died in 1988 and I think in April/May of this year someone was finally arrested and has been charged and it is before the courts. So that, in part, and I will get to it again, is the power of the police to actually do a cold-case inquiry and get a result, we think.

Back in the mid-eighties a number of things happened. Youth gangs had been with us forever. I mean, students of history will remember that Sydney, for example, had the pushes: The Rocks push, the Pyrmont push, gangs of youths who just get together and create mayhem. They normally target communities that are very, very vulnerable. There is a cowardly nature of a gang. And the pushes around Sydney targeted drunk men, vulnerable women, that sort of thing. In the mid-eighties the gangs were targeting gay men, and they do so for a confluence of reasons which, I think, made the eighties worse than ever. They know where gay men can be found. A lot of gay men back in those days would hang around toilets and that sort of stuff, or bushes where they could have discrete assignations.

Building on that—the predators knew where gay men gathered—the predators also knew what the gay men looked like and the gay men, likewise, in many cases would know who the predators were because they would arrive, and one bloke told me he arrived at a venue, saw a car that he recognised from a few weeks ago and decided it was not a good place to hang around. Both sides had a rough idea who they were. It is a bit like the law of the jungle. The lions know where to find food because there is always food around the watering hole. It is just simple animal behaviour. In the 1980s we had a confluence of circumstances which made the usual youth gang problem infinitely worse. We had the arrival of the AIDS virus, which terrified the community. Anyone here who is old enough would remember how utterly terrifying it was. No-one knew what the virus was. No-one knew in the early days how it was transmitted. What we did know about the virus is that if you got it you were going to die.

The only people who survived the early eighties infections were people who were just lucky enough to hang around until 1996 when a therapy came in that could slow its advancement down. You had 15 or 16 years

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of terror. Police were terrified when they were searching suspects because they did not know if they would find a broken needle that had been used plenty of times, or even just touching or breathing the same air. That added a certain degree of tension, to put it mildly. Building on that, there were the grim reaper advertisements, which some may remember. They were compelling. They certainly put safety in the public eye, but they also terrified a lot of people. Whilst at a public health level they were extremely effective and they did a great job, it also embedded "us and them". In the minds of some of the youth gangs, gay men became a target, they became a threat. So, "Let's gang up and deal with the threat." Also, building on this, and this is just a moment—

The Hon. MARK PEARSON: Would you say that the AIDS epidemic made them a legitimate target?

Mr McNAB: Yes. In the eyes of gang, yes. If there is a group of kids looking for a target, AIDS is perfect. And it is a vulnerable crowd, because what the kids also knew, or they found out fairly quickly, was that the NSW Police Force may not be that vigorous in chasing them. If you committed assaults on gay men, unfortunately with the NSW Police Force it was, "Bad luck. You take the risk and this is the consequence. Tough." The probability of these young men being chased down and arrested for their actions was probably not such a high risk to them. Building on that, there was another slight problem, and I mention this now with a certain degree of care.

There were a couple of members of the New South Wales Parliament who are long since gone who took to standing up in the House and reading out lists of gay men who they thought were paedophiles. This did not go down particularly well because there was not one shred of evidence to support any of it. They were doing so for the best possible reasons, they thought, but it further enraged problems. It did as we were just discussing, it made gay men an even more legitimate target. There was a lot of public discussion about this. Gay men were in an even deeper spot and they became bigger targets. The gangs could justify it. "Here is a guy who is probably a paedophile. Here is a guy who may kill us because he is spreading a virus." It gave a certain deeper legitimacy to their appalling actions. Basically, they were just cowards. They were looking for a reason and they got one.

So this confluence of circumstances stimulated the attacks and we saw coming out of that the attacks at Bondi in particular for many, many years, and on the northern beaches. The problem was that the NSW Police Force had a very hit-and-miss approach to investigations of these serious crimes. There were a couple of instances where they did a terrific job. Men were quickly arrested, convicted and sent to prison for a long time, but a whole chunk of these crimes fell into the problem basket. They were not properly investigated, or they were barely investigated. Some of these crimes were passed off as suicide. The case of Scott Johnson is a perfect example. Some of them were passed off as misadventure.

In many cases the gay community were not reporting these assaults because they were terrified of the social and professional consequences, of getting attacked by the police as well, or they just thought, "They are not going to do anything, so why should we bother? Why should we put ourselves through the misery of what was going on?" You already took evidence from a bloke called Alan Rosendale in the last hearing. Alan's case was unusual, to put it politely. Alan is in a public toilet in South Dowling Street in the inner city. He hears people running towards him and he thinks, "God, I am about to get thumped." That is not uncommon. He does a runner. A passing motorist notices his plight. Alan trips as he is running across the road, he falls down and bangs himself on the head. He is then set upon by these blokes with sticks. The passing motorist tries to render assistance.

He tries to find a phone that works to call 000 to get some help, but very cleverly also he notes down the offender's car. He then passes it on and it eventually gets to the NSW Police Force, which realises that there is a problem, because the registration number of the assailant's car happens to be a New South Wales police car. You would think at that point that you would investigate thoroughly, work out what happened, grab hold of these guys and charge them for their crimes, but that does not happen. Alan is visited in the hospital bar once. He is lying in St Vincent's on a gurney moments after the assault, a police officer takes the particulars from him and puts in the report. He does not hear from anyone again for decades. A serious assault, possibly a murder, but certainly assault occasioning grievous bodily harm, and nothing happens.

Years and years later, when there was a lot of publicity about the hate crimes, which started around about 2003 or 2004 and then kicked in, Alan was sitting at home reading a newspaper report about a bloke who stopped, took the registration details of the police car and nothing happened. He is surprised. Alan is reading the newspaper and he is even more surprised because he was the bloke that they were thumping, he thought. To put it briefly, the witness was taken into the NSW Police Force headquarters in 1988 or 1989. He was taken up to a lofty level—in the NSW Police Force, like a lot of the public service, the better the view and the more the furniture, the loftier the officer—and he was smoothed down and told, "Don't worry, we know what has gone on. We will look after it." Well, nothing happened at all. The whole thing was buried.

The CHAIR: I will just interrupt you because we want to question you now. Alan Rosendale was a witness in the last inquiry on 27 November 2018. For members who were not here, it was compelling evidence.

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He, Paul Simes and David McMahon, a survivor of the bashing, gave evidence that day as well. He was locked up for three hours when he went to report it. The fact that they actually locked him up because he came to report it just demonstrates the culture. I really wanted you to come back to today—all that material that you have presented is really important for members who did not hear it last time; that is all in the last inquiry and it is brought forward—to talk further.

As a former police officer, I raise Colin Delaney, the commissioner in the 1960s. In his first interview as police commissioner he said, "The biggest threat to society is homosexuality." Your contention was that that leadership view permeated right through to the eighties. The Assistant Commissioner who was just sitting there was not even born in 1990—

The Hon. ROSE JACKSON: 1970.

The CHAIR: Sorry, she joined the force in 1990.

Mr McNAB: God, I feel old.

The CHAIR: Indeed, so do I. I have a belief that things have changed within the NSW Police Force, but we are talking about historic gay hate crimes. Can you sketch out some of the attitudes of the police from that period? There are nearly 30 unsolved murders. Were there systemic issues from the top around how they approached crimes?

Mr McNAB: The worst thing was that it was hit and miss. I suppose there are a couple of things. It was not until the early 1990s that someone finally twigged that there may be a consistency to these crimes.

The CHAIR: It was Steve Page.

Mr McNAB: Yes, Steve Page is a copper of remarkable abilities and great decency. It took a while to work out that these assaults in various parts of Sydney may have been linked. We later found out that these youth gangs actually talked to each other. They would catch up for a chat. This is the gangs that prowled the Northern Beaches and the inner east. The coppers did not realise that this may have been—these days we would probably call it serial attacks, but we did not think like that back then. They were taken on a case-by-case basis. It was not until Steve Page really hooked it together that we got some remarkable insight into what had happened. The investigations were hit and miss depending on who was running them. They had no consistent quality. There are a couple of examples. A murder on Palmer Street in east Sydney was handled superbly by a very good detective—arrests were made; convictions were secured; and people were in jail for very long time, which is where they belonged.

At the same time there was the newsreader Ross Warren, whom I think is very photogenic. In media the pictures tell the story. Ross Warren was a newsreader from Wollongong. He disappeared from Marks Park back in 1989 and has never been found. About not too long after that a guy called John Russell was found flat on his back on a rock in roughly the same area. The police investigation into both of those was—to put it politely—shabby, if in fact there was an investigation at all. John Russell got a cursory investigation by some very junior officers. They thought that he was pissed and fell down. End of story.

The CHAIR: The evidence was all lost.

Mr McNAB: Yes. The fact that he had a lock of someone's hair clutched in his dead hand—that has been lost. No-one noticed that that was a pretty good sign that he may have been murdered. The lock of hair has disappeared, so any chance of getting DNA 30 years later is gone. Ross Warren's case was just appalling. He was not treated seriously as a potential murder. My recollection was the investigating detective gave evidence to a coronial inquest that they had called out the water police, helicopters and had searched this and that. When the investigation was reviewed many years later, they found out that he did not do any of that. The coroner was utterly scathing in her view. That was a misinvestigation. Around about the same time there was a murder of a fellow called Ludwig Gertsch.

It was quite high profile at the time. It was the same bloke running the investigation as the Ross Warren inquiry. He did not go to where the murder likely happened. It was not until years later that the police, when reviewing the case, went out to where the murder had probably happened. From a detective point of view—I know even a layperson would think that, if you have got a murder, you would surely like to start your inquiry where the murder happened. But that did not quite register. The quality of inquiries was sometimes exactly as it should be but in so many incidences just passed off. The case of Scott Johnson is probably the most notable of these. Scott Johnson died in December 1988. He was found at the bottom of the cliffs of Manly. The initial police investigations were conducted by a uniformed bloke, which is not how it should be done.

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Back in those days—I was a copper a couple years before that—you go to something like that, assume the worst and work from that scenario backwards. If it turns out it is not a murder, then fine. But you treat it with the utmost seriousness as a murder case that you would be running through the courts. That did not happen in Scott Johnson's case. It was quickly passed off as a suicide. For years, the family have lived with that stigma that this young man with everything to live for—he just got his PhD and got a brand spanking new niece. Yet for some reason the NSW Police Force got rid of it and called it a suicide. It was bundled through quite quickly. Coroner's inquest—fait accompli. All done. It was not until years later that his brother Steve Johnson, who by that stage had managed to invent the algorithm that means we can send photographs via email and thus went from being a pauper at Harvard to an incredibly wealthy man, was able to throw his money into the investigation, hire some people who dug into it, start turning the inquiry around and do what should have been done years before.

He was assisted by—and we have mentioned just briefly—Steve Page, who was the bloke who first decided that all these cases had a common link. He did so because Ross Warren's mother—and this gives you an idea of the attitudes—had been writing to the NSW Police Force for years, probably about 12 or so years.

The CHAIR: About her missing son.

Mr McNAB: Yes. "What are you doing about my son? What are you doing?" Largely, she did not even get the courtesy of a response. It was not until she was so frustrated that she wrote a letter off and someone at the NSW Police Force decided that there may be a problem coming. That was very wise of them—years later. All she wanted was to resolve her son's estate. He had some assets and bank accounts. She wanted him formally declared dead so she got on with it. By pure good fortune, this drops onto Steve Page's desk. He is a detective at Rose Bay or Paddington or wherever it was. He calls in all the old files. He looks at it and has that little eureka moment you occasionally get in an investigation. He goes through and says that there is a common thread to all this.

The geography, age and the various methods by which they died—there is a common link. There have been attacks on gay men in specific places all around Sydney for a number of years. The work of Steve Johnson to try and find out what happened to his brother and the work of Steve Page put this back on this State's agenda. For that I am truly thankful. It is a remarkable bit of work for them both. As he was trying to prosecute the case, Steve Johnson found—even this is in the last 10 years—

The Hon. MARK PEARSON: When he discovered that there was a common thread, was there something very serious preventing any other detective from seeing that common thread?

Mr McNAB: No.

The Hon. MARK PEARSON: Even a culture of homophobia?

Mr McNAB: I cannot speak for Steve on this, but we are here and I have chatted a lot about this. He knew that there was homophobia in the NSW Police Force. As a professional investigator and a bloody good one, he looked at what had and had not been done and the basics. An investigation is not rocket science. Geography is important. How the offences happened and how they were dealt with are what struck him as being a problem. He took the very practical route most of us do and said, "Here are crimes. They have not been solved. This is why." Then you start thinking. Building on top of the failures of investigation does come that very strong stench of homophobia. We just did not care. It is back to the old 1980s reference—

The Hon. MARK PEARSON: Is there any evidence that any of the officers assisted these gangs?

Mr McNAB: That question pops up regularly. No, there is not one shred of evidence that New South Wales police officers were part of the gangs. I think the issue with them is the negligence or disinterest that followed.

The CHAIR: I think we took evidence in the last inquiry in terms of Steve Page. I am not sure if he gave the evidence, but there were obstructions put in front of him in terms of trying to reopen investigations. Is that right?

Mr McNAB: Yes.

The CHAIR: Police wanted to move on. They wanted to draw a line under all that passed.

Mr McNAB: The classic problem in policing and I think in Government and probably private enterprise as well is "If we cannot get rid of it one day, we will just reduce the budget." A murder investigation is a lot of money. But in part that is why commissions like this are so important. As Commissioner Fuller said about 18 months ago, the way to solve these crimes is partnership between the police and the public. The public make the breaks. I suspect and I cannot confirm that one of the breaks on the Johnson case—he dies in 1998; in 2020 someone is finally arrested. One of the motivators for that is in fact the public.

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The CHAIR: The reward.

Mr McNAB: Yes, not necessarily. I will not get in front of it, but I have a suspicion the substantial reward came after the public had actually come up with useful information. I think the investigation was quite long standing at that point.

The CHAIR: To get evidence.

Mr McNAB: Yes.

The CHAIR: You are an author so you do put a lot of colour and picture around what we are hearing. That is important to have. Your submission last time supported some sort of higher level inquiry other than the limitations of our Committee's work, like a judicial commission. You might have mentioned a royal commission. Do you still have that view that there needs to be a higher level inquiry? Why?

Mr McNAB: I have that view even more strongly than I did before. That was pretty strong. Yes, a royal or judicial commission or whatever—it needs an officer to run it with compellability powers.

The Hon. MARK PEARSON: Why do you have a stronger view about that now than before?

Mr McNAB: Because of the Scott Johnson case. It proves precisely what can be done. Quite often it is, "Oh, it's an old case, we'll get to it; it's difficult, it's hard". The Scott Johnson case was probably one of the hardest to prove because it started out as a suicide. It received very little support from the NSW Police Force through a number of coronial inquests and a review of the case that was conducted that came to the view that it was a suicide—this was only about 2015 or 2016. Since I last gave evidence there has been a finding that it was a murder by the Coroner—a huge change, a massive change. An investigation by the NSW Police Force, doing something a bit unusual—they got the detective who ran the child abuse squad, which is the most challenging of all investigations, I think.

Homicide investigations are reasonably straightforward. You have a template you run from. It is methodical: get information, do something with it, get rid of it or whatever. Child abuse investigations are more complicated because you have got so much in them—so many variables, so many oddities, so many sensitivities. They are most complex. Commissioner Fuller gave the Johnson investigation to a bloke who ran the child abuse unit, and he approached it differently, I think—I am just guessing this: "How do we actually get into this old case that was a suicide, now a murder?" I think it is a variation on an approach that worked and got the result.

For me, the important things that I would like to see would be a commission of inquiry that has investigative powers, obviously, and compellability powers to bring witnesses in, whether they are offenders and/or witnesses, and make them an offer they cannot refuse, which is always helpful—we have seen the great success of the Wood royal commission, for example—and then kick on from there. You may get some prosecutions out of it. What a commission of inquiry like that will do will also generate an enormous amount of public interest. It will get a lot of media, which is incredibly important. The offenders who were responsible for the crimes in the eighties that we are talking about—the probable murders and so on—are now middle-aged and living comfortable lives, presumably, for some of them.

They will have families. In some cases, they will also have families that may have broken up slightly. Nothing stimulates witnesses more than a family law matter, in my experience. Relationships will break down. People will actually decide that maybe it is time they told the truth. They may have been part of the gang but not an assailant; come forward and tell us who they are. These commissions of inquiry bring focus on that. Not only have you got the stick of compellable evidence but we have the way to promote it to the public and let them know that these cases are still solvable. We have the Johnson case now, where we have gone for this remarkable turnaround and we finally have someone about to face trial for it. That is something I did not expect to see at all, but I am so delighted it is. I think the case for a commission of inquiry is now stronger than ever.

Reverend the Hon. FRED NILE: Mr McNab, I have been raising this to the other witnesses, and I do not want you to think this is a red herring, but I have concern about people in the judicial area.

Mr McNAB: Yes.

Reverend the Hon. FRED NILE: Which is another story. We talk about police; there has been evidence of judges. It is very important that this inquiry has to be totally genuine, and I was proposing that there be three judges—one nominated by ACON, one nominated by the NSW Police Force and the third one from the New South Wales Bar Association—to try to get away from any prejudice, so people cannot say, "The judge who has conducted these inquiries has been soft-handed as well".

Mr McNAB: I would be happy with any—if it takes three people with compellability powers to bring witnesses in and say, "You have got to answer the questions", I would be delighted.

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The Hon. NATALIE WARD: I have one very quick question on those investigations you talked about that were not—you referred to a couple of incidents. I am going to say "alleged" murders, but we all know what they are. Of those that were not properly investigated, as you have said, has anyone interviewed those officers who undertook those "investigations" or "inquiries"? For the benefit of Hansard, I am using inverted quotes. You have said that they were not conducted properly. Has anyone followed up on those officers with conduct of those matters?

Mr McNAB: I do not think so. I think the key officers involved are long since retired or departed—I think one resigned quickly.

The Hon. NATALIE WARD: So?

Mr McNAB: I do not think they follow—there may have been some work done in an investigation in the Johnson case which had broader aspects, back about five years ago. I know Steve Page tried back when he was doing Operation Taradale, if you want to have a poke around that. He called one of the old detectives in, who had long since retired, and wanted to chat to him about why it went wrong. I have a recollection that the response was not something I would like to mention.

The Hon. NATALIE WARD: Please do not misunderstand me; I do not think it should be a witch-hunt. I think it would be for the purposes of assisting with future inquiries, in the sense of the investigations and inquiries that might be reopened. It is what it is—it was conducted the way it was. But it would not be, in a sense, just merely to blame but to reopen and potentially assist those inquiries from the observations they made. If the hair is lost and that evidence is gone there is still the witnessing of that being present.

Mr McNAB: Absolutely. I agree entirely. One of the coppers who Steve Page tried to interview just told him to take a hike, in a broad sense. I do not—

The Hon. NATALIE WARD: Understandably he was probably defensive because he did not believe it was going to be constructive. My question is whether that could be approached in a constructive way, in your view, or if you think that is just not—

Mr McNAB: I think you try everything. In particular, a commission of inquiry can sit down—it is not there to apportion blame; it is there to find facts. I think that is incredibly important. If they can see their way clear to actually answer questions fully and honestly, that is a great idea.

The Hon. NATALIE WARD: With an assurance that they are there for the purpose to assist with facts—for example, "Did you observe—

Mr McNAB: Absolutely.

The Hon. NATALIE WARD: —"hair in the hand of the deceased's body that you attended upon at the crime scene?"

Mr McNAB: Back in those days police were very defensive about these things. An apology from the NSW Police Force—if I had seen one of those in the 1980s I would have to be revived. "We do not make mistakes."

The CHAIR: Mr McNab, before I go to Ms Jackson, my sense of the inquiry before and what we are hearing again today is that there is no evidence that there was some sort of organised police network that was deliberately suppressing investigation into gay hate murders and crimes.

Mr McNAB: No.

The CHAIR: It was just one-off individuals and a cultural thing.

Mr McNAB: Case-by-case basis, yes.

The Hon. ROSE JACKSON: Going back to where you started your evidence, in 1981 you—a good cop—were wanting to investigate but the victim themselves was being pretty uncooperative for a range of very understandable reasons. I guess, reflecting now on what you did and trying to draw that forward, there are still a range of reasons—some of which we have discussed with other witnesses—about why people may not, even today, want to talk about what has happened to them, why they were the victim of an attack, and how police today are responding to those people. Because of all of the training that has happened they can maybe see there is something else going on here and the victim is not necessarily wanting to be as forthright or as helpful as they could be, for a range of understandable reasons. I am just interested in that dynamic.

Mr McNAB: There are a couple of things in that. The NSW Police Force, particularly in the last few years, has had a dramatic change. It was a very slow change, but I notice it has sped up quite a bit, which is

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fantastic. Society has changed a hell of a lot—sadly I can speak with great authority on the eighties. We have changed a lot. We are more accepting. You do not have that slur: "Oh dear, he's gay" or "She's gay" or whatever. That has disappeared as well. We have become a far more tolerant, understanding, accepting society. I think that for someone coming forward these days it is not that hard. I interviewed an old bloke who had been dangled off a cliff on the South Coast of New South Wales by a couple of people. He had not told anyone about that for years. He told his physiotherapist, actually, who was a mate of mine. Then I said, "Would you consider having a conversation?" He was wonderful. People change as well. As we get older, we need to sort things out and we are not as frightened as we used to be. We do not have that social and professional need to keep a secret anymore. I think it is more effective, yes.

The Hon. MARK PEARSON: I find it very interesting that the Commissioner of the NSW Police Force appointed the officer whose expertise was child abuse to look into the murder of Scott Johnson, and now we have an arrest. From the evidence that was given before, it seems that the detective saw the connection and the thread. The other thread that seems to be there is that there were mobs of people; they were being aided and abetted and encouraged by girlfriends and other people. If there is a judicial inquiry and it becomes more out there and it has got a lot more media and attention to it, is it likely—and if the same officer, detectives or that team that deals with child abuse were to start to investigate the other 23 murders, do you think that combination might bring up evidence that we have not seen before?

Mr McNAB: You bet. The child abuse thing has fascinated me because it is a group of detectives—God, cliché time—who think out the box. Homicide itself is a very structured investigation. Here you actually have to sit back. For me it is the sort of thing where you open the file, pour a glass of wine, sit on the couch, have a thumb through and try to work out how this all happened. Investigation is a big jigsaw puzzle and I think using police who operate differently is a terrific idea. Homicide is "tick, tick, tick, tick, tick."

The Hon. MARK PEARSON: A bit black and white.

Mr McNAB: Yes, it is very structured. That is great and it is very effective. But if you are looking into something that is old and dealing with sensitivities that homicide inquiries probably do not have, you need to be able to stimulate your leads. That is why using someone who is used to dealing with these complex, difficult and incredibly challenging crimes means that they think a bit differently. They may approach it from an angle, whereas homicide tends to go straight at it.

The Hon. MARK PEARSON: One very clear example with the child abuse one is that they like to talk about it.

The CHAIR: Time has run out, but I make the observation that your last evidence was that there were approximately 700 unsolved homicides in New South Wales.

Mr McNAB: Yes.

The CHAIR: And in that 700, there are 30 unsolved gay hate crimes. The cold case detectives rotate through those cases all the time.

Mr McNAB: Yes.

The CHAIR: So we get a grasp of the amount of work that they do. Are you confident that the detectives that are doing the cold case work reflect that sort of outside-the-box thinking that you just talked about?

Mr McNAB: I think that they are looking for hope. Technology, of course, is one of the great boons for them. This is a substantial problem under one umbrella. Maybe we can take it out of cold case review, put it into a specialised outfit and just deal with it—go hard at it for six months, for example.

The CHAIR: Okay, that is worthwhile. I do not think you have taken any questions on notice. You have added a lot of contemporary flesh to the bones of what we are talking about, which I really appreciate you coming in and doing. If you did take anything on notice or you get any questions from us then you have 21 days to answer those.

Mr McNAB: Absolute pleasure.

The CHAIR: Thank you for your evidence today and at the last hearing.

(The witness withdrew.)

(Luncheon adjournment)

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NICOLE ASQUITH, Secretary, Australian Hate Crime Network, affirmed and examined

JANE BOLITHO, Chair, Restorative Justice Working Group, Australian Hate Crime Network, affirmed and examined

MAHMUD HAWILA, Chair, Law Reform Working Group, Australian Hate Crime Network, sworn and examined

The CHAIR: Welcome to the Legislative Council Standing Committee on Social Issues inquiry into gay and transgender hate crimes between 1970 and 2010. It is the second inquiry into this area following our first report in the previous Parliament. This afternoon we have witnesses from the Australian Hate Crime Network. Thank you for your very detailed submission, which is submission 13. Would any of you like to make an opening statement to the Committee?

Professor ASQUITH: I will make the first part of the opening statement and then pass over to Mr Hawila. Thank you, honourable members, for the opportunity to expand on our written submission and answer any of your queries. I am here in my role as the secretary of the Australian Hate Crime Network and my colleagues represent the network's working groups in terms of police reform, legal reform and education and victim support. The Australian Hate Crime Network was formed as an interagency in 2018 and currently has around 70 community and academic members representing all targeted communities of hate crime. We also have around 30 associate members. These are Government representatives and policing organisations. Our submission and the comments that we make today do not represent the views of our associate members, only our full members.

The arguments and recommendations that were made both in our written statement and in response to your questions today are very much focused on the lived experience of sexuality- and gender-diverse people in New South Wales. However, our proposed changes to the law and practice around hate crime are framed—as you no doubt would have seen in our submission—in terms of a universal response to hate crime experienced by all targeted communities. Given that the NSW Police Force is the only jurisdiction in Australia with a dedicated hate crime unit, we acknowledge that they play an important role as a role model to other jurisdictions in Australia. We commend their bravery and courage to engage with an audit of the historical hate crimes experienced by gay men and transgender people from the seventies through to the 2000s. I will hand over to Mr Hawila, who wants to touch base on some of the key points that we want to reiterate from our submission.

Mr HAWILA: Thank you, Professor Asquith. I also thank the members of this Committee for this opportunity to give further evidence today. The inquiry has heard evidence that the Government and particularly the NSW Police Force have made significant progress in tackling the hate crime problem in New South Wales. As the Committee's membership will have read in the Australian Hate Crime Network's submission, we still have some work ahead of us yet. The network has made 29 recommendations for the New South Wales Government to improve its response to hate crime. The recommendations are based on the latest global research and a comparative analysis of how other jurisdictions responded to hate crime.

I will now make some brief opening remarks on several of the recommendations. The NSW Police Force has undergone significant change to improve its response to hate crime. A recurring theme in our submission is that we not only want the NSW Police Force to improve on past faults but we want it to lead the State, the country and the world in its hate crime response capabilities. That is mirrored on a State level because it is not just the police who ought to respond to hate crime; it is the whole of Government. Police are ultimately in the business of law enforcement. For them to enforce the law, they need the right laws to enforce. Hate crime legislation in New South Wales is next to non-existent. There are only two references to hate crime in New South Wales criminal law. If the Government was to provide police with the laws that they need to detect and respond to hate crime appropriately, it would enable the whole criminal justice system to develop a hate crime response.

The CHAIR: Do you mean for the New South Wales Government to provide legislation to police?

Mr HAWILA: Yes. Recommendations 1 to 6 of our submission deal with the legislative frameworks that are available in other jurisdictions and point out the strengths and drawbacks of each framework. Not only do police need laws to enforce but by providing the legislation it will enable police to form their own organisational policy to suit those laws. That includes police training for recruits, for first responders and executives on how to identify and respond to hate. It also plays an important role in the collection of hate crime data and the ability to identify and recognise a hate crime when first responding to an offence.

The training will provide police and Government the hate crime data we also need to make substantive reform. Having adequate laws in place will also increase the capacity and willingness of the public to come forward and report hate crime. Hate crimes are notoriously underreported. In recommendations 11 and 12 we ask

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that this Government consider following the example of the United Kingdom to create a hate crime scrutiny panel which enables members of the public and those in targeted communities some level of oversight of how police respond to hate crime and enables them to engage with the police and build trust among those often marginalised communities and the police. The last recommendation I will highlight is recommendation 23 in which we suggest the Government consider alternative data collection strategies, such as third party reporting. It exists in the United States and the United Kingdom. By establishing the third party reporting the Government will empower victims and enable reporting of offences which might not have been reported at all.

Lastly, I will close by noting that a tough-on-crime approach with legislation and strong sentences or penalties is not a panacea. In recommendation 23 we advocate alternative strategies for addressing hate crime and hate and they include restorative justice models and victim and family redress. I am happy to take questions.

The CHAIR: Thank you. Dr Bolitho, would you like to make a statement?

Dr BOLITHO: I will not make a statement but I am happy to take questions on restorative justice in particular.

The CHAIR: Restorative justice. Okay. Very good.

The Hon. BEN FRANKLIN: Can I jump in on that?

The CHAIR: Yes, please.

The Hon. BEN FRANKLIN: In fact, on that exact issue.

Professor ASQUITH: You see? We knew we brought you along for a reason.

The Hon. BEN FRANKLIN: So here is your opening statement about to happen. Recommendation 27 obviously talks about the redress scheme. I was wondering if you could talk about how that would work, particularly. Also you talk about the Restorative Engagement Program. If you could specifically talk about that as well? Redress schemes are always challenging, that is all. I am just really interested in your thoughts about how it would work.

Dr BOLITHO: Yes. So, maybe I will start by making a statement about what restorative justice [RJ] is and then segue into that. Restorative justice is an alternative mechanism for achieving justice. It is a mechanism that is different to the legal system and it can be used inside the legal system or alongside of it. It is already used in Australia in both those senses. It is already used throughout the youth justice system and for adult offenders and in some redress schemes as well. Restorative justice is different because it holds different values at heart and is structured to achieve different ends. It sits within a global social justice movement that started in the 1970s. The United Nations defined it for use in 2002. It is a process where the victim and offender come face to face in conversation, participating actively in the resolution of matters arising from that crime, generally with the help of a facilitator.

RJ practices are always voluntary. There must be an admission of harm as they are not fact-finding encounters. They generally happen in a circle format, which is symbolically important and practicably important to. It is a guided conversation whether you call it a facilitator, an elder, a keeper of the circle or whatnot. It is a structured conversation that follows a very particular pattern. It explores for each party what happened, with what impact, and the way forward. So there are three time lenses there: what was, what is, what could be. It rests on some principles I suppose: humans are connected; when harm occurs, it relates to the relationships around us, whether that is with family, partners, neighbours, communities, the State; and, as a State, we are obligated to put things right by bringing those parties back together.

The legal system offers one way to justice but it is a pathway that is not available for many cases and for many people. Restorative justice is an alternative mechanism. It can be done to address a fact that for many harms they are not detected, they are not reported, they are not recorded. Where they are prosecuted, they do not end in convictions. Even when someone does have a legal pathway, their justice needs, in a way, are not always met through the legal system. Restorative justice works with emotion, not against it. It works with grief, with anger; it brings out into the space and, with expert help, there is a way with dialogue and time of working through that. It is really about voice, about narrative, about listening, about accountability and support. It can be operational in many ways, which is why it can be confusing. It can be offered at different points in a legal system—so, diversionary, presentencing, post-sentencing or alongside the criminal justice system, which is what we see in New Zealand and in some parts of the UK in hate crime and policing.

You do not have to have the victim and the direct offender in the circle. That is one model. You might have a perpetrator and in the case of a homicide, for example, you might have a victim's family member in that circle instead; or it might be that they are what we might call surrogate participants. You have a perpetrator of a

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crime and somebody comes into the circle who has been harmed but not from the actual criminal event. Another example is—and this is seen in the redress schemes—is where you bring a survivor of, for example, a hate crime into conversation with an institutional representative of the perpetrator, so not the perpetrator themselves. That is a restorative encounter. So to answer that question it is a bit of a long introduction, but the work of the Australian Defence Abuse Response Taskforce, commonly known as the DART model, was a redress scheme for the Defence Forces. It finished in 2016. Nearly 2,000 cases were assessed as plausible by the Defence Force in terms of people who are in the Defence Force that were sexually abused during their time of work.

Five hundred and eighty victims came into a facilitated restorative justice conversation. They came into conversation with a senior Defence officer who was trained up for that purpose so there were 41 trained restorative facilitators, 352 senior Defence officers trained up, and that has been reported on. It was a very transparent process. It is not evaluated from a research perspective but there is certainly a lot of reporting on how that went. Victims said that absolutely that engagement program was integral—I have written down here one victim's words—"an integral part of my journey. I feel at peace knowing the military has heard my story." So for that person it is about voice. I have one quote from a Defence officer, so the person who was listening, and he said, "It changed the way I try to respond. I find myself paying more attention to the personal impact than what is the Defence position and I put more effort into recognising this and expressing regret early where I can." So it is a really interesting way of offering survivors justice that is different to the legal system.

The CHAIR: Mr Franklin?

The Hon. BEN FRANKLIN: I am happy.

The CHAIR: Reverend Nile?

The Hon. BEN FRANKLIN: Sorry—just to close the loop, I guess.

The CHAIR: Yes.

The Hon. BEN FRANKLIN: In terms of the practicalities you contend that modelling it on the DART program would be a sensible way to achieve that.

Dr BOLITHO: Certainly, yes.

Reverend the Hon. FRED NILE: Obviously, that recommendation 27 is very good, but one of the issues that concerns me, as I have been involved in all these inquiries and lots of other inquiries, is the end result. We have these 23 unsolved cases which pretty clearly are unsolved murders and there should be a judicial inquiry so that when this inquiry finishes, it does not just go into limbo while everybody rubs their hands and says, "That's great. It's all finished." It is not finished. I am working out what is a further step and I am suggesting a judicial inquiry. Then the question is: Can you trust the judge? The way to get around that is to have three judges—one nominated by ACON, one nominated by the police and a third one, say, from the Bar Association or one of the legal bodies—to ensure that the judges are totally independent and trustworthy.

You would know more than I do about question marks over a number of judges over a number of years now. I do not want to mention any of those. But it is not obvious. You appoint a judge and that has 100 per cent solved all the problems. But you make a point at the wrong judge. One way to get around that is to have a three-member judicial panel leading that judicial inquiry with all the powers of a judicial inquiry or a royal commission so they can fully investigate every issue they want to investigate and get a result. That is my suggestion. Are any of the three of you interested in that proposition, or have you considered it and rejected it?

Mr HAWILA: I agree with your comments, particularly in relation to the legal process ending and not providing victims with the support that they need or the sense of justice that they were looking for, particularly in cases of unsolved homicide or homicide whereby the perpetrator was never jailed. It leaves the victim without that sense of closure. These restorative justice models give the victim an opportunity to be heard. I spent some time prosecuting in the Children's Court. It has the Youth Koori Court, which is an alternative to the legal system, but it can also run simultaneously with the legal system. It provides remarkable results, both to rehabilitate the offender and to provide closure for the victims.

The CHAIR: We are talking gay hate murders here. I accept that hate crime is the appropriate concept for it, but, on restorative justice, the family or the partner of the person who has been murdered is going to want a sentence. There has to be a sentence, so how does that work with restorative justice? Is that just a bit like a victim impact statement? You have an understanding and admission of what you have done, but there is going to be have to be something. There is no choice, you have to pay for it.

Dr BOLITHO: Absolutely. There is a public accountability piece and then there is a private accountability piece. In the restorative justice sphere, having restorative justice on the table does not negate the

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need for a legal response. I suppose I would be quite interested to go back to those 23 cases to talk to those families and to see what exactly they want from the justice system. It might be that you can do both and you can have both options on the table. You expect that people will go through the judicial pathway, but there might be this other thing as well, which will attend to their other needs, which is about voice, about venting, about talking about what happened and explaining the impact. A lot of the survivors want it not to happen again and to really get that personal sense that the police or whoever was involved will not do it again. They need to hear from those people that it is not going to happen again. The judicial process might not give that answer.

Reverend the Hon. FRED NILE: I agree with what you propose. I see those as going together. It is not either/or.

The Hon. ROSE JACKSON: I will add one option. From the comments you have made about institutional representatives—I am drawing this conclusion, but it was not necessarily spelled out in your recommendations—there is also the potential for New South Wales police themselves to participate in some kind of restorative justice process with victims, not as perpetrators of hate crimes specifically, but as perpetrators of exacerbating factors, of not investigating properly and all of the things that we have heard evidence of. It will not be possible for victims of hate crimes or their families to necessarily pursue the NSW Police Force as an organisation through the courts. There may be some options, but that will be pretty difficult. In order to reach peace with the police themselves in terms of what happened, this could be a useful model.

Professor ASQUITH: That is right.

The Hon. ROSE JACKSON: Is that also what you had in mind?

Professor ASQUITH: Yes. This was something that was raised in the first hearing's report. You did not use the term, but in hate crime there is the concept of the ripple effect. A really good example of that was in the late 1990s. A survey was done of the LGBTIQ community in Sydney and 80 per cent of participants knew somebody who had been assaulted. That original assault needs a legal response, but we need to repair the harm that has rippled out to the community as well. I am not saying it is the dominant position from the community. I know that a lot of our members, particularly the Australian Hate Crime Network, want more punishment, stronger laws and longer sentences, but there is also a stream within our network and within the LGBTIQ community that actually wants to repair the harm in order to create a more inclusive environment in our State so that we do not get hate crimes.

So moving farther upstream from legal responses, about changing attitudes and changing belief systems around inclusion. Particularly for the families of these 23 homicides, they would most probably want a space to be able to say, "New South Wales police, this is what you did and this is what harm it caused us." There is not normally space for that in courts, so it solves a few issues in relation to responding to hate crime. It moves it upstream. It increases those who are eligible to repair the harm and it also brings those institutional players to the table to have an honest conversation about what actually did or did not happen.

The Hon. NATALIE WARD: Thanks for your assistance to the Committee and for your very comprehensive submission, which is fantastic. I am absolutely supportive, but can I just be devil's advocate for a moment? I completely support restorative justice and I thank you for your comments about the Koori Court.

The CHAIR: You can declare yourself a solicitor.

The Hon. NATALIE WARD: Recovering, but I still hold a practising certificate just in case. I will be devil's advocate for a moment, because I would like to understand it. In circumstances where we have "alleged" homicides, because there has been no trial and there has been no conviction, so we are talking about deaths that have not been through that process, the remarkable consistency between people who happen to fall off cliffs at Bondi is a remarkable coincidence, but not yet proven. We all know what happened and that is why we are here, but in those circumstances what is the impact with restorative justice and that process in respect of the unproven crime, if I can put it that way?

I do not mean to be insensitive, but in the legal system we have an allegation and, wrongly, we do not have a proven crime or a conviction. How does that sit with the restorative justice process where we do not want to be seen to be pre-empting that? Ultimately, we would like to get a conviction. We all want to do what we can to support that and have that closure. Does this sit alongside that? Does it go before it? How do we make that work in practice?

Dr BOLITHO: The most simple way to deal with it would be for it to be post-decision. Not post-sentencing, but—

The CHAIR: Have an offender.

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Dr BOLITHO: —to have that sorted out and then offer restorative justice at that point. That would be the most straightforward way. But there are most certainly cases and practices overseas where it is done alongside. With the DART model, they had a very carefully worded clause around, not a legally enforceable crime being committed, but whether the harm that occurred was plausible. You can do something in that space and go ahead and have this meeting. I suppose it is about framing what the restorative justice encounter is supposed to be doing. If it is about meeting the victim-survivor's emotional needs, it is not about finding out when a crime occurred.

The Hon. NATALIE WARD: You will get no disagreement with me whatsoever on that point. Absolutely.

Dr BOLITHO: So there is no reason that it cannot go alongside, and it does not necessarily have to wait until afterwards. It depends.

The Hon. NATALIE WARD: In these awful circumstances where there may not be in some of these cases a proper investigation or, indeed, an outcome in the legal sense, can that occur anyway? Did it occur in the cases of the defence matters?

Dr BOLITHO: I believe when they said that matters were plausible that they happened. Yes, absolutely. The facilitators are trained at navigating that tricky pathway. There are all sorts of different models and legal parameters around what happens in youth conferences. If someone admits to a different offence in the circle, whether that can be reported or not, for example. Or in adult matters and sexual crimes, what happens if somebody admits to another sexual offence when you are preparing to go to the restorative encounter? They are out there and there is a fair bit of evidence around what to do in this tricky space. It is tricky and it needs to be navigated carefully.

The Hon. NATALIE WARD: Yes, and because we want the right outcomes for both processes. I do not think you can have a without-prejudice arrangement in criminal matters, but that is an environment where it is for this purpose.

Dr BOLITHO: Yes. There are sexual assault privileges as I understand it in some, but that would not be relevant in these cases.

The Hon. NATALIE WARD: I practised in a number of child sexual abuse matters—hundreds, in fact—and it was done in the mediation setting. In fact, the most important thing was the recognition and an apology, but also recognition of, "We believe you." To hear those words for so many survivors, "We believe you."

Professor ASQUITH: It might also be important to consider the primary and secondary victims in these cases. Yes, there are the 23 gay and transgender people who died and their families, but because of this ripple effect you have got thousands of secondary victims. Their harm has not been addressed. I still talk to people from the 1990s who have the same fear levels that they did back then because of those murders that everybody in the community knew about. The police may not have been recognising it. Nobody else may have been recognising it, but we recognised it. We kept a record at the anti-violence project for all of those years of those cases. If we think about moving forward, yes, we do have to deal with these cases—

The Hon. MARK PEARSON: I will take you back a little there. Is there fear and disquiet related to the silence—

Professor ASQUITH: Yes.

The Hon. MARK PEARSON: —equally as much? Is that a large part of the fear and concern? The fact that nothing or very little is done.

Professor ASQUITH: That's right. Through the 1990s when I was a client advocate for victims of homophobic and transgender hate crimes, they were not getting a response from the police. Nobody was acknowledging that this was not just an assault and that there was something additional and another layer to what had happened. There was a lot of minimising during those years as well: "Oh well, they just called you whatever. Move on." I keep coming back to this idea of a truth and reconciliation commission. I am not saying we need a big one but, in terms of the long-term harms and silencing and fear in the community, having a space to get up and say, "This happened and nobody acknowledged it. Nobody did anything", speaks directly to RJ principles about giving voice, acknowledging harm, and providing opportunities to heal that harm in one way or another.

Some strategies have been taken over the years, particularly around counselling and supporting victims, but since the 2000s the Lesbian and Gay Anti-Violence Project has not existed. No organisation does that direct client service work anymore in this State. Providing one-on-one support to victims is literally why we existed during that time.

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The Hon. NATALIE WARD: Could you see that restorative justice or redress process extending to people who made reports and were not believed or dismissed or not investigated, even if it is not with the person to whom they reported it or dealt with, if it is behalf of police or otherwise?

Professor ASQUITH: That's right.

Dr BOLITHO: Absolutely. I think that would be wonderful. In terms of getting really significant cultural shifts, we need as many of these facilitated conversations—conversations that are tricky to do by yourself—as possible. It is so hard to ring up and just do that. Restorative justice is a very flexible mechanism in that way.

The Hon. NATALIE WARD: We have read so many stories of different types of ways that has occurred.

The CHAIR: ACON this morning critiqued the Government response as lacking empathy—to put words in their mouth. It is a one-page, three-paragraph response to our quite comprehensive report. It did not really come to terms with what we were saying in the report, which is the institutional failures of the period.

The Hon. BEN FRANKLIN: Tone-deaf failures.

The CHAIR: Tone deaf, yes. They are focused on training police now. We accept that because we are getting clear evidence that the police have changed culturally quite significantly. Your recommendation 28 goes to the issue that was being raised. I appreciate your victim support recommendations a lot because we have not had a lot of victim support evidence in the two inquiries. Recommendation 28 goes to that issue of a State Government program with the community that works to heal the impact of institutional betrayal. I thought that goes to the restorative justice and the lack of empathy of the Government response before. Do you want to talk to that? I think that is an interesting proposal because there is still an issue of trust with the LGBTIQ community—not just them but many other communities—with the institutions.

Professor ASQUITH: That is right. We know from the incident at Mardi Gras in 2016 or 2017—I cannot remember now—that that trust can be lost overnight. One bad incident and it can be lost overnight.

The CHAIR: I spoke at a rally after that.

Professor ASQUITH: I remember working with the New South Wales police back in the 1990s and there were individuals that we could work with. That was it. The institution itself was not open to working with us. We had some amazing individual officers at Surry Hills and Newtown who did some incredible work building trust. In terms of victim support, Victim Services has recently undertaken a survey of their resources, policies and practices and how they could better support hate crime victims because there is a different layer to it. But we found that, particularly in the 1990s—it may not be so now—the community needed a third party between them and the police. They needed to liaise and manage that relationship so that, when they did turn up to the police station, they were treated with respect. We found that to be the most effective.

A third-party reporting or third-party victim support is the most critical when you are dealing with marginalised communities who do not have a lot of trust in their institutions to start off with. We can all say that we have now got marriage equality, but that does not actually shift a lot of the relationships on the ground. One of the quite unique things about homophobic and transphobic hate crime compared almost all other forms apart from disablist hate crime is that family can often be perpetrators. We have in our mind—particularly in this hearing with these 23 cases—this motivated offender who plans to go out and commit violence. Yes, there are lots of those. But there are also family members and neighbours. That is much more local. I think this is where RJ principles could rebuild families, communities and neighbourhoods if it is done correctly. Because it is in fact those intimate relationships that get damaged in hate crime.

I would say probably about 70 per cent of hate crime is what is called aggravated. It starts over a fight over a fence and ends up a hate crime, rather than those motivated offenders who go out planning to commit crimes. Seventy per cent of it is actually these aggravated types. We need to address that as much as we address this motivated version. In terms of victim support, there is still the need, particularly with the LGBTIQ community, to have a third-party organisation as a port of call before the institution and police, whatever it is. We found over time that the need for the AVP to do that work reduced, but we are now starting to see that there is a big gap in that space of victim support.

The CHAIR: Just to clarify, the 23 or approximately 30 murders that we are talking about are unsolved. There are 88 identified gay hate murders. That is expected to be an underreport in any case because they are often put down as killed for another reason.

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Professor ASQUITH: That's right. I think what is also missing from that—and this is one of the other parts that I wanted to table—is that we are focused on these homicides, but there are range of crimes that occur with a hate motivation that just disappear into the crime statistics. Only about six weeks ago I was asked to support a young woman who had been a victim of corrective rape. That just gets rolled into sexual assault cases without acknowledgement that there was a hate motivation behind that sexual assault. It is also about trying to recognise those layers.

The CHAIR: Your submission mentions that there is no reporting of lesbian or bisexual murders in those figures.

Professor ASQUITH: Most of those would be in your domestic violence statistics because most lesbians die at the hands of an ex-male partner.

The CHAIR: In the last inquiry we had two experts on research around transgender issues. We have only got one instance in 88, but we know that there are many more transgender people murdered and classified as "murdered because they were a sex worker" or something else. It is all underreported, tragically.

Professor ASQUITH: And hidden.

The CHAIR: Yes, and hidden.

The Hon. ROSE JACKSON: I just wanted to ask about the reporting and recording recommendations that you made. The police Minister's relatively cursory response mentions revision of the bias crime indicator assessment tools and improvements to ensure bias crimes are captured centrally. Clearly the police and the Government are aware that there is room for improvement in that, but I think it would be good—and we have discussed this with some of the other witnesses—drawing that out a bit and trying to get better data on recording and reporting. You have made a couple of recommendations, but I just wanted your thoughts on what is the core work that needs to be done in that space.

Professor ASQUITH: Most of my research in hate crime is around data reporting and recording. If you do not trust the institution you are not going to even report a crime, let alone out yourself to a stranger that you think it is a homophobic or transphobic hate crime. There are already huge barriers to reporting. We then have the issue of, when you do get the bravery together to go in and report it, what are you faced with at the front desk? If asked "What is a hate crime?", most police officers would joke about the relationship between Collingwood and Hawthorn football clubs—"That is hate crime, isn't it?" There is a lack of basic understanding that this is significant and has huge amounts of harm, and vicarious harm. But there is also a sense that they just do not get it, particularly when you start looking at things like disablist hate crime.

That often is perceived as mistreatment or failure to provide adequate food, but it is a hate crime. We do not provide our frontline staff—police, nurses, teachers, doctors—with enough information about recognising what a hate crime is. We have done enormous amounts of work in this space around domestic violence—we are now training airline staff to recognise domestic violence—but we are not preparing the ground for all of our core frontline staff to recognise what a hate crime is.

The Hon. ROSE JACKSON: In relation to domestic violence, some of the excellent work that has been done there is trying to draw a link between sexist and misogynist attitudes and words and domestic violence. In a way, one of the areas that we could do more improvement on is linking hate speech and hateful words to hate crimes and violent crimes, trying to make people understand that those things—

Professor ASQUITH: One links to the other.

The Hon. ROSE JACKSON: That is right—that those two things are linked in the same way that disrespectful attitudes towards women are linked to domestic violence.

Professor ASQUITH: I actually got access to 100,000 hate crime cases from the UK to analyse, particularly looking at the role of hate speech in hate crime. There is a direct link. If you use pathologising terms—"filthy faggot", "dirty lesbian"—the crime that goes associated with that is likely to be somebody dumping rubbish on your front yard. There is a direct link between the type of words used and the type of crime that occurs.

The Hon. ROSE JACKSON: Mr Hawila, did you want to add anything to that?

Mr HAWILA: I was just going to say that from a law enforcement perspective the role of hate speech often gets ignored. That has two main problems, but I will return to that in a moment. Hate speech is often ignored by police currently because it is not a crime. I am not suggesting it should be a crime, but it is valuable information for police if they do seize upon that because that is intelligence, in the same way that when we find out that someone has motivations for a particular terrorist group or right-wing group the police seize on that information and record it, they create an intelligence report and that gets passed on to the security agencies. It is equally

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important if we find out someone is motivated against a particular race, religion, sexual orientation or sexuality. Whatever it may be, it is important to seize that information, to record it and for that data to be collected and passed on to security agencies.

But also it is important in the sense that if police hear about these hate speech incidents and do nothing, firstly it leaves the victim feeling as though the police—and, therefore, the Government—does not care. Secondly, it normalises it for the offender because they did not even have an encounter with law enforcement as a result of the hate speech.

The CHAIR: They got away with it.

Mr HAWILA: It emboldens them. It risks the further entrenchment and radicalisation of those views. From a law enforcement perspective, if there is intelligence let us record it.

The CHAIR: You recommended that there be a mandatory field in the Computerised Operational Policing System—

Professor ASQUITH: That is right.

The CHAIR: —the police reporting system for hate crime. I cannot find it in front of me right now, but in the last inquiry we had evidence—I think it was from Inspector Crandell—that they were reviewing the parameters of hate crime that have to be applied to a crime. They apply it and they go, "No, that's not it" and then they move on. How would you address that more specifically?

Professor ASQUITH: There has always been a question within COPS since the 1990s about hate crime but it was not a mandatory one. It was one of those hidden in sub-field after sub-field after sub-field. For most of its life it only acknowledged homophobic and anti-Semitic hate crimes. That sort of expanded over time. Under the leadership of Tony Crandell that has now moved to a mandatory question. All officers putting any complaint into COPS now have to answer the question, "Is this a hate crime?" The issue we have there is, unless you know what a hate crime is you are not going to tick that box.

I think where it works best is in the UK, where if a frontline police officer ticks that box it actually gets taken out of their hands and into the hands of expert investigators. It is actually an advantage to frontline officers in the UK to tick that hate crime box. Of course, it gets ticked erroneously as well, and it means they have got to do a lot of follow-up. But there is a new strategy—and I cannot remember which US jurisdiction has got it—that they do not ask the straight question, "Is this a hate crime?" It asks, "Have you considered"—, "Did this include"—, "Was there speech of this type?" It actually goes through an audit of the case rather than just a straight, "Is this a hate crime?" The issue you have got with COPS is you add one question and it costs you about a million dollars to change the system. They usually wait to—

The CHAIR: Designed by NASA.

Professor ASQUITH: —do a mass change to COPS at once. Obviously, as soon as you change COPS you have to train the 16,000 or 17,000 officers.

The CHAIR: The hate crimes unit is embedded in the terrorism command, which is a very powerful command. When I saw it was in there I thought that was good—for the gay and lesbian community and hate crimes we are riding the back of a lot of resources being chucked at terrorism—but you are suggesting it should be moved into a standalone command. Is that for a symbolic reason? I do think there is an advantage to it being in terrorism, frankly.

Professor ASQUITH: There is lots of money there, that is for sure.

The CHAIR: That is what I mean. We can ride the back of that.

Mr HAWILA: There are great advantages of it being within counterterrorism. I think that is undeniable. Particularly when a particular hate offender is potentially a high-risk offender it enables the quick action and access to security agencies of the counterterrorism [CT] unit to disrupt very quickly. The investigators in the counterterrorism unit are some of the best we have in the State. There are certainly advantages there. The current commander is the commander of counterterrorism, and now commander of the hate crime unit and counterterrorism. All those things being said, the vast majority of hate crimes are volume crimes. They are crimes of the lower offence category, such as assaults, property damage, and stalking and intimidating. Those are all things which, on counterterrorism's radar, are very low on the calendar of criminal offences.

The benefit that would be had if it were in a standalone unit is that these lower-range offences, the medium-range and high-range offences would all be dealt with, with the same attention to whether it is a hate-motivated offence. There would be experts specifically and solely in hate crime and they would not be distracted

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by any counterterrorism operations, particularly if the investigators within the CT unit are shared investigators within the hate crime unit.

The CHAIR: I think that is an important point.

Reverend the Hon. FRED NILE: I think that is a good proposition you have presented, that it should be a standalone unit.

Mr HAWILA: It certainly has its benefits being within CT unit, but in the world of ideals it would be a standalone unit.

Professor ASQUITH: There is quite a lot of evidence about the link between engaging in extremist activities that are framed as terrorism and earlier actions in regards to hate crimes. There is a link between these two types of crimes.

The CHAIR: No doubt.

Professor ASQUITH: But, as we said, some 70 per cent of them are not motivated offenders. It is just an aggravation of something that has occurred—a car accident, a dog barking. Whatever it is, it is something additional; it is not this motivated offender. I think back to 1996 or '97 when a group of men hired a bus, bought themselves balaclavas and baseball bats and bashed their way from the bottom of Oxford Street to the top on Mardi Gras night. That is a motivated offender who organised themselves to be there on that night to do that, but the vast majority of offenders are not those people.

The CHAIR: We are already running out of time, but we did start a little late with you. Do my colleagues have any closing questions?

The Hon. NATALIE WARD: No, not a question. That is fascinating and I have learnt so much, so thank you. That is fantastic.

The Hon. MARK PEARSON: Thank you very much. It is very helpful.

The CHAIR: Yes, your submission is really good.

Reverend the Hon. FRED NILE: Just following up some of my earlier comments, are you for or against a judicial commission of inquiry to follow up this inquiry? When this inquiry finishes, is that the end of it?

The CHAIR: We have been asking that question. Would you support a judicial inquiry into these murders?

Reverend the Hon. FRED NILE: In principle.

Professor ASQUITH: In principle, yes. I am speaking on behalf of a membership of 70 and we have not asked them that specific question. I personally got the sense that the work that you have been doing for almost a year now is really important so that Parliament can put it on its agenda. There is still space needed to address those cases that have not seen a court or a legal proceeding at all. I would definitely be in support of something like that.

The CHAIR: Yes. Our view is that we are running out of time in terms of justice.

Professor ASQUITH: Yes.

The CHAIR: We have been working on this for three years, by the way. It feels like 10.

Professor ASQUITH: The hearings?

The CHAIR: Yes. We were taking evidence in this very room two years ago, in November 2018. It has been an important process. Thank you so much for coming in and thank you for your submission. You did not make a submission last time because I do not think that you were around in 2018. You have formed a really important organisation and I congratulate you for that. You can do a lot of work to support our civil society. Thank you very much for that. I do not know if you took anything on notice, but if you did then you have 21 days to respond. You may get some questions from the Committee—highly unlikely, but you might—which you have 21 days to respond to. Thank you very much again for your submission. We really appreciate your time today.

Professor ASQUITH: Thank you. I will leave with my client advocate hat on. You have been sitting in these hearings and hearing really traumatic material for a very long period of time. I hope that you are looking after your own wellbeing and the vicarious trauma that you are no doubt accumulating at the moment.

The CHAIR: Thank you very much. We have access to counselling and a good bar.

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The Hon. NATALIE WARD: I think you are the first witness in history to actually extend some care for politicians, so thank you. It is very kind and thoughtful of you.

The CHAIR: We will strike that from *Hansard*. That concludes today's hearings. Thank you very much and thank you to those who are viewing the hearings on the internet. We will be back on 30 November for a half-day hearing.

(The witnesses withdrew.)

The Committee adjourned at 14:53.