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## A Picture of Bias Crime in New South Wales

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### Abstract

Bias Crime is crime where the victim is targeted because of an aspect of his or her identity, including race, ethnicity, religion or sexual orientation. It is an extreme manifestation of cultural tension and conflict. Bias crime remains under-researched in Australia. While there has been some investigation into different types of bias crime, such as racist and homophobic offences, there is little analysis of the nature and extent of bias crime across these categories. For the first time, this article presents the results of a study into official records of bias crime held by the New South Wales Police Force. The study shows that crimes motivated by bias based on the victim's race/ethnicity and religion are by far the most common types of bias crime reported in NSW. People from Asian, Indian/Pakistani and Muslim backgrounds are the most likely victims to report bias crime. The study also shows that there is much work to be done to encourage bias crime reporting amongst marginalised communities and improve the capacity of police to identify and accurately record bias crime. I argue that civil society has an important role to play in building partnerships with police to achieve positive change in the policing of bias crime.

### Keywords

**bias crime, hate crime, racism, cultural diversity, Australia, multiculturalism**

## **Introduction**

In May 2017, four Muslim women wearing headscarves were randomly attacked in the inner city of Sydney, Australia. The suspect was charged with two counts of assault occasioning actual bodily harm and two counts of common assault. According to media reports, the suspect told police that she was motivated by hatred of Muslims, stating at her first court appearance that “the only thing I did was take a bull cut to a Muslim lady. I don’t see any problem with that” (Gibbs 2017). On the day the suspect appeared in court, the New South Wales Police Force issued a media release stating that their ‘investigation into the alleged assault determined that it was a bias-motivated crime’ (NSW Police Force 2017).

Bias crime is crime that is motivated by prejudice, bias or hatred towards a presumed characteristic of the victim, such as race, religion, sexual orientation, disability status or gender identity (NSW Police Force 2019). It is also known as hate crime. Bias crime is an extreme manifestation of intergroup tension, conflict and animosity. It is a sign of the failure of the nation state to provide targeted groups with the safety and sense of belonging that is intrinsic to full citizenship (Keynan 2017). Civil society has long sought to monitor and minimise the impact of bias crime on marginalised communities (Asquith 2012; Chakraborti and Garland 2015). In contrast, state authorities have downplayed the prevalence of bias crime (Mason 2012; Baas 2015). In Australia, this is apparent not just in political and media discourse but also in law enforcement, where only two police services have enacted distinct policies or procedures to address bias crime at the frontline of policing.

Police data represents the ‘official’ record of crime. It defines the problem and provides intelligence about its nature and distribution. Governments rely on police data to set policy and allocate fiscal resources. This points to the importance of robust and reliable police data on bias crime. In Australia, such data is rare. Virtually everything we know about bias crime comes from victimisation studies conducted by community organisations and academics or from inquiries by human rights agencies such as the Australian Human Rights Commission (HREOC 1991; Poynting 2002; Asquith 2004; HREOC 2004; Noble 2009; Tomsen 2010; Baas 2015; Benier, Wickes & Higginson 2015).

This article presents the results of the first study of bias crime data held by the New South Wales Police Force (NSWPF). The NSWPF, which serves the state of New South Wales (NSW), has the longest-standing bias crime initiative in Australia. Their data provides a unique picture of the kinds of incidents that the public report and the police record as bias crime across the state of NSW. In contrast to victimisation surveys, which usually document one form of bias only, police data enables comparisons across multiple categories of motivation, such as race, religion and sexuality.

To date, there has been only one study of police bias crime data in Australia. This research examined records of ‘prejudice motivated crime’ held by Victoria Police (Mason et al. 2017). The current article builds on this by providing more detailed analysis of the characteristics of bias crime victims. It compares the NSW and Victorian data to offer the most comprehensive picture of reports of bias crime in Australia.

The article begins by considering existing research on cultural diversity, bias crime and police responses. Following an explanation of the methods used to study bias crime data held by the NSWPF, it presents an overview of nearly ten years of data, from July 2007 to January 2017, identifying the average number of bias crime reports made to police. The article then focuses on a more detailed subset of data, from July 2013 to June 2016, to analyse key variables, including: the type of bias; victim demographics; type of offence; and situational variables such as location and time of day. The analysis shows that reports of bias crime in NSW are low, but no lower than Victoria. It also shows that crimes motivated by racial/ethnic and religious bias are the most common and victims are most likely to come from Asian, Indian/Pakistani and Muslim backgrounds.

Police are the public face of the criminal justice system. In a multicultural nation, all victims of crime should feel equally confident to turn to police for fair and respectful assistance. Yet the results of this study suggest that bias crime is under-reported and under-recorded. Civil society has an important role to play in enacting change in this domain. The creation of sustainable police-community partnerships is key to building community confidence to report and police capacity to record bias crime.

### **Cultural Diversity, Bias Crime and Policing in Australia**

Australia is a culturally diverse nation. Participants in the 2016 national census identified over 300 separate countries of ancestry, with only 67% of the population having been born in Australia (ABS 2017a). Of those born overseas, 39.7% were from Asia, 33.9% were from Europe, 10.7% from Oceania, 5.1% from Sub-Saharan Africa, 4.9% from the Middle East and the remaining 5.6% from other regions (ABS 2017a). A little over 2.6% of Australians identify as Aboriginal and/or Torres Strait Islander (ABS 2017b). Although 52.1% of Australians identify broadly with Christianity, a total of 8.2% identify with other religions, including Islam (2.6%), Buddhism (2.4%), Hinduism (1.9%), Sikhism (0.5%) and Judaism (0.4%) (ABS 2017c)<sup>1</sup>. Both Islam and Hinduism have been identified as ‘emerging major religions’ in Australia in the last decade (ABS 2017c). The 2014 General Social Survey found that 3% of the adult Australian population identify as gay, lesbian or an ‘other’ form of sexuality (this is likely an under-estimate due to the hesitancy of many gay and lesbian Australians to identify as such) (ABS 2015). Although there is great variability in severity, it is estimated that 20% of the Australian population has a disability (ABS 2016).

Research shows that while Australians’ attitudes towards ‘others’ continue to improve over time, there is still much cause for concern (Markus 2016; Kamp et al. 2017). For example, a recent national survey (Kamp et al. 2017) found that Australians are largely supportive of cultural diversity but some groups continue to attract a substantial degree of negativity. By far, the group that attracts the highest rate of negative attitude is Muslim Australians (31.5%). Middle Eastern, African, South Asian (Indian, Pakistani or Sri Lankan) and Jewish Australians are also perceived to be ‘significant out groups’ (Kamp et al. 2017, p.

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<sup>1</sup> Religious affiliation is the only optional question in the Australian census. Approximately 10% of people do not answer this question, meaning that these figures may not be an accurate representation of the distribution of religious beliefs.

79). The groups that are viewed most positively are Anglo-Australians and Asian Australians (Kamp et al. 2017). Although Australian attitudes to homosexuality also show significant change over time, 21% of people still believe that homosexuality is immoral (Morgan 2016). Notwithstanding the fact that 61.6% of Australians recently 'voted' in favour of legalising same-sex marriage, 38.4% of respondents were against legalisation. This rate was much higher (up to 74%) amongst some cultural groups, notably 'working-class, non-European overseas-born, religious communities' (Jakubowicz 2016, para 12).

Negative attitudes towards cultural diversity translate into negative life experiences for minority communities. These experiences of Islamophobia, antisemitism, homophobia and other forms of prejudice are well documented in Australia (Poynting 2002; HREOC 2004; Noble 2009; AHRC 2015; Dunn et al. 2015; Executive Council of Australian Jewry 2018). Yet, there is less empirical research focusing specifically on the criminal manifestations of this prejudice. The 1991 National Inquiry into Racist Violence (HREOC 1991) was the first comprehensive investigation of any form of bias crime in Australia. It found that marginalised cultural groups within Australia were subject to, and lived in fear of, racist violence, intimidation and harassment. The most vulnerable groups at the time were Indigenous, Vietnamese, and Middle Eastern people. In 2005, a victimisation survey further confirmed that Vietnamese and Middle Eastern people were over-represented as victims of such crimes (Johnson 2005). More recently, research has revealed a problem of violence against Indian nationals studying in Australia (Baas 2015; Mason 2012). A 2015 survey of LGBTI Australians found that almost 75% of respondents reported bullying, harassment or violence at some point during their lives due to their sexuality or gender identity (AHRC 2015). While violence and abuse towards Australians living with disability is a well-established problem (Sherry 2010), it remains one of the most under-investigated forms of bias crime.

Bias crime does not only have an adverse impact on individual victims. It can also cause fear and alienation in the victim's community and, in so doing, undermine multiculturalism (Chakraborti & Garland 2015). The way in which police respond to bias crime is thus a barometer of the relationship between police and minority communities in cosmopolitan society (Mason et al. 2017). Research shows that minority groups tend to have less confidence in police and lower levels of trust than non-minorities (Sivasubramaniam and Goodman-Delahunty 2008; Murphy and Cherney 2011). This is pronounced amongst minority communities with histories of over-policing and/or recent experiences of abuse of authority. These include indigenous people, racial and religious minorities, recent immigrants and LGBTI communities (Cunneen 2001; Murphy and Cherney 2011; Poynting & Noble 2010; Sivasubramaniam and Goodman-Delahunty 2008; Tomsen 2010). Research also shows that, for their part, police continue to hold negative perceptions, suspicions and stereotypes about some minorities (Miles-Johnson and Pickering 2018). This mutual mistrust means that members of minority groups are less likely than non-minorities to report victimisation or contact police if they need assistance (Murphy and Cherney 2011). This has direct implications for bias crime, which is less likely to be reported to police than parallel crime (Wiedlitzka et al. 2018). One UK study has estimated that less than 30% of bias crime is

reported to police (Perry 2001). The impact of under-reporting can be far-reaching. Without regular and consistent reporting, it is difficult to measure, monitor and understand the nature of bias crime and how best to combat it.

Police in international jurisdictions, such as the US and the UK, have attempted to overcome some of these challenges by introducing dedicated bias crime policies and procedures (Mason et al. 2017). In 1999, the NSWPF became the first Australian police service to begin recording bias crime (NSWPF 2011)<sup>2</sup>. A Bias Crime Coordinator was appointed in 2007 and this capacity was expanded into the Bias Crime Unit (BCU) in 2015<sup>3</sup>. The function of the BCU is to monitor and review reports of bias crime, deliver training and provide intelligence to local area commands. NSWPF Standard Operating Procedures define bias crime as a criminal offence that is:

motivated, in whole or in part, by an offender's bias against an individual's or group's actual or perceived: race, religion, ethnic/national origin, sex/gender, gender identity, age, disability status, sexual orientation or homelessness status (NSW Police Force n.d., p. 7).

Although bias crime is not a specific offence in NSW – there is no 'bias crime' which police can use to charge suspects – a biased motive on the part of an offender is an aggravating factor at sentencing (*Crimes (Sentencing Procedure) Act 1999* s 21A(2)(h)). This places an obligation on frontline police to record complaints of potential bias crime. The BCU then collates, categorises and evaluates these reports. This categorisation process is discussed in more detail in the next section.

### **The Research Study**

This article presents the results of the first study of bias crime data held by the NSWPF. The aims of the study were, first, to analyse the extent and variation of reports of bias crime to the NSWPF and, second, to extrapolate from these official reports to construct a picture of bias crime in NSW.

For the purposes of the study, the NSWPF provided monthly files on bias crime reports from July 2007 to January 2017. As noted above, these reports had already been reviewed and categorised by the BCU. Once an investigating officer flags an event as a potential bias crime, the BCU then determines which category of bias (e.g. race, religion or sexual orientation) best characterises the complaint. The BCU applies a schedule of 10 indicators (some with multiple sub-indicators) (NSWPF n.d.) to the available evidence to evaluate whether the event should be classified as a bias crime, suspected bias crime, bias incident or not a bias crime at all. These are defined as follows:

- Bias Crime – if there is sufficient evidence beyond reasonable doubt that the offenders were at least partially bias motivated

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<sup>2</sup> Victoria is the only other jurisdiction in Australia to have introduced a distinct bias crime initiative. For a detailed analysis of Victoria's approach to bias crime see Mason et al. (2017).

<sup>3</sup> At the time of the study, this unit had been recently subject to an internal restructure, relocating it from Operational Programs to the newly established Fixed Persons Investigation Unit, within the Counter-Terrorism and Special Tactics Command.

- Suspected Bias Crime – if there is insufficient evidence but reasonable grounds to suggest that the offenders were at least partially bias motivated
- Bias Incident – if the incident does not amount to a criminal offence, but sufficient evidence shows that it was bias motivated
- Not a Bias Crime – if there is no or insufficient evidence that the incident or criminal offence was not at least partially bias motivated (NSW Police Force n.d., p. 42).

The process of second tier review undertaken by the BCU brings a degree of validity to the data provided for this study. Nevertheless, there are limitations to this data<sup>4</sup>. Reports of bias crime have been collected over a period of nearly ten years, during which time the NSWPF modified its computerised recording system, altered the definition and categories of bias crime and made changes to the way bias crime is recorded (NSWPF personal communication 29 May 2017). In addition, there are gaps in this data. Most notably, no data is available for the period June 2009 to August 2012, when the Bias Crime Coordinator role was not staffed<sup>5</sup>. These limitations and gaps preclude detailed analysis of trends over time in relation to the 2007-2017 data.

In July 2013, the BCU began recording more comprehensive information on reports of bias crime. Files from this point on contain information on key variables such as type of motive, victim demographics and circumstances of the incident (eg: time and location), as well as qualitative case summaries. For this study, a subset of files for the three-year period from July 2013 to June 2016 was selected for analysis. This data was ‘cleaned’, collated and recategorised to maximise comparability and consistency across variables<sup>6</sup>. This subset of data forms the bulk of analysis presented in this article. All analysis was undertaken using descriptive statistics, including the use of crosstabulations to gauge relationships between variables (eg: bias motivation by victim race and religion).

Certainly, the picture of bias crime presented by this study is imperfect. Under-reporting means that police reports ever only provide a partial profile of victimisation (Giannasi 2015). In addition, analysis is largely constrained by the categories adopted by the NSWPF to record and review bias crime. It is not always clear how such categories are defined and distinguished from each other. For example, categories such as ‘Asian’, ‘Indian/Pakistani’ and ‘Middle Eastern’ are used by the BCU to record a victim’s race but there is no further information available as how the unit makes this determination. Some anomalies are apparent. For instance, the targeted victimisation of Jews is interpreted by the NSWPF as a form of religious bias whereas the Executive Council of Australian Jewry (2018) describes antisemitism largely as a form of racial bias. In addition, individual discretion inevitably plays a role in the categorisation process. One case from August 2013

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<sup>4</sup> No data was initially available for 2015. This data was provided later for the purposes of this study in a distinct format and with less detail for some variables than data for the immediately preceding or following year.

<sup>5</sup> Other periods where no bias crime data was available are December 2007 and March-April 2014.

<sup>6</sup> In some periods, data was still missing for core categories, such as offender motive. This required the study to make its own classifications drawing on information provided in the case summaries. Remaining variables with sizeable missing data have either been excluded from the analysis or flagged as such.

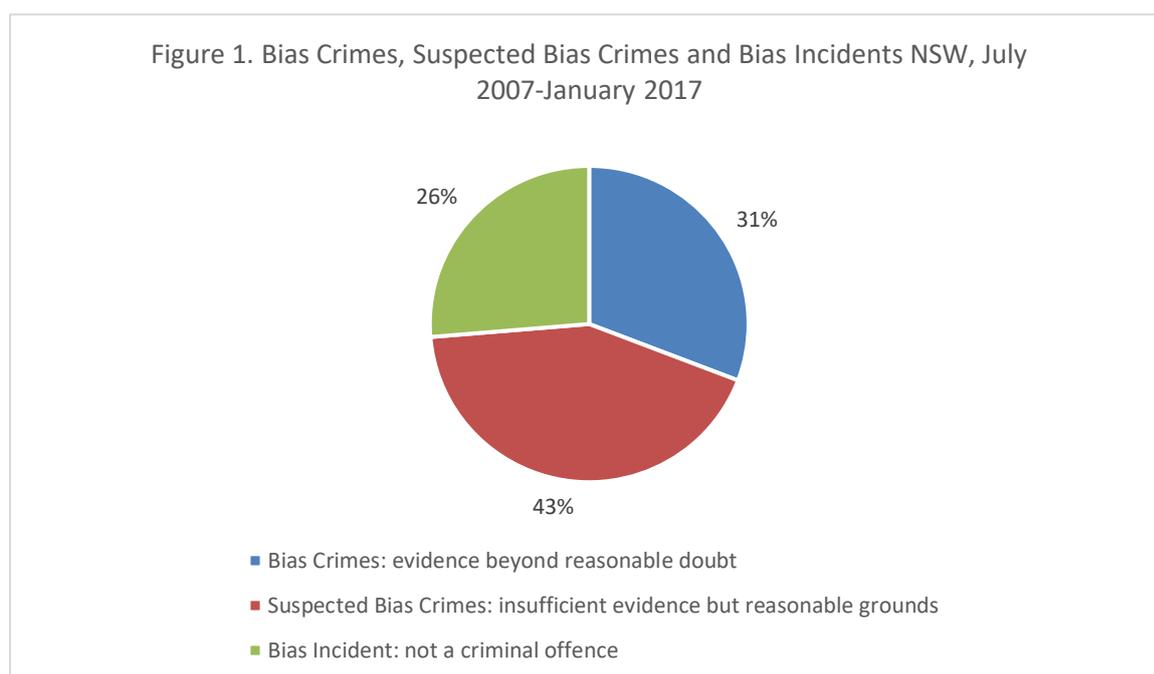
involved a group of suspects sitting near a Sikh temple and throwing eggs at cars. When a priest from the temple tried to stop the suspects, they punched him in the head. This event was classified as a ‘suspected bias crime’ rather than a ‘bias crime’. While the categorising officer may have had ‘reasonable doubt’ that the event was partially motivated by bias, this is certainly a matter on which reasonable minds might differ.

Despite these limitations, police reports provide an invaluable source of information about patterns of bias crime, reporting practices and recording decisions. The current state of knowledge about bias crime in Australia is largely limited to victimisation surveys and qualitative studies. The results of the present study build on this by providing official ‘evidence’ of the problem.

## Results

### *Number of Bias Crime Reports 2007-2017*

Between July 2007 and January 2017, a total of 2,467 reports were determined by the BCU to fit the criteria of a bias crime, suspected bias crime or bias incident (see definitions above). This represents an average of 34 reports per month (excluding missing months). Of these, 760 (30.8%) were categorised as bias crime, 1058 (42.9%) as suspected bias crime and 649 (26.3%) as bias incidents (Figure 1).



Several observations can be made about these reports of bias crime. First, 34 cases a month is not a large number. Indeed, looking only at reports that meet the threshold of a criminal offence (excluding bias incidents), the average drops to 24.9 bias crimes or suspected bias crimes recorded across NSW each month. This is comparable to reports of bias crime made to Victoria Police, which averaged 22.5 reports per month between January 2000 and June 2014 (Mason et al. 2017). Second, the fact that a greater proportion of cases are categorised as suspected bias crime rather than bias crime suggests a shortage of evidence to support the

initial bias crime flag by the investigating officer. This raises questions about the capacity of frontline police to gather the necessary evidence to support the bias crime categorisation or to correctly identify bias crime. This is consistent with data from the study that shows that a high proportion of events initially flagged by frontline officers as bias crime were subsequently determined by the BCU to *not* be bias motivated. Such data was available for 2013 and 2015, where 26.9% and 40.1% of recorded cases respectively were evaluated by the BCU to be misidentified. This is a high rate of misidentification and supports existing research which points to the need for sustained training and guidance for operational police (Miles-Johnson and Pickering 2018).

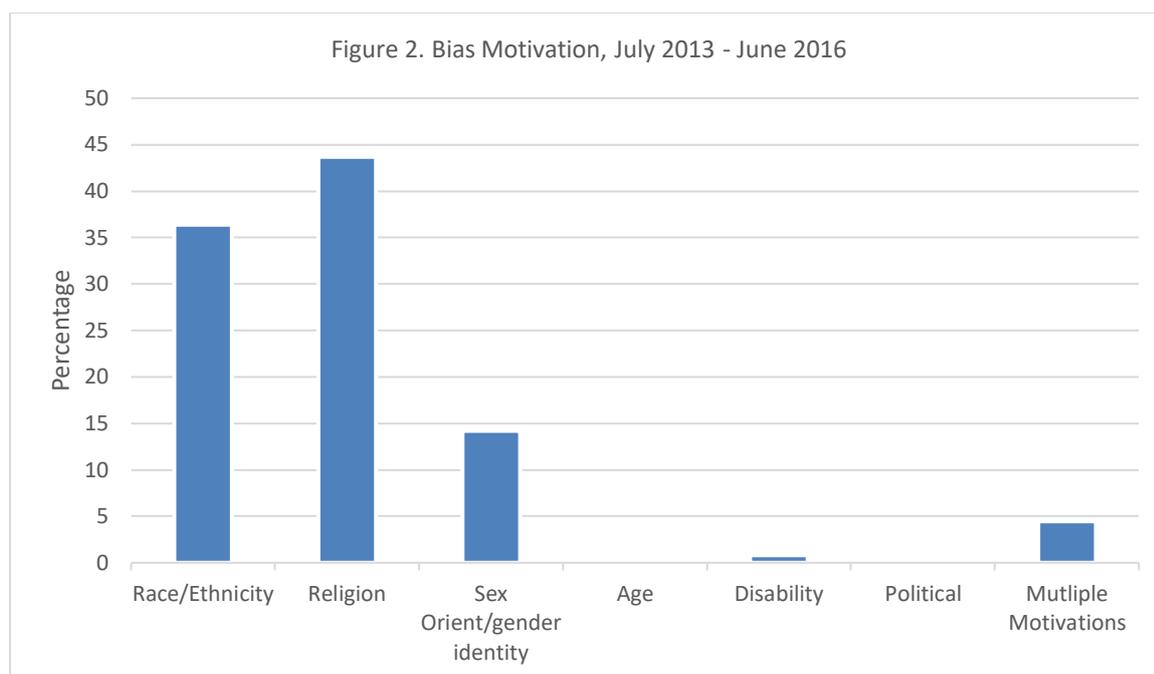
It was also observed that the proportion of bias incidents gradually increased between 2007 and 2017, while proportions of bias crimes and suspected bias crimes fluctuated considerably. It is unclear whether this trend is due to actual changes in victimisation, changes in reporting by victims or changes in recording by frontline police officers (eg: victims may have become increasingly prepared to report and police increasingly prepared to record minor incidents that do not meet the minimum threshold for a criminal prosecution).

The 2007-2017 data is important because it shows the frequency of bias crime reports over a period of almost ten years. However, as explained above, the 2013-2016 data subset is more consistent and comprehensive, enabling analysis of the characteristics of these reports. A total of 1,050 cases between July 2013 and June 2016 were assessed by the BCU as amounting to a bias crime (22%), suspected bias crime (40%) or bias incident (37%). The subsequent sections of this article analyse this 2013-2016 data subset.

#### *Type of Bias Motivation 2013-2016*

Of all 1,050 cases recorded as a bias crime, suspected bias crime or bias incident in the three-year period from July 2013 to June 2016, 44% were categorised by the BCU as motivated by religious bias, 37% by racial/ethnic bias and 14% by bias towards the victim's sexual orientation/gender identity (Figure 2). Other categories of motive recorded by the BCU include disability, age and politics. However, these types of bias were identified in very few cases.

Events determined by the BCU to be motivated by religious bias (44%) were the most common during this period. An example of a religiously motivated event involved a public school that received harassing messages on its Facebook page in April 2016. The messages asked if there was 'an influx of illegal refugees' enrolling as students, if they held 'Aussie values', and if they promoted 'rape, beheading, child marriage and other aspects of Sharia law'. Events determined to be motivated by race/ethnic bias (37%) were the second most common. Two examples taken from the case summaries serve to illustrate this type of bias crime. In one case from September 2013, a suspect shouted 'Go back to your own country this is my country bitch go back to where you came from', before throwing the victim's phone on the ground, kicking her and attempting to punch her. In another case from March 2016, Asian victims reported having equipment stolen from their business in circumstances



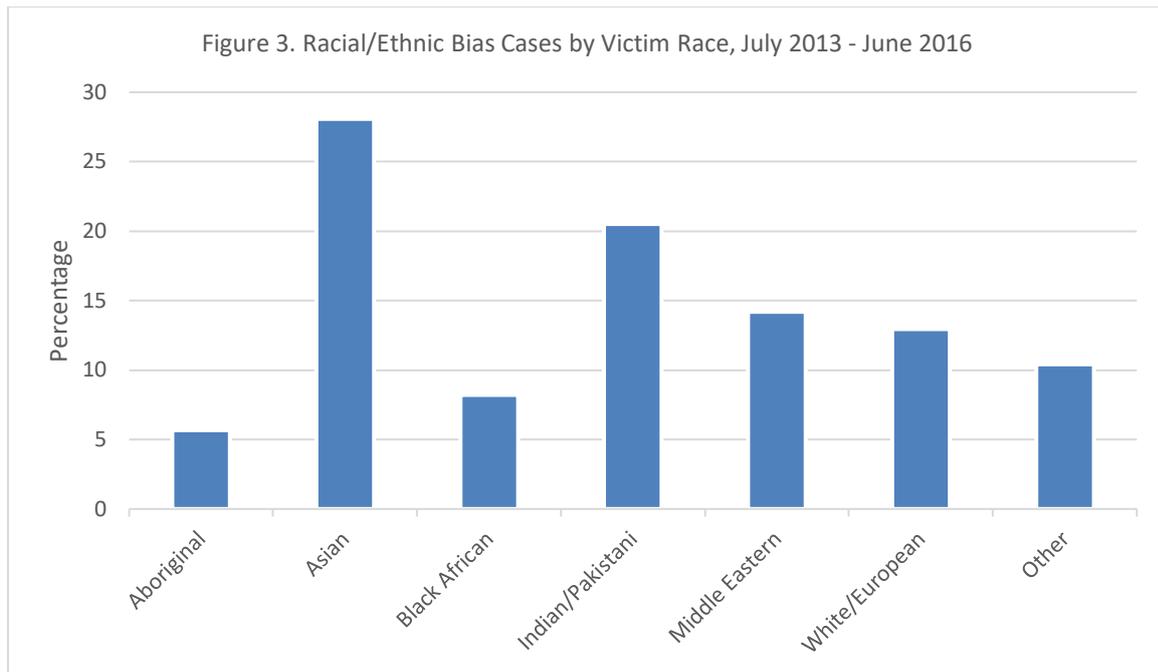
where the suspect stated that they deserved to be robbed because Asians were ‘monkeys’ stealing Australian jobs. Bias towards the victim’s sexual orientation or gender identity represented the third largest category. One example of such a complaint involved a victim who reported receiving a message on his windscreen saying things like ‘Park somewhere else you dirty old faggot’ and ‘Fuck off out of our neighbourhood. We’re watching you now cocksucker. See you in the morning and will fuck your car’.

#### *Race/Ethnicity Cases by Victim’s Race 2013-2016*

Data on the victim’s characteristics enabled the study to delve further into the kind of racial/ethnic bias reported to police. However, this analysis must be prefaced by some caveats. First, classifications of the victim’s race/ethnicity are those adopted by the NSWPF. It is unclear how these categories are defined or distinguished<sup>7</sup>. They evidence some problematic assumptions. For example, the concept of ‘Middle Eastern’ is not generally understood to represent a distinct racial or ethnic identity. Second, this data does not prove the nature of the suspect’s racial bias but simply points to the kind of victim characteristic that the suspect may have targeted.

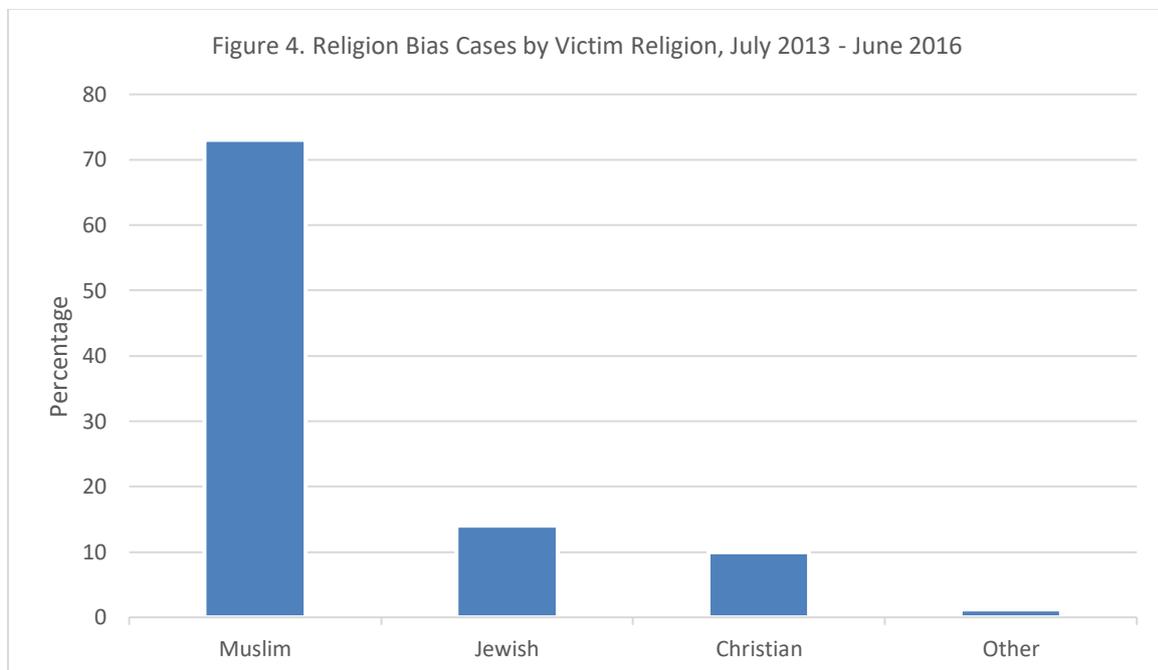
Of all racial/ethnically motivated cases over the 3-year period, the most commonly-reported victim race/ethnicity was Asian (28%), followed by Indian/Pakistani (20%), Middle Eastern (14%) and White/European (13%) (Figure 3). The data points to a gradual increase in cases involving Middle Eastern victims during the three-year period.

<sup>7</sup> Except for the category ‘Other’, which the study created by grouping together some categories with very small values.



#### *Religion Cases by Victim Religion 2013-2016*

Of all cases categorised by the BCU as motivated by religious bias over the 3-year period of the study, the most common victim religion was overwhelmingly Muslim (73%), followed by Jewish (14%), and Christian (9%)<sup>8</sup>. The graph below (Figure 4) compares the proportion of each recorded victim religion in all religion-motivated cases.

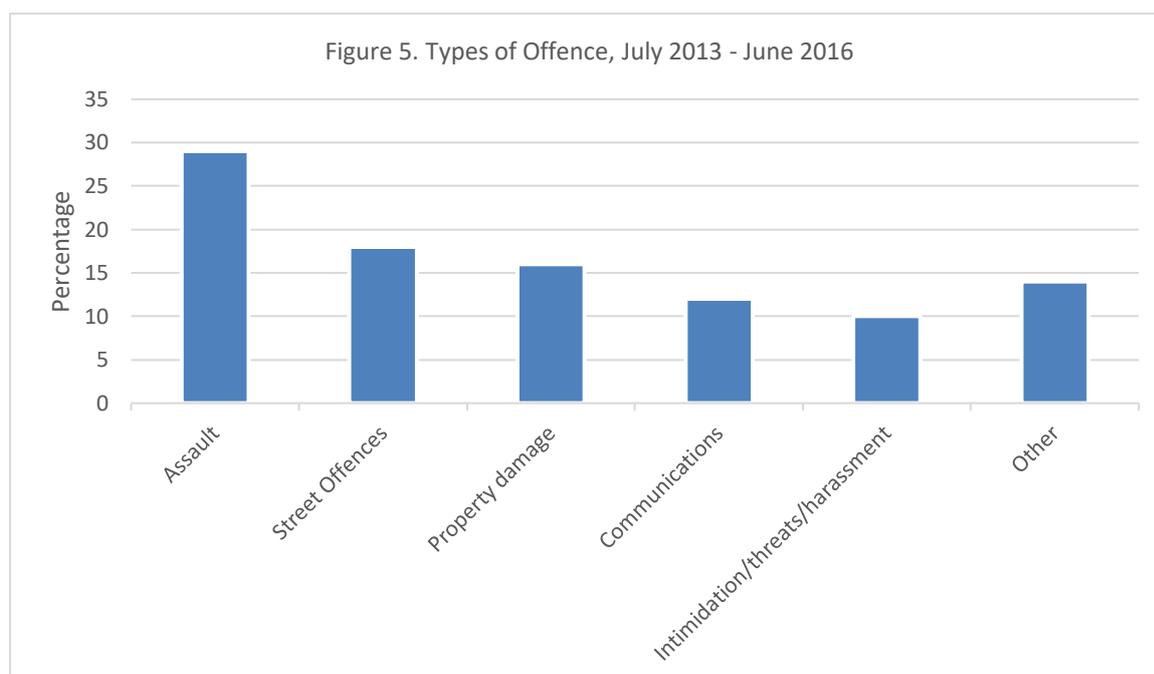


<sup>8</sup> The NSWPF data contains much more detailed categorisations of the victim's religion. Due to small values, some categories have been collapsed (eg: four categories of Islam and five categories of Christianity were grouped into one overall category for each).

During the period under investigation, the data showed an increase of approximately 20% in religiously-motivated cases against Muslim victims and a 20% decrease in Christian victims. The high proportion of religiously motivated bias crimes recorded against Muslim victims may reflect the high rate of Islamophobia in the community (Kamp et al. 2017). It may also reflect a higher reporting rate amongst Muslim targets. For example, well-established avenues for reporting antisemitism to civil society organisations (Executive Council of Australian Jewry 2018) may mean that the Jewish community is less likely to report incidents to the police unless they are severe.

### *Type of Offence 2013-2016*

From July 2013 to June 2016, the main offence types included assault (29%), street offences such as public verbal abuse (18%), property damage (16%), communications offences such as online harassment (12%) and intimidation/threats/harassment (10%) (Figure 5)<sup>9</sup>. Assault consistently remained the most common type of offence recorded throughout the three-year period. This is roughly consistent with bias crime data from Victoria, where ‘crimes against the person’ are the main offence type recorded (Mason et al. 2017).



The type of offence differed depending on the type of biased motive. For example, assaults were the most common type of offence in racially motivated cases (38%) and sexual orientation/gender identity cases (40%). In some contrast, religiously-motivated offences were more evenly spread across offence types. The most common offence type for religiously-motivated offences were communications offences (21%), such as harassment via mail or social media, with assaults constituting 17% of cases. This pattern appears to reflect a solid body of incidents targeting religious institutions, such as mosques and synagogues, as well as individuals.

<sup>9</sup> Offences that did not match any of these categories were classified as ‘Other’ (14%).

### *Victims 2013-2016*

For those cases where victim gender was recorded, males (61%) were more likely to be targeted than females (29%)<sup>10</sup>. This pattern was consistent irrespective of the type of bias except for cases of sexual orientation/gender identity bias where 17% of the victims were transgender people (male-to-female). For those cases where victim age was recorded, the most common age was 30-65 years<sup>11</sup>. These demographic characteristics are comparable to the bias crime data from Victoria, where men (63.4%) were much more likely than women to report bias crime and the most common age for victims was between 30 and 59 years (Mason et al. 2017).

### *Suspects 2013-2016*

Very little reliable information about suspects was recorded in the files under analysis. However, one variable is worth noting. The bias crime data contained a category for events that were linked to organised hate groups. In only 31 of the 1,050 cases was there enough evidence for such a link to be recorded. These groups (eg: Australian Knights of St George, Australian Defence League and Right Wing Resistance) were mostly linked to cases involving communications, harassment or property damage, for example where the offenders left text claiming the group's responsibility. This data suggests that organised hate groups claim responsibility for only an insignificant proportion of events.

### *Region, Location and Situational Factors 2013-2016*

Most reports of bias crime came from the metropolitan areas of the city of Sydney, with less recorded cases in regional areas<sup>12</sup>. This geographical pattern is roughly consistent with the distribution of reports in the state of Victoria (Mason et al. 2017). Notably, regional areas of NSW reported higher levels of racially-motivated cases and lower levels of religiously-motivated cases than metropolitan areas. 'Public open areas' were a common location for reports of assault (29.7%), intimidation/threats/harassment (17.1%), property damage (22.9%) and public order (33%) offences. However, retail areas and public transport also featured. Property damage was also likely to be reported in a private residence (28.6%) or religious venue (20%). Most cases occurred between 2pm-10pm (48%), followed by 6am-2pm (32%) and lastly 10pm-6am (20%).

## **Discussion**

This study of bias crime data held by the NSWPF provides the most comprehensive picture of the patterns of bias crime in Australia to date. Largely, the scholarly literature has been confined to victimisation surveys that compartmentalise the problem of bias crime to

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<sup>10</sup> Victim gender was only recorded in 45.6% of cases.

<sup>11</sup> Victim age was only recorded in 40.5% of cases.

<sup>12</sup> The regional breakdown is as follows: 29% in Central Metropolitan; 29% in South West Metropolitan; 17% in North West Metropolitan; 11% in Northern Region; 9% in Southern Region; and 5% in Western Region.

Religiously-motivated cases were particularly prevalent in the South West Metropolitan region and sexual orientation/gender identity cases prevalent in the Central Metropolitan region. For detail on areas encompassed by the NSWPF regional classifications see:

[https://www.police.nsw.gov.au/about\\_us/regions\\_local\\_area\\_commands](https://www.police.nsw.gov.au/about_us/regions_local_area_commands)

individual forms of prejudice, such as Islamophobia or homophobia. The results of the present study fill a gap in this literature by enabling comparisons to be made between different forms of bias crime, particularly in terms of which types are more likely to be reported to police. In providing the first inter-jurisdictional comparison of bias crime data, the article reveals general patterns in the commission of bias crime across the two most populated states in Australia, NSW and Victoria.

Yet, it is important to acknowledge that there are limitations to the study. There were inconsistencies and gaps in the data provided by the NSWPF. Where possible, these disparities have been ameliorated, for example by filling missing data with information available in the case summaries. Remaining variables with sizeable missing data have either been excluded from the analysis or flagged as such. While differences in recording systems have made detailed comparisons with Victorian data difficult, some macro-level observations have been possible. It must also be kept in mind that neat distinctions between different bias motivations fail to capture the complexity and ambiguity of negative inter-group attitudes. For instance, bias towards Muslim Australians is categorised here as a form of religious bias but in reality perpetrators may be driven by a cocktail of hostile attitudes around culture, heritage, language, skin colour, immigration, politics, terrorism and so on (Poynting 2002; Noble 2009; Dunn et al. 2015; Kamp et al. 2017). Correctly identifying and categorising bias crime remains a persistent challenge for police (Giannasi 2015; Mason et al. 2017). The process of categorisation used by the BCU provides a level of confidence that each event initially flagged as bias crime by frontline officers has been further evaluated according to a set of established indicators. However, as noted earlier, some uncertainties and anomalies in the process of categorisation used by the BCU meant that accurate and consistent measurement of bias crime is still yet to be achieved in NSW. Despite these limitations, the data has proven sufficiently robust to provide a picture of the patterns of bias crime victimisation as well as relations between police and vulnerable communities.

The results of the present study validate existing victimisation studies that show that bias crime continues to be a problem in Australia and one that is experienced primarily by minority groups. Approximately one bias crime, suspected bias crime or bias incident is reported in NSW every day. Although a fair proportion of these reports (26.3%) involve incidents that are unlikely to meet the threshold required for a criminal prosecution, such as verbal abuse, they provide a source of intelligence that police can draw on to identify potential hotspots and engage in proactive outreach with stakeholder communities. This is important in light of research that shows that even minor incidents can be devastating for minority communities who interpret them as a sign of risk and vulnerability (Chakraborti and Garland 2015). For example, many Muslims in Australia feel the need to constantly regulate their movements in public space in anticipation of potential threats (Perry 2001; Noble and Poynting 2010). En masse, this can culminate in a 'geography of power' that dictates the safety of entire communities (Haas Institute 2017).

The study provides a picture of the most common types of motive behind bias crime. Together, crimes motivated by racial/ethnic or religious bias make up the clear majority (81%) of all bias crime reports to police. Sexual orientation/gender identity bias is a distant

second (14%) while bias against disabled people is rarely recorded. Although cases motivated by religious bias outnumber cases motivated by racial/ethnic bias, there is likely to be much overlap or conflation between the two. The exact motive for victimisation may not always have been obvious to the BCU, much less the suspect. For example, in a case from March 2016, the suspect asked the victim where he was from. The victim answered that he was Pakistani. The suspect then hurled verbal abuse at the victim, saying 'go back to your own country' and 'fucking terrorists'. This incident was classified as motivated by religious bias despite apparent overlap with racial bias as well. As discussed above, and as the category of 'multiple motivations' (4.5%) suggests, some suspects may be motivated by jumbled resentments and bigotry towards indistinct groups of 'others'. It is notable, however, that the 2007-2017 data does show a gradual increase in reports of religious bias during this period. It is difficult to compare these patterns with those in the state of Victoria, as very different classification systems are used. In general, however, racial, ethnic, cultural, religious and political bias also form the vast majority (76%) of bias crime reported to police in Victoria, with reports of sexual orientation/gender identity (12.6%) at a rate comparable to NSW (Mason et al. 2017).

Minority communities are over-represented as victims in this bias crime data. With regards to cases involving a racial/ethnic motivation, Asian, Indian/Pakistani, and Middle Eastern people are all key targeted groups. This is consistent with research that shows that a proportion of Australians hold negative attitudes towards people from the Middle East (Kamp et al. 2017). It also lends support to previous research documenting violence against 'Indian students' (Mason 2012; Baas 2015). Yet, the high rate of victimisation against Asian Australians is at odds with research which shows that Asian Australians tend to be viewed much more positively than some other minorities (Kamp et al. 2017). Hence, it is not clear whether Asian Australians do experience higher rates of victimisation or, instead, have greater confidence to report crime to the police (which could be the case for more established Asian communities). Muslim Australians make up only 2.6% of the Australian population (ABS 2017c), but 73% of victims in the religiously-motivated cases in this study. This aligns with research showing both that Muslim Australians are consistently viewed in a negative light (Markus 2016; Kamp et al. 2017) and are at increased risk of violence and abuse since the 9/11 attacks (HREOC 2004).

Assault, property damage, street offences, harassment, and communications offences emerge as the main types of bias-motivated crimes in NSW. While some Australian victimisation surveys and reports (AHRC 2015; Executive Council of Australian Jewry 2018) show harassment to be more common than physical violence, this is not reflected in the NSWPF data. Nor is it reflected in the Victorian bias crime statistics, which also demonstrate a higher proportion of assaults (Mason et al 2017). This is not surprising, given that victims are likely to interpret events involving physical violence as sufficiently serious to warrant police investigation (Chakraborti and Garland 2015).

To some extent, the type of offence reported appears to be dependent on the type of bias motivation: victims in anti-LGBTI cases mostly experience assault; victims in racially-motivated cases mostly experience assault and harassment; and cases involving a religious

bias include a wider range of offences. There is also a relationship between the type of bias motivation and the location of the event, with higher rates of racially motivated cases and lower rates of religiously motivated cases in regional areas. While this may reflect regional variation in the concentration of minorities and/or the distribution of racism in NSW (Dunn and McDonald 2001), it is difficult to be certain without more comprehensive analysis. Religiously motivated cases are particularly prevalent in the South West Metropolitan region of Sydney. Although this region contains pockets of significant Muslim populations, prior research notes that young Muslim people commonly face discrimination in some sections of this region (eg: Sutherland Shire) (Itaoui 2016). Cases related to sexual orientation and gender identity are particularly prevalent in areas of Sydney that contain key entertainment and residential districts for members of the LGBTI community (Tomsen 2010). Public areas are common locations for all forms of bias-motivated offending.

The results of the study suggest that bias-motivated victimisation (or at least the reporting of it) is gendered to a significant degree, with men being over-represented as victims in these records. This is consistent with data from Victoria (Mason et al. 2017), indicating that this is not simply a demographic representation peculiar to NSW, but rather a broader pattern. Although there was insufficient evidence to link organised hate groups directly to the majority of cases, this finding must be treated with caution. Even where a suspect is an active member or a passive supporter of such a group, police may not have the evidence to attribute the commission of the offence to this group. Just because no organised hate group claims credit for an event does not mean that an individual suspect has not been encouraged or incited by the rhetoric of such groups, particularly given their online influence (Jakubowicz 2017).

The study found that, on average, there are 34 reports of bias crime per month to the NSWPF. On the one hand, this demonstrates that targeted communities in NSW are willing to report bias crime to police. On the other hand, it is likely that these reports are only the tip of the iceberg. International research comparing official reports of bias crime with victimisation studies demonstrates that bias crime is ‘massively under-reported and under-recorded’ (Giannasi 2015, p. 332). Drawing on a national probability sample, recent Australian research also shows that bias crime is less likely to be reported to police than non-bias crime (Wiedlitzka et al. 2018). There are many reasons people do not report crime to the police (eg: language barriers, feelings of shame, apathy or the failure to recognise the incident as a crime at all). To report a bias crime, a victim must be familiar with the concept itself, be able to identify that an offence against them is motivated by bias and be willing to communicate these suspicions to the police (Wiedlitzka et al. 2015). The experience in Victoria is illuminating on this point. Despite the introduction of a dedicated bias crime policy by Victoria Police in 2011, a recent analysis of police data recorded between January 2000 and June 2014 found that the strategy had ‘little influence on reporting behaviour’ (Mason et al. 2017, p. 128). Drawing on focus groups with stakeholders from vulnerable communities in Victoria and a survey of Victoria Police recruits, the research attributes this lack of impact to: poor community understanding of the meaning of bias crime; mistrust of police amongst

minority groups; and the failure of frontline officers to identify bias crime, despite dedicated training (Mason et al. 2017; Miles-Johnson and Pickering 2018).

The present study suggests that there is also much work to be done before minority communities in NSW feel confident to report bias crime to police. Police are the first point of contact for communities seeking recognition and support for victimisation based on their race, ethnicity, religion, sexuality or other forms of cultural difference. Many of these communities have experienced discrimination or abuse at the hands of police (Asquith 2012; Poynting 2002). Under-reporting of bias crime must be partly attributed to the lack of trust these communities place in police (Murphy and Cherney 2011; Wiedlitzka et al. 2018) and, indeed, in agencies of state regulation generally. Members of minority communities need to feel confident police will treat their reports of crime in a sympathetic and respectful manner (Murphy and Cherney 2011; Wiedlitzka et al. 2018). The more symbiotic the relationship between police and a community, the more likely bias crime is to be reported (Grattet & Jenness 2008).

Yet, research suggests that members of minority communities are more confident to report victimisation to civil society organisations than to police (Asquith 2012; Chakraborti and Garland 2015). In Australia, platforms such as The Online Hate Prevention Institute, the Islamophobia Register and the Executive Council of Australian Jewry play indispensable roles in recording and documenting bias crime and abuse. This places civil society in a unique position to encourage targeted communities to report bias crime to police and strengthen police capacity to respond. For example, Asquith (2012) advocates for third party reporting schemes where civil organisations act as facilitators and negotiators between police and vulnerable communities by allowing victims to report an event to the civil organisation, usually through an online portal, which then transmits the data to the relevant police service. This calls for police and community stakeholders to build strong and sustained partnerships. Such partnerships have operated in the United Kingdom for some years and provide a framework for dialogue with communities about the meaning of bias crime and the importance of reporting it. They also provide a framework for dialogue between community stakeholders and police. The results of the present study suggest that police capacity to correctly identify bias crime and gather supporting evidence is not strong (ie: rates of misidentification are high). Civil society organisations can enhance understanding and cultural competency amongst police by contributing to specialist training programs (Miles-Johnson & Pickering 2018) and advising police on how best to monitor and ameliorate anxiety about bias crime in their local communities.

Bias crime undermines cultural cohesion. It sends a message of exclusion and alienation that prevents minorities from 'being at home' (Keynan 2017). Police have a role to play in reducing this sense of alienation by delivering fair, respectful and equal service to all sectors of the community, irrespective of their cultural background. Police hold the power to apply the label of bias crime (Asquith 2012) and they produce the official picture of bias crime that governments rely on to develop policy and distribute resources. This picture needs to be as accurate and comprehensive as possible. This requires sustained partnerships between police and civil society. Responsibility for initiating and sustaining these

partnerships rests with police. However, civil society must be prepared to meet them half way if the trust deficit that inhibits bias crime reporting and prevention is to be addressed. In this way, civil society can exert the kind of leverage on government that is necessary to bring about genuine and sustained change in bias crime policing.

### Conclusion

In theory, the nation state grants minorities ‘full and equal civil and cultural rights’ (Keynan 2017, p. 29). Yet, bias crime demonstrates that such rights ‘are not accompanied by genuine emotional and social acceptance’ from all (Keynan 2017, p. 29). Responsibility for documenting and recording bias crime in Australia has largely fallen to civil society organisations and academics. This striking neglect on the part of many law enforcement agencies to monitor and measure bias crime can only be interpreted as indifference by governments across the country. This makes the small amount of bias crime data presented in this article all the more valuable.

The picture of bias crime painted by the present study shows that crimes motivated by bias based on the victim’s race/ethnicity and religion are by far the most common types of bias crime reported in NSW. People from Asian, Indian/Pakistani and Muslim backgrounds are the most likely victims to report bias crime. The study also suggests that civil society has an important role to play in encouraging bias crime reporting amongst marginalised communities and contributing to the capacity of police to identify and accurately record bias crime.

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