

24 April 2026

Joe McCracken MP  
Chair  
Legislative Council Legal and Social Issues Committee  
Parliament House, Spring Street  
EAST MELBOURNE VIC 3002

Dear Mr McCracken,

**Re: Inquiry into anti-LGBTQIA+ hate crimes in Victoria**

### **Executive Summary**

Effectively responding to and recording the prevalence of anti-LGBTQIA+ hate crimes necessarily requires well-trained and competent police. Poor police responses to such crimes disincentivises reporting of these crimes as well as eroding trust in police. Additional targeted police training and the establishment of a Police Ombudsman will help improve police responses to gay hate crimes.

This submission reflects on my experience being the victim of a gay hate assault in Victoria in 2024, my attempt to report the crime to police, and my two-year successful quest to achieve some form of police accountability. This submission will cover Terms of Reference (6) *existing data regarding the prevalence of anti-LGBTQIA+ hate crimes* and (9) *The relevant work of law enforcement*.

### **Police Responses to Gay Hate Crimes is Critical**

There is ongoing discussion about the role of technology facilitating gay hate crimes and ways to prevent such crimes. Once a gay hate crime has occurred, the police response is critical in achieving justice but also in helping to prevent repeat offending.

### **The Gay Hate Crime**

In 2024 I was catching a suburban train in Melbourne at midday on a weekend when a man behaving erratically shouted, 'Fucking poofter' at me. Twenty minutes later while still on the train, in a sudden and unprovoked move, the man ran up to me and physically assaulted me by grabbing my face and neck and holding firm, squeezing and restricting me. While I could still breathe, as his large hands were not restricting my breathing, it was a prolonged, bizarre and terrifying attack.

I was left shaken and once the prolonged attack ended, my attacker stole my phone, although he eventually gave it back. I promptly fled the train and immediately called 000. The entire incident was captured on CCTV cameras inside the train.

## **My Attempts to Report this Gay Hate Crime**

Following the crime, I acted as a 'model victim', attending the local police station later that same day with a view to reporting the crime. I had written down the various train times, train stations, dates and a detailed description of the offender.

## **How Police Failed Me**

The incompetence displayed by several police officers in my case is stunning. Crucial CCTV footage was not requested, then deleted, resulting in the offender never being identified or charged. I was treated with disrespect and insensitivity throughout the process. The gay hate element of the crime was never acknowledged or recorded on the system. Multiple formal investigations found a litany of failures by police.

Immediately after the crime occurred and I stepped off the train, I waited a few hours to mentally recover and allow the shaking of my body to subside. I then attended the closest police station with a view to making a signed statement to report the crime.

The station was understaffed with a single officer at the counter. The officer said the only interview room was occupied so I could not make a formal statement, although the officer did write down all the relevant details about the crime. From the outset, I made it explicitly clear I was a gay man and that this was a gay hate crime, relaying the exact words shouted at me by the offender. I spoke to the officer at the counter where others could see and hear me. I was told if police found any further evidence, and if a statement was needed from me, I would be contacted. I left my phone number, address and other details with the officer. The officer failed to record the crime as a prejudice motivated crime.

There was no attempt to allow me to relay the incident to the police in a private setting or room. I was not offered any victim impact booklet or counselling. I was not given the contact details for the local LGBTIQ+ Liaison Officer. There was no mention of the local LGBTIQ+ Liaison Officer or any suggestion I report the crime to a LGBTIQ+ Liaison Officer. In the multiple subsequent investigations of this officer's conduct, I have consistently said that I do not believe the officer was 'anti-gay' or had any prejudice against me due to my sexual orientation. However, the station was understaffed, staff were overworked and his attitude was uncaring and unsympathetic.

Two weeks later I called for an update speaking to the same officer, reiterating this was a gay hate crime and that I believed the offender will reoffend. I was told I needed to let the officer do his job and it will take time to investigate. The officer seemed annoyed that I was frustrated at the process and the lack of progress. He also minimised my experience of the crime: "You need to understand there are so many more serious crimes happening on trains every day, we see guys smashed to a pulp, and even then, we can't always catch the offender."

*“You need to understand there are so many more serious crimes happening on trains every day, we see guys smashed to a pulp, and even then we can't always catch the offender.”*

The initial police informant's message to me

Almost two months after the crime, I had heard nothing from police and called for an update. I was told the informant has left that station, no longer worked there, that he had forgotten to pass my case onto another officer, and that police had no idea who had been assigned to my case. In short, my complaint has slipped between the cracks and had been entirely overlooked.

### **Crucial CCTV Footage Evidence Deleted**

After insisting I be permitted to make a statement, almost two months after the crime occurred, I made a statement to police. However, as police failed to seek CCTV footage, the footage capturing the entire incident was permanently deleted, no offender was identified, apprehended, interviewed or charged. The last last update I received from police on was 29 November 2024 with the investigation labelled 'pending'.

### **Formal Investigation Finds Police Misconduct: CCTV footage deleted**

I have spent the last two years seeking police accountability for the way police responded to allegations of a gay hate crime. I have subsequently lodged three formal complaints about the conduct of the officer at the heart of this matter.

#### **1. Victoria Police's Professional Standards Command**

It took Professional Standards Command<sup>1</sup> 11 months to provide an Outcome Letter after lodging my complaint with them. I alleged that the police informant had:

- a. failed to secure the CCTV of the assault in a timely manner which resulted in the loss off CCTV evidence.
- b. failed to comply with the *Victims Charter Act*.

Both of my allegations were found to be 'Established' and 'true'; that is that the police informant had:

- a. engaged in a Duty Failure by failing to investigate the incident by failing to request or secure the CCTV footage; and
- b. Engaged in a Duty Failure by failing to assist a complainant by failing to comply with the *Victims Charter Act*.

<sup>1</sup> Victoria Police Reference: CLASS 2/1793/2024. Victoria Police Professional Standards Command Outcome Letter dated 01/05/2025.

I was informed the informant had ‘undergone workplace guidance as a result of these findings’. I consider this response to be inadequate, and I consider the existing system of ‘police investigating themselves’ to be incapable of acting as a proper police accountability mechanism.

## 2. IBAC

It took IBAC five months to issue me with an Outcome Letter<sup>2</sup>. IBAC’s Focused Police Complaints Team (FPCT) investigated my complaint, with FPCT tasked with investigating complaints of police misconduct against community members who may be at higher risk of experiencing police misconduct, including members of the LGBTIQ+ community. IBAC ultimately chose to dismiss my complaint as I had previously indicated I considered the matter resolved. With hindsight, I strongly regret indicating that I ever considered this matter resolved.

## 3. Victims of Crime Commissioner (VOCC)

The VOCC office took almost 9 months to notify me of the outcome<sup>3 4</sup> of my complaint, with the Outcome Letter making the following recommendations to Victoria Police:

- Ensure police members are sufficiently aware of updates to the Victoria Police Manual and appropriately trained in how to implement the new guidelines.
- Victoria Police provide you with an apology and an explanation as to why your assault was not considered a hate crime in the first instance.
- Victoria Police provide you with an account of the additional training and awareness-raising it will undertake to prevent future situations of the kind experienced by you.

A more detailed *Investigation of the Complaint Report* found police had behaved inconsistently with 6 clauses of the *Victims Charter Act 2006*. Of relevance to the recording of gay hate crimes, the VOCC’s Report also noted,

*‘S/C [Officer 1] told Matthew that he was unfamiliar with recording a gay hate crime on the police system..... These conversations and emails indicate that Matthew’s assault was not considered a hate crime by S/C [Officer 2], even though Mr Roberts had told him it was.’<sup>5</sup>*

The Victoria Police Manual (VPM) has a section on Prejudicially Motivated Crime and how such crimes are to be recorded. None of the officers I dealt with in relation to this alleged crime showed any familiarity with this section of the VPM.

## **How My Perception of Police Has Changed**

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<sup>2</sup> IBAC Outcome Letter dated 13/10/2025. IBAC Ref: CASE-20254467. IBAC Document Ref: CD/25/89735

<sup>3</sup> Victims of Crime Commissioner Outcome Letter (VOCC Ref: 26/024) dated 9 April 2026

<sup>4</sup> Victims of Crime Commissioner Investigation of Complaint Report (VOCC Ref: 26/024) dated 9 April 2026

<sup>5</sup> Names of Officer 1 and Officer 2 redacted.

My views on police competence have been seriously eroded as a result of my treatment. I continue to believe that if police had complied with the *Victims' Charter* and behaved in a professional and competent manner, I would have achieved justice, and the offender would have been identified and charged. Over the past two years I have taken the time to patiently listen to the perspectives of police in relation to my complaint. I have also spoken to my gay male friends. There is a divide between what these two groups believe is proper accountability: police believe the existing Professional Standards Command is working effectively. My gay male friends believe the officer who let me down should have been fired from the police force.

### **What Would Effective Police Accountability Look Like?**

Community legal services<sup>6</sup> in Victoria support the establishment of a Police Ombudsman in Victoria, via the [Police Ombudsman Now](#) campaign<sup>7</sup>. This campaign identifies a number of fundamental flaws with existing police accountability mechanisms available via Professional Standards Command, IBAC and the Victims of Crime Commissioner. I now endorse this campaign and call for a Police Ombudsman in Victoria.

### **Recommendations**

#### Recommendation 1

Victoria to establish a Police Ombudsman in line with the Police Ombudsman Now<sup>6</sup> campaign.

#### Recommendation 2

Victoria Police members be provided with training to ensure members are sufficiently aware of updates to the Victoria Police Manual and appropriately trained in how to implement the new guidelines, particularly how to record and respond to allegations of Prejudicially Motivated Crimes.

### **Aggravated offending and vilification**

#### Recommendation 3

Introduce a new scheme of hate-based aggravated offences in the *Crimes Act 1958* that incorporates:

- a) a prescribed list of offences that is more expansive than the current aggravated offences and captures the offences most often experienced by LGBTIQ+ people; and
- b) for the listed offences, an aggravating circumstance that the perpetrator was wholly or partly motivated by or demonstrated hostility, hatred, or other relevant emotions in respect of a victim's protected attributes

<sup>6</sup> See the About page on the Police Ombudsman Now website.

<https://www.policeombudsmannow.com.au/about/>

<sup>7</sup> See Police Ombudsman Now website homepage

<https://www.policeombudsmannow.com.au>

#### Recommendation 4

Introduce a statement section for the serious vilification part of the *Crimes Act 1958* that clearly denounces hate crimes and signals their unacceptability, based on section 1AA of the *Justice Legislation (Anti-vilification and Social Cohesion Act) 2025*

#### Recommendation 5

Impose an enforceable positive duty to eliminate vilification in section 15 of the *Equal Opportunity Act 2010* to require duty-holders to take reasonable and proportionate measures to eliminate vilification before it turns into violence

### **Sentencing reforms**

#### Recommendation 6

Reform the sentencing guidelines in section 5 of the *Sentencing Act 1991* to:

- a) incorporate a definition of ‘common characteristics’ that includes the protected attributes in section 195M of the *Crimes Act 1958*; and
- b) include an additional provision that an offence is taken to be motivated by hatred or prejudice when there is demonstration of hostility, hatred, or other relevant emotions, based on section 11B(2) of the *Sentencing Act 1997* (Tas)

#### Recommendation 7

Reform the *Criminal Procedure Act 2009* to require that, where an offence is found to be motivated by hatred or prejudice, the criminal record must contain this and the relevant protected attribute, based on the Scottish model

### **Policing anti-LGBTIQA+ hate crimes**

#### Recommendation 8

Improve Victoria Police’s response to anti-LGBTIQA+ hate crimes by:

- a) strengthening existing practices of recording and responding to hate crimes and hate-related incidents, including training on recognising and gathering evidence to prosecute hate crimes and hate-related incidents;
- b) creating a Hate Crimes Unit to lead investigations and prosecutions of hate crimes and hate-related incidents;
- c) introducing a Hate Crime Scrutiny Panel to provide oversight of the policing response to hate crimes, based on the United Kingdom model; and
- d) conducting an independent evaluation of Victoria Police’s LGBTIQA+ awareness training and the extent to which it educates police on how to recognise and address hate

#### Recommendation 9

Advocate for further development of the Australian Institute of Criminology's National Hate Crime Database to better capture hate crimes against LGBTIQ+ communities

Yours sincerely,



Matthew Roberts