

Disability Hate Crime, 'Mate' Crime & the 2006 Werribee Case

Exploring the perceived utility of McDevitt, Levin and
Bennett's (2002) hate crime offending typology

Ryan Thorneycroft

2013

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This unpublished thesis was submitted in partial fulfilment of the requirements of the Degree of Bachelor of Arts (Honours), Faculty of Arts and Education, Deakin University in October 2013. Sections of this thesis have been redacted in order to comply with the ethics protocol [HAE 13-015] approved by the Deakin University Human Ethics Advisory Group.

Some of the arguments presented in this thesis have been submitted for publication to *Disability & Society*, as 'The Dark Figure of Disablist Hate Crime' [co-authored with Nicole Asquith].

**In dedication to those who live with
a disability—past, present and future**



CANDIDATE'S CERTIFICATE

FORM B

I am the author of the thesis entitled, **Disability Hate Crime, 'Mate' Crime and the 2006 Werribee Case: Exploring the perceived utility of McDevitt, Levin and Bennett's (2002) hate crime offending typology**, submitted for the degree of **Bachelor of Arts (Hons)** is the result of my own research, except where otherwise acknowledged, and that this thesis in whole or in part has not been submitted for an award to any other university or institution.

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SUMMARY of THESIS SUBMITTED

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Summary of thesis submitted for the degree of **Disability Hate Crime, 'Mate' Crime and the 2006 Werribee Case: Exploring the perceived utility of McDevitt, Levin and Bennett's (2002) hate crime offending typology**

Please give a brief summary of the contents of the thesis to be submitted for examination:

Disability hate crime remains on the periphery of hate crime scholarship (Lane, Shaw & Kim 2009). The research on the topic is sparse, and it is clear there are more questions than answers in relation to the specific victimisation and criminalisation processes of disability hate crime (Lane, Shaw & Kim 2009). A key feature of disability hate crime is that it is widely under-reported (Sin 2013). The McDevitt, Levin and Bennett (2002) hate crime offending typology contends that if hate crime offenders are better able to be identified in terms of their motivations, they are better able to be policed. This thesis uses a case study as a frame through which McDevitt, Levin and Bennett's (2002) typology can be examined. This thesis is one of the first to investigate a hate crime typology using a case study methodology, and likewise, it is also the first study of its kind to test the McDevitt, Levin and Bennett (2002) typology in relation to disability hate crime. The results from this research indicate that the typology is useful, not in terms of its policing promises, but as a framework for identifying the culpability of offenders after they have been identified.

Signature

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CROFT

ABSTRACT

Disability hate crime remains on the periphery of hate crime scholarship (Lane, Shaw & Kim 2009). The research on the topic is sparse, and it is clear there are more questions than answers in relation to the specific victimisation and criminalisation processes of disability hate crime (Lane, Shaw & Kim 2009). A key feature of disability hate crime is that it is widely under-reported (Sin 2013). The McDevitt, Levin and Bennett (2002) hate crime offending typology contends that if hate crime offenders are better able to be identified in terms of their motivations, they are better able to be policed. This thesis has used a case study as a frame through which McDevitt, Levin and Bennett's (2002) typology can be examined. This thesis is one of the first to investigate the hate crime typology using a case study methodology, and likewise, it is also the first study of its kind to test the McDevitt, Levin and Bennett (2002) typology in relation to disability hate crime. The results from this research indicate that the typology is useful, not in terms of its policing promises, but as a framework for identifying the culpability of offenders after they have been identified.

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INTRODUCTION

Perceptions of difference continue to influence the victimisation of some groups in our society (Perry 2001). These acts are commonly called ‘hate crimes’ (or prejudice-related violence), and are typically committed against those who society has traditionally marginalised, such as gay men, lesbians, racial and ethnic minorities, as well as religious communities (Chakraborti & Garland 2009). Disability is also a ground for marginalisation, yet thus far the victimisation of people living with disabilities has remained on the periphery of hate crime scholarship (Lane, Shaw & Kim 2009). Broadly, disability hate crime refers to a criminal act committed, at least in part, because of someone’s real or perceived disability status (Sherry 2010). Disability hate crime is far more prevalent than previously realised (Sin 2013), and this thesis makes a contribution to this small field. In addition to documenting the prevalence and characteristics of disability hate crime, this thesis critically examines the theoretical frameworks necessary for contextualising the unique aspects of both hate crime in general, and disability hate crime in particular. This thesis focuses on the victimisation and offender characteristics of disability hate crime. McDevitt, Levin and Bennett’s (2002) typology of hate crime offending is the central focus of this thesis, and is used to evaluate the 2006 physical and sexual assault of a young woman with a mild developmental delay (*R v P and others* 2007). This thesis makes an important contribution to the work of disability hate crime, and in particular the way in which the phenomenon of ‘hate crime’ can be used as a useful lens at identifying victimisation for policing.

Hate crime is an evolving field, and while the term was first coined in the 1980s in North America, and has been used in law, policy and practice since this time, it is a misnomer (Iganski 2008). Jacobs and Potter (1998) suggest that hate crime is not *only* about hate; rather, it lies on a continuum, where bias and prejudice plays a leading role in hate crime

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classification. The misleading nomenclature is inevitable as crime—and by extension hate crime—is a social construct (Perry 2001). Our conception of crime is relative to our historical, cultural and social circumstances, as such, definitions are in a state of flux (Perry 2001). Indeed, hate crime represents an age-old phenomenon viewed through a new conceptual lens (Grattet & Jenness 2001); some suggest a new ‘net-widening’ lens (Mason 2013). In its simplest form, hate crime refers to crimes motivated by hate (Hall 2005). Yet, as this thesis will show, the word *hate* is employed as a catch-all term to represent behaviour that is motivated by factors other than hate (Chakraborti 2010). Arguably, the word ‘hate’ is used deliberately for political purpose to invoke deep emotion and extract strong response from government (Mason 2013). It is claimed that such an approach can hinder hate crime regulation and prevention, especially when scholars, victims, law enforcement and other hate crime stakeholders come to view this criminal behaviour through a lens that privileges hate as a motivating force (Woods 2010). Such an approach is mistaken as it ignores that hate crime is much broader, pervasive and nuanced than previously realised (Perry 2001; Quarmby 2008).

Disability hate crime has so far remained on the fringes of hate crime debate (Garland 2011), and as Mason-Bish (2010) notes, there exists a hierarchy of victimhood within hate crime policy discourse, whereby certain groups have preferential treatment and attention over others. Mason-Bish (2010) identifies race at the top of the hate crime hierarchy, and disability at the bottom. This thesis, as its first priority, seeks to highlight disability hate crime as an area warranting further academic attention, as thus far it has evaded such scrutiny (Mason-Bish 2010). Moreover, this research seeks to document the factors influencing the under-reporting of disability hate crime, and analyse McDevitt, Levin and Bennett’s (2002) expanded typology in order to determine its utility in identifying the motivations of disability hate crime offenders. McDevitt, Levin and Bennett (2002) contend that if hate crime

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offenders are better able to be identified in terms of their motivations, they are better able to be policed.

In conducting the research, a case study approach was adopted where the theoretical framework found within McDevitt, Levin and Bennett's (2002) typology was evaluated against the forensic evidence found in a disability hate crime case that occurred in Werribee, Victoria in 2006. The case selected involved the physical and sexual assault of a 17-year-old girl by eleven male youths. Despite the victim's mild developmental delay, it is important to note that this case was never considered a disability hate crime (Sherry 2010). The Werribee incident represents an important case in the 'policy career' (Grattet & Jenness 2001) of disability hate crime, as it puts into stark relief the difficulties with naming and acknowledging disability hate crime (Sin 2013). Also, the case highlights that under-reporting is symptomatic of this failure to recognise and acknowledge disability hate crime (Sin 2013). This case also represents an opportunity to test McDevitt, Levin and Bennett's (2002) typology in terms of hate crime offending motivations and culpability, and the promises it makes to police investigations.

A narrative outline of this central case is provided below to enable the framing of key issues raised by existing research, as well as the theoretical development of hate crime. The Werribee case highlights the tension between victimisation and offending in what has come to be called, 'mate crime'. In these types of hate crime, the interpersonal relationships between victims and offenders impacts on the likelihood of the incident being reported, in large part due to the victim's perceived bond between themselves and the offender (Thomas 2011). It also highlights how significant the presence of group-enacted conduct has for the victim in reporting their victimisation, as they may be too intimidated to report such victimisation as their testimony can be disputed by multiple offenders (Horvath & Gray 2013).

This is exacerbated for those with disabilities, in which the credibility of their statements is often already openly questioned (Equality and Human Rights Commission 2011). This thesis uses the case study as a frame through which McDevitt, Levin and Bennett's (2002) typology can be examined in relation to hate crime offenders, victimisation and mate crime. The narrative below assists in framing these key issues, as well as theoretical developments of the concept of hate crime.

The Werribee Case Study

On a day in June 2006¹, three male adolescents arranged to meet a 17-year-old girl at a railway station in Victoria (*R v P and others* 2007). It was established that two of the males, identified in this thesis as Oswald² (16 years old) and Bailey (17 years old), first met the young woman—identified as Shannon³—in March 2006; at which time telephone numbers were exchanged between Shannon and Bailey (*R v P and others* 2007). The third male was not involved in the criminal activity that was to follow and was never charged in the incident. Between March and June, Shannon had contact with Bailey, Oswald and another male identified as Mitchell (15 years old), and during these encounters Shannon engaged in sexual activity with all three at various points over the approximate two month period (*R v P and others* 2007).

¹ Specific date redacted from official records.

² Because the offenders were underage at the time of the offence their names have been redacted. Court transcripts assigned them initials, but due to the large number of offenders involved—eleven—it was decided that pseudonym surnames would be created to make the reading more user-friendly, and to maintain a human element that these are real people. An overview of these eleven offenders is provided in the results chapter.

³ Because the victim was underage at the time of the offence, her name was redacted from sentencing documents and media reports. While she was assigned the pseudonym 'FS' or 'Ms S', this thesis will use the surname 'Shannon' to better enable user-friendly reading, and to maintain a human element.

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On the day in question, Shannon had been encouraged to attend the train station by Oswald and Bailey through communication an online chat service (*R v P and others* 2007). Bailey disclosed that he anticipated some form of sexual activity with Shannon, and Shannon revealed she was expecting to meet with Bailey, Oswald and perhaps one other individual (*R v P and others* 2007). Shannon also stated she expected to go to the nearby shopping centre after arriving at the train station (McNamara & Bennett 2006). However, what precipitated was Shannon being confronted by at least eleven young men (*R v P and others* 2007). Once it became apparent that Shannon was to arrive at the train station, Bailey had been in contact with Mitchell, Daniels (15 years) and Tranter (16 years), upon which they decided to also attend the train station (*R v P and others* 2007). Oswald, despite clear evidence that he had planned to meet up with Shannon, maintained he had only found out shortly prior to the arranged meeting and decided to attend (*R v P and others* 2007). Individuals identified as Phillips, Riley and Smith (all 16 years old) maintain they met the rest of the group by coincidence at the train station (*R v P and others* 2007). Three other young males, Schipp (16 years old), Murphy and Madden (both 17 years old), had been in contact with some of the other young men and decided to attend (*R v M and others* 2008). It was established that all of the young men, except Smith and perhaps Madden, had some knowledge of Shannon prior to the incident (*R v P and others* 2007; *R v M and others* 2008). All of the young men either expected to participate in oral sex with the young women or to witness it (*R v P and others* 2007).

Once Shannon arrived at the train station she was lured by the group toward a nearby, secluded river bank (*R v P and others* 2007). As they walked toward the river, the group of young males encircled Shannon, and Phillips started filming the events with a camera (*R v P and others* 2007). As they walked, many started chanting 'the victim' in a loud and prolonged manner (*R v P and others* 2007). His Honour Judge Grant (*R v P and others* 2007: 3-4) notes

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that this was the ‘commencement of a period of sustained sexual and physical assault’, and that ‘it was clearly indicative of your attitude to Ms S [Shannon]...what you expected to occur’ (*R v P and others* 2007: 3). Once at the river bank, the group of young males proceeded to set the victim’s hair on fire, poke her with a stick, drag her along the ground by her feet, spit on her and kick items of her clothing in the river (*R v P and others* 2007). Riley and Mitchell procured acts of oral sexual penetration, and also hit the victim on her head with their penises (*R v P and others* 2007). Riley and Oswald also exposed their bare bottoms to the victim’s face (*R v P and others* 2007). Bailey attempted to urinate on Shannon, while Oswald did so successfully (*R v P and others* 2007). Oswald and Daniels wrote across the victim’s breasts, and Bailey tried to pull down her jeans and abuse her (*R v P and others* 2007).

Notwithstanding the physical and sexual assault described above, the perpetrators’ verbal taunts and threats were also of an extreme nature (*R v P and others* 2007). As the male youths repeatedly referred to Shannon as ‘the victim’—a shocking acknowledgement of their conduct—they also cheered and jeered throughout the ordeal (*R v P and others* 2007). At one stage the group chanted ‘tits out for the boys, tits out for the boys’ (*Today Tonight* 2006). One male spoke directly to the recording camera and stated ‘what the fuck, she’s the ugliest thing I’ve ever seen’ (*Today Tonight* 2006), while another asks to urinate in Shannon’s mouth saying ‘it’s the Werrabee way’ (Medew 2007). One male laughs, and states, ‘everyone’s scared to go first they don’t want any diseases’ in an apparent reference to sexual contact (*Today Tonight* 2006), while another situates his bare bottom against Shannon’s face and says ‘lick my arse’ (Medew 2007). At another point the offenders discuss prostituting her, and one encourages the others to give her a pubic wax stating ‘we’ve got to make this bitch look like a slut... get with this whole deforestation thing’ (Manne 2006). Shannon’s exposed breasts are groped (Bice 2007), and when her jacket is thrown in the river one says ‘you’re walking home topless’ (Miletic 2006). Overall, Judge Grant stated it was ‘a

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sustained attack by a pack of young men' who showed contempt, cruelty and enjoyment at the victim's distress (*R v P and others* 2007: 4). At various times Shannon screams and covers (*Today Tonight* 2006; *R v P and others* 2007) but also smiles throughout the ordeal (Manne 2006; Williams 2013).

Following the event, the footage gathered by Phillips was edited and produced into a DVD entitled *Cunt the Movie* (*R v P and others* 2007). It was then sold across schools in the region for \$5 each (Miletic & Rood 2006). In addition to the assault on Shannon, the film included the group of young men engaging in fights, binge drinking, vomiting, dropping flares on a homeless person⁴, constructing chlorine bombs and then detonating them, as well as egging a taxi (Duncan 2006; Houlihan 2006). Within the DVD they refer to themselves as the 'teenage kings of Werribee' (Miletic & Rood 2006) and they preface Shannon's assault scene with the disclaimer that 'the victim has no problem with what is about to be shown', and that the victim 'took it all as a joke' (*Today Tonight* 2006). This assertion was proved false in her evidence to police (*R v P and others* 2007). Parts of the DVD were uploaded onto the popular video-sharing website YouTube, whereby the segment 'Pimp My Wife' was viewed by almost 2500 people (Miletic & Rood 2006). It was only after the DVD came to the attention of the Channel 7 current affairs show *Today Tonight* in late October 2006 that it provoked outrage in the community (Miletic & Rood 2006).

The outrage from the DVD prompted a police enquiry into the events of June 2006, and following months of investigation, eleven young men were charged over the incident (*R v P and others* 2007; *R v M and others* 2008). All offenders were charged with four offences,

⁴ People who are homeless can also be victims of hate crime (Garland 2011); an important line of enquiry could investigate whether this attack on the homeless person was also prejudicially motivated.

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including procuring sexual penetration by intimidation with Riley and Mitchell (1 charge for each offender), making child pornography and assault (*R v P and others* 2007; *R v M and others* 2008). All eleven young men pleaded guilty to the offences, and in return, the prosecution removed the threat of an additional 30 offences if they contested the charges (Cooper 2007a). On 5 November 2007, Judge Grant convicted seven of the offenders—Phillips, Riley, Mitchell, Bailey, Oswald, Tranter and Daniels—and sentenced Phillips, Riley and Mitchell to 18-month Youth Supervision Orders and invoked a 12-month Youth Supervision Order for Bailey, Oswald and Tranter (*R v P and others* 2007). Daniels avoided a supervision order but was put on probation for 12 months and similarly, Smith avoided conviction and was placed on probation for 12 months (*R v P and others* 2007). All eight were required to undergo the Male Adolescent Program for Positive Sexuality (MAPPS)—a treatment program for male adolescents convicted of sexual offences—administered by the Royal Children’s Hospital (*R v P and others* 2007; Adolescent Forensic Health Service 2011).

On 12 February 2008, the remaining three men—Murphy, Schipp and Madden—were also sentenced after pleading guilty (*R v M and others* 2008). Murphy was convicted and placed on a Youth Supervision Order for 12 months, while Schipp and Madden avoided conviction and were placed on probation for 12 months (*R v M and others* 2008). All three were required to undergo the MAPPS program (*R v M and others* 2008). Judge Grant noted that without the admission of guilt on behalf of Phillips and his suitability for the MAPPS program⁵, incarceration would have been likely if he proceeded to adjudication and was found guilty (*R v P and others* 2007).

⁵ If unsuitable for the program that promotes positive sexuality, important implications arise including the limitations of the program, the need for proper punishment, rehabilitation and the threat of recidivism.

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The Werribee case provides a contextual framework necessary for a critical investigation of the existing research and theoretical frameworks used to understand hate crime. The purpose of this thesis is to analyse the Werribee case and determine the characteristics that constitute it as an instance of a disability hate crime, explore the perceived importance and utility of McDevitt, Levin and Bennett's (2002) offending typology with regard to the Werribee case, and identify key themes that would better enable police to investigate instances of disability hate crime.

Despite the recent enquiry by the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) into the impact that disability has on victimisation and reporting crime, the issue of disability hate crime continues to evade attention by policy makers. The VEOHRC enquiry represents a critical moment in the policy career of disability hate crime in Australia, and its identification and the approach to the issues of disability hate crime have proved instrumental in the approach taken in this research.

Before analysing this critical case in detail, the theoretical frameworks used to understand hate crime generally, and the existing contextual research on disability hate crime specifically will be considered in the following chapters. This literature then provides a framework for the primary research undertaken in this thesis, including the methodological considerations relevant to case study analysis. At this juncture, McDevitt, Levin and Bennett's (2002) typology has been under-researched, so any study that contributes to the academic pool will benefit the adoption and adaption of this model by policing agencies. It was anticipated that similarities would be found between the Werribee case and the hate crime typology, as well as critical differences that develop and enhance the typology to improve its utility beyond its existing uses in racist hate crime (McDevitt, Levin & Bennett 2002).

THEORETICAL FRAMEWORK

There is much conjecture within the hate crime scholarship as to the definition of its critical term (Perry 2005). This is inevitable as 'hate crime' is a construct dependent upon our social and historical circumstances (Perry 2005). According to Bowling (1993: 238) 'hate crime is dynamic and in a state of constant movement and change, rather than static and fixed'. Hate crime represents both an action and a concept, and approaches to it naturally differ because hate crime is fundamentally a process (Perry 2003). The term is also fraught with difficulty because it is a catch-all term; a term that is used to encapsulate a number of different behaviours, of which, hate is only one of the emotions motivating this criminal behaviour (Chakraborti 2010). This chapter outlines the necessary theoretical framework needed to understand hate crime, and specifically in relation to McDevitt, Levin and Bennett (2002) typology.

Some scholars take a literal approach to hate crime and consider such crimes to be those motivated by nothing other than hatred toward the victim (Berk, Boyd & Hamner 1992; Jacobs & Potter 1998). Others, those that Perry (2005: 122) refers to as 'serious scholars of the phenomenon', see hate crimes as those acts perpetrated by bias or prejudice, in which underlying perceptions of someone as *different*, motivates actions of hate crime. Hatred toward the victim is not the core constituent of hate crime; rather, it is about the perception of difference as threatening (Levin & McDevitt 1993). Perry (2001: 10) views hate crime as a process involving:

...acts of violence and intimidation, usually directed toward already stigmatized and marginalized groups. As such, it is a mechanism of power and oppression, intended to reaffirm the precarious hierarchies that characterize a given social order. It attempts to re-create simultaneously the threatened (real or

imaginary) hegemony of the perpetrator's group and the "appropriate" subordinate identity of the victim's group. It is a means of marking both the Self and the Other in such a way to re-establish their "proper" relative positions, as given and reproduced by broader ideologies and patterns of social and political inequality.

It is through this lens we see that hate crime is systemic, where acts of violence can be seen as an attempt to maintain the status-based hierarchy (Perry 2001). Perry (2005: 127) states that hate crimes are acts of 'bigoted violence as an exercise of power'. This exercise of power is central to Levin and McDevitt's (1993) similar, yet unique, conceptualisation of hate crime and their offender typology.

Levin and McDevitt (1993) state that hate is a normal part of our society, and that 'learning to hate is almost as inescapable as breathing' (1993: 21). Hate and its related attitudes and behaviours become internalised and naturalised through the socialisation process, which is shaped, and shapes the wider culture. This, as Levin and McDevitt (1993) argue, provides individuals with the opportunity to differentiate themselves from others, and in turn to generalise and stereotype those they perceive as 'different'. Often, minority groups become infantilised, where they are assigned the role of inferiority (Levin & McDevitt 1993). But when such groups become a threat—real or perceived—these stereotypes can manifest into violence (Levin & McDevitt 1993). It is in this way that stereotypes are more pernicious than often considered (Levin & McDevitt 1993).

Hate Crime Offending Typology

The hate crime typology was first conceived in 1993 in Levin and McDevitt's (1993) book *Hate Crimes: The rising tide of bigotry and bloodshed*. It was expanded in 2002, and has since this time been employed by many practitioners and researchers to help categorise hate crime offenders (McDevitt, Levin & Bennett 2002). A typology refers to a systematic

Theoretical Framework

characterisation of related information (Phillips 2009), and is often employed in criminology to characterise various attributes that criminals possess for certain crimes, for example, sexual offenders or arsonists (Phillips 2009). Levin and McDevitt (1993) identified the characteristics of hate crime motivations as thrill, defensive and mission, and in 2002 it was expanded to include retaliatory. In Table 1 below, an overview of the characteristics of each hate crime category according to offending motivation is provided.

Table 1 Characteristics of hate crimes by motivation of offender(s) (McDevitt, Levin & Bennett 2002: 311).

INCIDENT CHARACTERISTICS	THRILL	DEFENSIVE	RETALIATORY	MISSION
Number of offenders	Group	Group	Single offender	Group
Age of offender(s)	Teens-young adults	Teens-young adults	Teens-young adults	Young adults-adults
Location	Victim's turf	Offender's turf	Victim's turf	Victim's or offender's turf
Weapon	Hands, feet, rocks	Hands, feet, rocks	Hands, feet, rocks, sticks, guns	Bats, guns
Victim offender history	None	Previous acts of intimidation	Often no history	None
Commitment to bias	Little	Moderate	Moderate	Full
Deterrence	Likely	Unlikely	Unlikely	Most unlikely

Thrill-motivated hate crimes are committed by those offenders driven by thrill or excitement (McDevitt, Levin & Bennett 2002). Defensive-motivated hate crimes occur due to the fear or threat of an 'outsider', and offenders seek to defend their territory through the

Theoretical Framework

use of targeted violence (McDevitt, Levin & Bennett 2002). Mission-motivated hate crimes are committed by individuals who seek to rid the world of those they consider inferior or evil, in what they feel to be an effort in cleansing the earth (McDevitt, Levin & Bennett 2002). Finally, retaliatory-motivated hate crimes are committed in response to a real or perceived event, in which the offender seeks to retaliate to a threat inflicted upon their group (McDevitt, Levin & Bennett 2002). The categories defensive and retaliatory-motivated hate crimes share certain features, but they are separated by the precipitants that initiate the hate crime conduct (McDevitt, Levin & Bennett 2002).

Co-offending

Co-offending refers to criminal behaviour enacted by more than one person (Weerman 2003). Adhering to the philosophy of retributive justice that the punishment ought to fit the crime committed (Fatic 1995), it is important that the appropriate culpability of all offenders within the group are identified (McDevitt, Levin & Bennett 2002). Co-offending represents a major challenge for law enforcement in determining the culpability of offenders associated with a crime, as some offenders are more willing than others, and some offenders perpetrate more harmful conduct than others (McGloin & Piquero 2009). While many scholars have made important steps in the study of co-offending (see: McGloin & Piquero 2009; van Mastrigt & Farrington 2011; Weerman 2003), McDevitt, Levin and Bennett (2002) have specifically advanced culpability with regard to hate crime offenders. In Table 2 below, the culpability descriptions relative to each offender motivation category is documented.

Theoretical Framework

Table 2 Culpability of Individuals Involved in Hate Crimes by Motivation of the Offender (McDevitt, Levin & Bennett 2002)

LEVEL OF CULPABILITY	THRILL	DEFENSIVE	RETALIATORY	MISSION
Leader	Encourages others			
Fellow traveller	Actively or hesitantly participates in crime	Actively participates in planning or crime	Actively or hesitantly participates in crime	Actively participates in hate group and crime
Unwilling participant	Does not actively participate in crime but does not attempt to stop crime or help victim	Does not actively participate in crime but does not attempt to stop crime or warn victim	Does not actively participate in crime but does not attempt to stop crime or warn victim	Does not actively participate in crime but cannot withdraw from the group
Hero	Attempts to stop crime	Warns victim	Attempts to stop crime and warns victim	Reports group behaviour to police

	Highly Amenable to Change
	Moderately Amenable to Change
	Change Highly Unlikely

In addition to its utility at assigning culpability to all offenders involved in group conduct, it also provides the opportunity for researchers and law enforcement to better understand the way in which each offender interacts with the others (McDevitt, Levin & Bennett 2002). As such, McDevitt, Levin and Bennett's (2002) framework provides an ideal typology to assess and evaluate the 2006 Werribee case study, especially the central characteristic of 'mate crime'.

CONTEXT OF DISABILITY HATE CRIME

Disability hate crime is new to the academic and legal domain (Roulstone, Thomas & Balderston 2011). As such, the research on the topic is sparse, and it is clear that there are currently more questions than answers in relation to the specific victimisation and criminalisation processes of disability hate crime (Lane, Shaw & Kim 2009). Nevertheless, the emerging research shows that disability hate crimes possess unique characteristics compared to that of other categories of hate crime (Sherry 2010), as well as traits and harms that are universal to all hate crimes (Iganski & Lagou 2009). It is in this regard that care must be taken not to paint hate crime with a broad brush stroke, but to explore the similarities and differences (Chakraborti 2010). As Mason (2005: 856) stresses, the empirical research to date leaves many questions unanswered, and there is no 'one size fits all' approach. The purpose of this review is to document the current research into disability hate crime, explore the development of hate crime law, and to identify the critical factors that will shed greater light on the circumstances present in the Werribee case study.

Disability hate crime refers to a criminal act committed against a person, where the act was motivated, at least in part, because of the victim's real or perceived disability status (Sherry 2010). The victim does not have to possess a disability to be a victim of a disability hate crime; the perpetrator need only perceive them to be a member of such a group, and that it was a factor in the commission of the crime (Sherry 2010). Essentially, hate crimes are about the 'Other', where human perceptions of difference feeds into fears, biases and prejudices (Perry 2001). Perry (2001) conceives that hate crimes are fundamentally about power, where acts and threats of verbal and physical violence are intended to maintain a precarious social hierarchy. Hate crimes are also directed toward those whom society has traditionally marginalised, and when we consider that 'social inequalities...are core to the

lives of disabled people' (Edwards & Imrie 2003), it is clear that that people with disabilities can be, and indeed are, victims of hate crime also.

Criminal Justice Response to Hate Crime

The advent of hate crime laws can be traced to the rising tide of social activism and rights movements in 1960s and 1970s North America (Jenness & Grattet 2004). This activism increased during the 1980s and 1990s, especially in relation to violence against racial, religious, and ethnic minorities—as well as well-publicised hate crime incidents such as the violent murder of a young gay man, Matthew Shepard (Matthew Shepard Foundation 2013). This was to result in a surge of hate crime laws across the United States (Jenness & Grattet 2004). Legislative reform across multiple jurisdictions followed, notably in the United Kingdom and Canada (Mason 2009b). As a consequence of the Hate Crimes Statistics Act 1990, the US Attorney General was empowered to collect data on hate crimes based on race, religion, sexual orientation and ethnicity (McMahon et al. 2004). Disability was included in 1994 following lobbying from the disability rights movement (Grattet & Jenness 2001), and data collection commenced in 1997 (Lane, Shaw & Kim 2009). As a comparison, disability was not included in data collection in the United Kingdom until 2007 (Chakraborti & Garland 2009) and the Act covering Victorians with a disability was not enacted until 2009. The Federal Bureau of Investigation (FBI), charged with recording such incidents, currently possesses the most extensive dataset of disability hate crimes in the world (Sherry 2010). It is because this dataset is the world's largest and longest-running that these statistics are used as a starting point in understanding the reported prevalence rates of disability hate crime. Before examining the FBI data, the Australian 'policy career' of hate crime legislation is first discussed.

The Australian Context

The development of hate crime law in Australia has been much more gradual than in other jurisdictions, and has occurred with little fanfare and minimal public activism (Mason 2009b). Asquith (2014) notes that government responses to hate crime have thus far developed along a continuum, ranging from global mission statements, civil anti-discrimination legislation, anti-vilification legislation and specific hate crime law. The rationale for specific hate crime legislation is based upon the retributive, 'just deserts' principle, which stipulates that a 'sentence should be proportionate to the seriousness of the crime' (Mason & Dyer 2012: 878). In line with Iganski's (2001) analysis that hate crimes hurt more—both for the individual, minority group, and society's values writ large—Mason and Dyer (2012) argue that these laws have developed from the belief that hate crimes ought to be legislated to both send a message to the perpetrator, and to ensure that the offender's moral culpability is properly sanctioned.

Three broad models have emerged in the development of Australian hate crime legislation (Mason 2009b). First, the penalty enhancement model imposes a maximum or minimum penalty upon a pre-existing offence if the act is found to be committed because of bias or prejudice of a minority group (Mason 2009b). A separate criminal offence for hate crime is not created; rather, a penalty enhancement is invoked if such pre-existing crimes are also 'statutorily enumerated prejudices', for example, race, religion or sexual orientation (Henry 2009). Internationally, the penalty enhancement model is the most common model of hate crime law, yet within Australia, it has only been adopted in Western Australia (Mason 2009b). Second, the sentence aggravation model dictates that the presence of prejudice within a criminal act should be considered as an aggravating factor in sentencing (Mason 2009b). This allows for greater judicial discretion in the sentencing process than can be seen in the penalty enhancement model (Mason 2009b). The sentence aggravation model is the

most common within Australia, currently operating in New South Wales, Northern Territory and Victoria (Mason 2009b). Third, the substantive offence model creates an entirely separate offence category (Henry 2009), where new statutory provisions are made for certain acts motivated by bias or prejudice that incite hatred (Mason 2009b). It is a common trend that this model is installed following ‘highly publicised acts’ of bias or prejudice (Mason 2009b). All three models possess two key characteristics—the creation of a sentencing provision due to the prejudice motivation associated with the crime, and the imposition of more severe penalties than those in parallel crimes⁶ (Mason 2009b).

Despite the increased awareness, activism and legislative implementation in other national jurisdictions such as the United Kingdom or the United States throughout the 1980s and 1990s (Jenness & Grattet 2004), implementation of such laws in Australia has occurred much more gradually (Mason 2009b). It is significant that these changes were met with little enthusiasm by police and prosecutors (Mason 2009b). Asquith (2014) argues that the lack of community awareness and government response to the problem of hate crime in Australia is attributable to the lack of a ‘figurehead’ case. No such case in Australia has had ‘sufficient capital to activate the social imagination about hate crime in this region’ (Asquith 2014: 3). Nevertheless, hate crime legislation has gradually entered the legislative arena; in the case of Victoria, these crimes are covered by a patchwork of legislation (Mason 2009a). Of particular importance is s.5 (2.daaa) of the *Victorian Sentencing Act 1991*, which states that regard must be given to an offender in sentencing as to:

... whether the offence was motivated (wholly or partly) by hatred for or prejudice against a group of people with common characteristics with which

⁶ A parallel crime refers to a criminal act in and of itself, where the bias or prejudicial element applicable to hate crime is absent (Iganski & Lagou 2009).

the victim was associated or with which the offender believed the victim was associated.

It is important to note that this provision came into law following the Werribee case and its adjudication in court (Mason 2009a). Such sentencing considerations therefore did not occur.

Prevalence of Reported Disability Hate Crime

Currently no Australian jurisdiction collects and publishes data on the prevalence of disability hate crime. The FBI statistics mentioned above, therefore, are important to this study, and to understanding the context of disability hate crime. According to the most recent research there were 61 victims of disability hate crime nationally across the United States in 2011, representing approximately 0.8 per cent of all hate crimes (Federal Bureau of Investigation [FBI] 2012b). Thirty-five of the disability hate crimes related to mental illness, while 26 were related to physical disability (FBI 2012b). The most common location for such disability hate crimes were in or near residences or homes (38 per cent) (FBI 2012a). Disability hate crime is the least commonly reported hate, and between 1997 and 2011 there were 801 recorded victims of disability hate crime, representing the smallest number of total hate crime victims compared to other types of hate crime, such as race, religion, or sexuality (FBI 1998-2011, 2012b). Five hundred and six related to mental illness (63 per cent), whereas 295 related to physical disability (37 per cent) (FBI 1998-2011, 2012b). The research also found that in disability hate crime, rape, larceny-theft, burglary and simple assault were more prevalent than aggravated assault, intimidation and vandalism (Sherry 2010). Moreover, throughout the 15 year history of recording disability hate crime the FBI only recorded one incident of homicide (FBI, 2004). Overall, according to the reported crimes, a person with a disability is less likely a victim of hate crime than any other protected communities (FBI 2012b).

An Incomplete Picture

One conclusion to be drawn from the existing research is that disability hate crime is a rare phenomenon (Sherry 2010). Such a view, however, is mistaken. The historical evidence of discrimination and abuse against people with disabilities, as well as the sheer number of disabled people within the population, reveal the statistics as incomplete and indeed specious (McMahon et al. 2004). As Smart (2001: 72) contends:

[n]o other racial, cultural, ethnic, linguistic, religious, political, national, sexual orientation, or gender group has experienced this degree of pervasive and generalized prejudice and discrimination, which included killing babies with disabilities, forced sterilization of PWDs [people with disabilities], institutionalization, and mass murder.

When read through the prism of historical discrimination and the context of pervasive disablism⁷, it is not surprising that contemporary policing practices minimise the existence and prevalence of disability hate crime (Quarmby 2008; Roulstone, Thomas & Balderston 2011). People with disabilities have been victimised and discriminated against throughout most of human history (Smart 2001); it is therefore disingenuous to minimise or deny the hatred, prejudice or bias central to the operation of this victimisation. Indeed, the under-reporting of disability hate crime has been a concern for authorities for a number of years (Criminal Justice Joint Inspection (CJJI) 2013). And yet, disability hate crime continues to be ignored in criminological research (Roulstone & Sadique 2013).

People with disabilities form a large minority group within society (Lane, Shaw & Kim 2009). It is estimated that people with disabilities represent approximately 19% of both the

⁷ Disablism refers to 'discriminatory, oppressive, or abusive behaviour arising from the belief that disabled people are inferior to others' (Scope 2013). Disability hate crime represents an extreme form of disablism in practice (Quarmby 2008).

Australian and US populations (Brault 2012). It is unlikely that this proportion of the population—some would argue, some of the most vulnerable members of that population—would experience such a low rate of crime victimisation (McMahon et al. 2004). While the FBI statistics reveal a low prevalence of hate crimes committed against people with disabilities, this is the result of a failure of victims and law enforcement personnel to adequately identify and report it as such (Sherry 2010). This under-reporting is not unique to disability hate crime; Dunn (2009) argues that all forms of hate crimes are under-reported for similar reasons.

The Case for Under-Reporting

It is well established within the literature that disability hate crime is widely under-reported (Quarmby 2008). The reasons for this are diverse, ranging from fear on behalf of the victim, a lack of awareness/understanding that they have been victimised, lack of accessibility to policing services, confidence issues with law enforcement, poor police investigating procedures, and poor police data collection methods (Nolan & Akiyama 2002; Quarmby 2008; Woods 2010). Of all the literature pertaining to disability hate crime, the greatest pool of work relates to the under-reporting of this crime (see: Quarmby 2008; Sin 2013). While an important area of investigation, the focus on under-reporting has left other critical issues unaddressed, such as victimisation and offender characteristics, to which this thesis is focussed. However, understanding the contexts for reporting disability hate crime is central in contextualising the unique features of 'mate crime'.

What is Known

The majority of research over the past 30 years has found that people with disabilities have a much higher chance of being victimised or abused than their non-disabled counterparts (Sherry 2010). There are unique characteristics that we can confidently associate with

disability hate crime, as there are unique characteristics within every subset of hate crime (Craig 2002; Sherry 2010). What follows is a brief overview of the key characteristics attributable to disability hate crime.

Increased Harm

All crimes have negative repercussions for the victim in some manner, such as emotional, psychological or physical harm (Craig-Henderson 2009). For Iganski (2001), hate crimes hurt more when the injuries inflicted are greater than the circumstances present in parallel crimes, and where the injuries are psychic and *in terrorem* (Iganski 2001). Psychic injuries refer to the emotional and psychological impacts on the victim, and *in terrorem* injuries refer to the terroristic messages that are communicated to the victim's group, thus causing the dispersion of greater harm (Iganski 2001). As many scholars note, hate crimes are message crimes intended to signal to the primary victim, as well as all secondary victims, that they are unworthy and despised (Perry 2001). These speech acts and hostile behaviours hurt the victim more (Iganski 2001). For Chakraborti and Garland (2012) hate crimes hurt more because victims are targeted because of their perceived vulnerability in the eyes of the perpetrator, and this preconception adds greater harm for the victim.

Many people with disabilities are vulnerable and live on the fringes of society; their lives are often characterised by high unemployment, low socioeconomic status, high crime victimisation and an overall sense of social dislocation (Lane, Shaw & Kim 2009). The UK's Equality and Human Rights Commission (2011) report, *Hidden in Plain Sight: Inquiry into disability-related harassment* found that the consequences for disabled victims of crime included added vulnerability, feelings of betrayal and isolation, self-blame and the avoidance of certain public places due to fear. Craig-Henderson (2009) found that the harms of hate crime more generally included emotional distress, the shattering of assumptions held about

their identity and place within society, the dispersion of vulnerability and victimisation amongst the minority group, and an altered sense of reality. People with disabilities are amongst the most vulnerable people in our society, and as such, their criminal victimisation results in greater harms and a further exacerbation of their vulnerability (Chakraborti & Garland 2009).

Mate Crime

Mate crime refers to criminal acts perpetrated against a person with a real or perceived disability status, where the victim has a familial relationship with the offender(s), whether as friends or relatives (Thomas 2011). Unique to disability hate crime, mate crime typically involves instances where the victim values the relationship they hold with the offender. Social ostracism is the norm for a person living with a disability and, as such, the social 'connection' offered by offenders is often valued by the victim (Edwards & Imrie 2003). Yet, mate crime is characterised by instances in which the offender exploits and humiliates the victim over a period of time (Thomas 2011). Perhaps the most well-known case of mate crime involved Brent Martin, a man with learning difficulties and a mental health issue (Chakraborti & Garland 2009). Three 'friends' misused approximately three thousand pounds of Martin's money with alcohol and cigarette purchases, and when the money ran out they bashed him to death (Chakraborti & Garland 2009). Importantly, these acts are not *opportunistic*, they are calculated (Thomas 2011).

Repeat Victimisation

An analysis of disability hate crime incidents also reveals a high prevalence of repeat victimisation (Quarmby 2008). Often the abuse can take place on a number of occasions and over a number of years (Quarmby 2008), and for some victims this repeat harassment is perpetrated by multiple offenders throughout their lives (Equality and Human Rights

Commission 2011). At present, there is a dearth of research literature pertaining to repeat victimisation and its prevalence, and this is further compounded by a lack of disability hate crime reporting (Quarmby 2008). However, anecdotal evidence reveals such repeat victimisation, and unfortunately it is common for this information to be revealed following a major incident (Equality and Human Rights Commission 2011). The 2011 UK Equality and Human Rights Commission report, *Hidden in plain sight: Inquiry into disability-related harassment*, found that if disability hate crime incidents were left unchecked by law enforcement, they had the potential to escalate in severity and frequency (Sin et al. 2009). David Askew⁸ and Francessca Hardwick⁹ represent two notable instances where a history of repeat victimisation over a number of years resulted in death. The UK have initiated a Vulnerable and Intimidated Victims Database (VIVID), which requires police officers to enhance victim support, including increased follow-up with the victim (Asquith 2012). This program can enable repeat victimisation of hate crime to be tracked by proxy, and also increase accountability measures related to proper reporting (Asquith 2012). As Sin et al. (2009) suggest, identifying repeat victimisation of vulnerable groups can also assist in the identification of hate crime, as repeat targeting of a victim is a recognisable feature of hate crime.

⁸ In 2010, David Askew—a man with learning difficulties—died at the age of 64 from a heart attack provoked by teenagers vandalising his house. It was reported he had suffered decades of abuse by multiple perpetrators, including many teenagers (Carter 2010).

⁹ Francessca Hardwick, an 18 year old with severe learning difficulties, was victimised for years by multiple perpetrators. In October 2007, her mother Fiona Pilkington, disillusioned with police responses, used petrol as an accelerant to light her car on fire, killing herself and her daughter (Independent Police Complaints Commission 2011).

Violence

The notion that disability hate crimes are more violent than parallel crimes is disputed in the literature (McMahon et al. 2004). McMahon et al. (2004) found that the most common crimes committed against people with disabilities within the FBI dataset were simple assault, intimidation and property damage. Sherry (2010), in his analysis of the same dataset, found that disability hate crimes can be commonly associated with high levels of violence, where such incidents are often characterised by hyper-aggressive and inhumane acts. Together, this provides a picture in which minor anti-social behaviour can escalate into more extreme acts of violence (Sherry 2010). Notwithstanding the limitations of the statistics due to under-reporting, an investigation between disability hate crime and increased violence is warranted. When disability hate crimes are violent, they are *especially* violent (Equality and Human Rights Commission 2011). What makes these crimes especially violent is the presence of group-enacted hate crime conduct, in which low-level harms escalate as a result of the group dynamic and dispersion of culpability (McDevitt, Levin & Bennett 2002; Quarmby 2008).

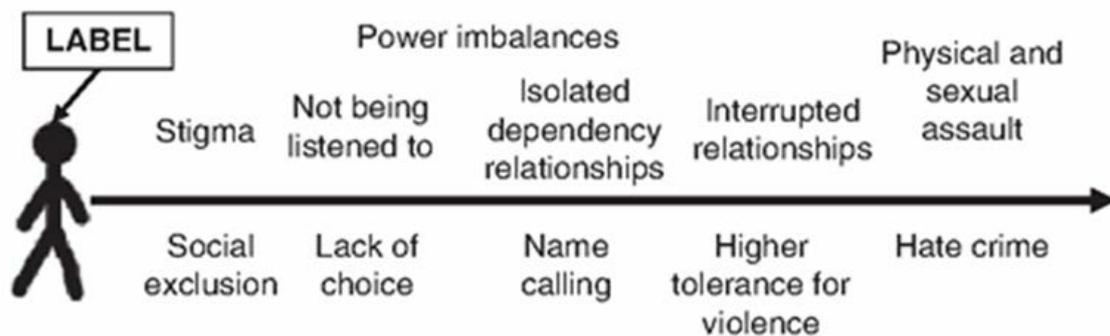


Figure 1 Hollomotz (2013: 54) Continuum of Violence.

Hollomotz (2013) offers a continuum of violence (Fig. 1) to explain the variation in violence inflicted upon people with disabilities. Analysing disability hate crime as a continuum assists in emphasising the critical features of repeat victimisation and violence escalation.

Responses

The responses put forth to combat disability hate crime are diverse, ranging from stamping out school bullying, improving the recognition of disability hate crime, increasing reporting methods and mobilising the role of the law (Equality and Human Rights Commission 2011). Asquith (2012) suggests three policing responses to hate crime, consisting of increased education and training of officers, creation of specialist hate crime policing units, and improving third-party reporting mechanisms. Chakraborti and Garland (2009) state that relationship building between police and minority groups is central to the reporting of hate crime. Hall (2005) also highlights the importance of political influence in shaping the legislative framework, via public identification and awareness of the issue. In addition to the role of politics, the three strategies proposed by Asquith (2012) offer useful ways of responding to hate crime, dealing with victimisation, and ensuring the criminal justice system provides adequate means for justice and redress.

It is clear from the research that the identification, reporting and policing of disability hate crime is inadequate (Sin 2013). McDevitt, Levin and Bennett's (2002) hate crime offender typology represents one mechanism that aims to better deal with the identification and motivation of hate crime, and in turn how to better police these crimes. If the motivation for hate crime offending can be better understood, so too can hate crime be better policed (McDevitt, Levin & Bennett 2002). Analysing McDevitt, Levin and Bennett's (2002) typology to determine its viability as a framework for better policing of disability hate crime is central to the case study research presented in this thesis.

METHODOLOGY

The Werribee incident represents an important case in the policy career of disability hate crime because it illustrates the critical factors identified in the existing literature. This case was never identified as a hate crime, and as such, was unreported and unrecorded as a hate crime. As an extreme, though common, experience of hate crime victimisation, this case study offers an opportunity for the typology to be examined in detail. This hate crime typology has been adopted across many jurisdictions to help identify cases of hate crime, but so far it has evaded the academic scrutiny necessary to help determine its validity (Phillips 2009). Since its conception in 1993, and then its expansion in 2002, only one study—Phillips (2009)—has empirically tested the typology by replicating the initial research undertaken by McDevitt, Levin and Bennett (2002). This thesis is one of the first to investigate the hate crime typology using a case study methodology, and likewise, it is also the first study of its kind to test the McDevitt, Levin and Bennett (2002) typology in relation to disability hate crime.

The hate crime offending typology is employed by many law enforcement agencies (McDevitt, Levin & Bennett 2002), and as highlighted, the validity of the typology is yet to be tested with the academic rigour that such a widely-adopted typology ought to have been exposed (Gerstenfeld 2004). The purpose of this thesis is to study the typology in detail, and to determine its utility with regard to the Werribee case. The research into the Werribee case study has two specific aims: to determine whether the Werribee case can be considered a disability hate crime, and, if so, to explore the perceived importance and utility of the offending typology with regard to the Werribee case in particular and disability hate crime more generally.

No other study has methodically investigated the hate crime offending typology in the context of one particular case. Rather, previous studies that have sought to test the typology have used aggregate data, with the aim to identify key attributes. This type of approach assists in creating generalisable results (Yin 2009); yet, often due to time constraints and the sake of brevity, it often fails to deliver a sophisticated, nuanced and detailed contextual background to the various factors that the focus on one particular case study can provide (Yin 2009). Exploring the Werribee case in isolation offers the opportunity to investigate the issues in depth and ensure that the relevant contextual considerations are noted (Yin 2009).

Importantly, previous studies that have investigated the typology have done so using incidents that have been reported and, thus, identified as hate crimes. As many hate crimes are never properly identified or recorded (McMahon et al. 2004), a large volume of data is absent from these studies (especially, in the case of disability). This means that the results are incomplete. Academic research can be improved if the reporting and classification of hate crime is also improved (Sin 2013); this thesis adds to the knowledge of disability hate crime by highlighting one case that was never considered by the criminal justice system as a disability hate crime.

Research Methods

During the initial stages of research planning, it was identified that disability organisations would be an important source of knowledge about disability hate crimes. These advocacy organisations are central points for the collection of information on criminal victimisation, hate crime, and communication with law enforcement personnel. The study was restricted to organisations operating within the state of Victoria. As an important primary stakeholder, Disability Advocacy Victoria (DAV) was initially contacted. DAV represents the peak body for independent disability advocacy organisations in Victoria (DAV 2013), and all member

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representatives¹⁰ of DAV were contacted for input. All of the organisations contacted either did not respond or stated they would not be able to assist in the research; citing either a lack of resources, lack of skill or not having the required capability. The Victorian Department of Justice was also contacted, but likewise stated their inability to assist. Victoria Police were contacted in order to understand their views on disability hate crime and the policing of hate crime more generally, but only one introductory meeting was conducted. The Victorian Equal Opportunity and Human Rights Commission (VEOHRC) were contacted, and a briefing was undertaken with two Senior Advisors, which was followed up with a formal interview with the Acting Commissioner, Karen Toohey. This final VEOHRC interview was focussed on the Commission's work on disability hate crime and disabled people's experiences reporting crime. All interviews conducted were semi-structured in nature and were used for the purposes of deriving contextual information pertaining to experiences of disability hate crime.

With regard to the Werribee case study, several sources of data were used to construct a complete picture of the incident, including the prosecution of the offenders, and the public discourse about hate crime and the victimisation of people with disabilities. This data was collected from newspaper articles, television programs, magazines, sentencing documents,

¹⁰ The organisations contacted for this research were: Action for More Independence and Dignity in Accommodation (AMIDA), Association for Children with a Disability (ACD), Association of Employees with Disability (AED), Barwon Disability Resource Council, Communication Rights Australia Inc, Deaf Victoria, Disability Discrimination Legal Service (DDL), Disability Advocacy and Information Service (DAIS), Disability Resource Centre (DRC), Gippsland Disability Advocacy Inc (GDAI), Grampians Disability Advocacy Association (GDAA), Leadership Plus, Regional Information and Advocacy Council (RIAC), Reinforce Inc, Southern Disability Advocacy, STAR Victoria Inc, Villamanta Disability Rights Legal Service Inc and Women with Disabilities Victoria (WWDV).

radio transcriptions and interviews with legal stakeholders. As a first step in data collection, a content analysis was conducted on media reports of the Werribee case.

Using the Newsbank database, the search terms variously inputted were ‘Werribee’, ‘school girl’, ‘DVD’, ‘teenage kings’ and ‘male youths’. These key words were chosen specifically because they best represented the information related to the case, and because such words were key themes used by journalists throughout their news reporting. The search was limited to the dates between 24 October 2006 and 30 September 2009. These dates were identified because 24 October 2006 marks the first public mention of the case, and the last story on this case appeared on 27 July 2009. To ensure saturation and the complete capture of the media reports on this case, the search was expanded another two months after this final report. All Australian newspapers were originally included in the search, but once numerous duplicates were deleted, the results were restricted to Victorian newspapers only. Duplicate newspaper articles within Victoria were also disregarded because they did not add value to the content. Overall, 104 newspaper articles were sourced, and a thematic discourse analysis was undertaken to identify key representational devices.

Many media reports were vague in their descriptions and detail due to the age of the offenders and victim at the time of the offence. In order to gain more detail, contact was made with the legal representatives in the case. One interview was conducted with the Crown Prosecutor Michele Williams S.C. Interviews were semi-structured in nature, and as much contextual background as possible in relation to the case was gathered. The interview was voice recorded and then transcribed, and hesitations within the dialogue and words repeated were deleted, as this was not an investigation into language analysis. All quotes from the interviewee have been cited in this thesis as indented, italicised text. It is important to note that nothing was deleted from the transcriptions that in any way altered the meaning

of information conveyed. All material gathered was analysed in the context of all other publically available information. Likewise, the sentencing documents were also analysed for information and key themes. While the sentencing documents were redacted—namely, dates, identities and locations—considerable information was still publicly available to complete the picture of the case.

Other avenues of information included the analysis of the program *Today Tonight* (2006), as they were the first media outlet to report the story on 23 October 2006. A subsequent story was also conducted on 24 October 2006, which was also analysed for information. Given that the original DVD is unavailable for analysis—because it contains elements of child pornography—the excerpts from the DVD broadcast by *Today Tonight* proved a valuable data source.

All information gathered in connection to the Werribee case was framed consistently against the theoretical propositions of the hate crime offending typology, and the key characteristics and themes were used to determine the suitability of the Werribee case for an analysis against the typology. This iterative process ensured that any researcher bias was tested at each point of data collection, and in relation to the complete data set. The most significant limitation involved in this research is that McDevitt, Levin and Bennett (2002) did not describe how the information derived from the case files was initially coded in order to develop their classification system (Fisher & Salfati 2009). The coding system was only discussed in a general sense, in which they broadly document the motivations described by the offenders (McDevitt, Levin & Bennett 2002). In the absence of a thematic code, the data collected in this research project has been evaluated in relation to their resultant theoretical framework instead.

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Certain information was difficult to gather due to many facts of the case being redacted in order to protect the underage offenders and victim. This proved difficult in understanding the complete dimensions and scope of the case, and so great emphasis was taken in carefully analysing all publically available data. The interview with the Crown Prosecutor proved invaluable as it offered the necessary context of the case. Nonetheless, certain information was unable to be obtained, and there is no legal way in which this information could be gathered without interviews with the victim or offenders, which was not possible within the ethical and time constraints of this project.

DO NOT CITE WITHOUT PERMISSION

RESULTS

The media representation of the Werribee case was dominated by a cocktail of moral panics, including the safety of youth engaging in online technology (Whalley 2006), the influence of American rap-culture (Mitchell 2006), the admonishment of today's male youth (Morrison 2006) and the problem of bullying within our community (Nicholson 2006). The victim in the crime had a mild developmental delay (*R v P and others* 2007), and the role that this played in the commission of the crime was never considered by the criminal justice system¹¹ (*R v P and others* 2007; *R v M and others* 2008). This chapter documents the various data central to demonstrating the central role of the victim's disability in the commission of the crime, and when considered in the context of McDevitt, Levin and Bennett's (2002) typology—and hate crime more generally—that the Werribee case was indeed a disability hate crime.

Using the interview transcriptions from the Crown Prosecutor (Williams), this chapter documents whether Shannon's mild developmental delay was a factor in the commission of the crime, and outlines the familial relationship held between Shannon and the offenders. This chapter also documents the issue of consent, the degree of planning involved and the reasons why the case was not reported as a crime. The verbal and textual hostility that occurred during the crime is also documented, and Victoria Police's policing guidelines are presented.

¹¹ A Forensic Paediatrician assessed Shannon under the Court's direction, and found she was 'functioning at an intellectual age less than 18 years of age' (*R v P and others* 2007). The reason for the assessment was not mentioned in the sentencing report, but it appears the relevance of Shannon's mild developmental delay was briefly considered but then either minimised or negated by the Court.

The Assault on Shannon

The offenders in the case were aware of the victim's nature, perceived vulnerability and mild developmental delay prior to, during, and following the incident (*R v P and others 2007*). Prior to the incident, Shannon had engaged in some form of sexual conduct with Bailey, Oswald and Mitchell, and it is clear these men took advantage of her throughout this period (*R v P and others 2007*). Judge Grant noted that the victim had a very trusting nature, and the offenders capitalised on her generosity by encouraging her to purchase phone credits, clothing and other items for them (*R v P and others 2007*). Crown Prosecutor Williams S.C. noted that while most of the offenders were younger than the victim, they nevertheless enjoyed being the dominant and superior partner in the relationship. When asked whether the victim's mild developmental delay had any factor in the commission of the crime, Crown Prosecutor Michele Williams S.C. stated:

Well, I think it clearly did. I mean it's probably in some ways no different to other crimes that are committed, in the sense that...offenders often pick on vulnerable people. Now in this case it was probably central to it, I'd imagine. Because she was a vulnerable person who...thought from her perspective...[that they] were her friends.

The familial nature of the relationship between Shannon and the offenders, according to Williams was:

...a bit different ... they [the offenders] knew. I mean, the way she was responding to them wasn't quite, I don't like to use the word 'normal' but it certainly wasn't a normal 'friend type' situation. They [the offenders] were basically using her.

Williams continued:

Results

In age years she [the victim] was older than them, but in actual development years I would have put her as quite a lot younger. And when you actually met her she did appear to be quite, I wouldn't say the word 'immature' but you could readily identify that she—you know we used to use the word 'backward', or 'intellectually delayed' or 'developmentally delayed'—whatever term you want to use. It was fairly obvious with her [the victim], because she also smiled inappropriately and things like that...

When asked about the degree of planning involved on behalf of the offenders, Williams stated that:

... they [the offenders] texted each other. She wasn't expecting so many to be there...It was pretty much planned...I think she got caught up in a whole cascade of a situation that just spiralled out of her control from her point of view. And probably she didn't know how to handle it.

Williams talking about consent, the ability to consent, and increased violence and terror suggested that:

... there was no issue with consent; she was consenting. That was I suppose in many ways a feature of it. That even when they were doing these things to her she didn't ever say 'no'. So, it seems to me...that's a really telling feature of the case and their dominance over her, and of her vulnerability. I mean they [the offenders] really acted like a pack of wild animals quite frankly in the way they treated her. You know, urinating on her, spitting at her, setting her hair on fire, you know, getting her to masturbate...

When asked why the incident was not initially reported, Williams stated:

In the end, the parents never wanted to proceed with this matter, because of her [the victim's] vulnerability...they were trying to protect her.

Results

The violence and harm inflicted upon Shannon also continued beyond the incident at the river bank (*R v P and others* 2007). Following the incident, Phillips edited, produced and distributed the footage throughout the Werribee community (*R v P and others* 2007). The MAPPS report cited the ‘significant victimizing consequences’ on the victim in the broadcast of the material (*R v P and others* 2007: 11). Shannon’s father also noted that the victim had been slowly recovering from the ordeal, until it was broadcasted even further when it was aired on *Today Tonight* and became public; whereupon, she was re-victimised (*R v P and others* 2007; Miletic & Rood 2006).

Verbal and Textual Hostility

The role of verbal and textual hostility within criminal conduct can also hold significant clues to identifying the motivations of perpetrators and their attitude toward their victim (Asquith 2010). Currently, the offender’s use of language is the most crucial piece of evidence used to identify hate crime motivation (McDevitt, Levin & Bennett 2002). While profanity and other forms of name calling have come to be a feature in common parlance, its use in conflict situations nevertheless come to embody different values and intentions for the emitter of such words (Asquith 2009). During the Werribee incident, one male confronts the camera lens and pronounces:

what the fuck, she’s the ugliest thing I’ve ever seen (Today Tonight 2006).

The profanity—fuck—is an offensive word that can be divisive in everyday contexts, but it is more jarring and damaging during the commission of criminal conduct (Asquith 2008). This is because the words operate in concert with the actions, and in many respects the words unearth deep-seated prejudices (Asquith 2010). The expression:

she's the ugliest thing I've ever seen (Today Tonight 2006),

is an act of demonisation, whereby the classification of a human as a 'thing' is to say that they are somehow sub-human or inhuman (Asquith 2008). In this case, the perpetrator has linked the supposed 'subhuman' qualities of the victim and attributes to her developmental delay. The perpetrator has acknowledged the victim is female, but by proceeding to call her a 'thing' reveals a prejudice—perceived disability—in his motivations for abuse.

It is apparent that the victim's trusting nature was exploited during the events at the river bank (Davis & Wallace 2006). Houlihan (2006) described the victim as cowering and smiling throughout the ordeal, in an apparent sign that she did not fully understand the situation or know how to deal with it. The victim's father stated:

she has just been exposed to something she was out of bounds to deal with
(Duncan 2006).

He also described her as being:

hoodwinked, tricked, manipulated into this (Davis & Wallace 2006).

It is clear from the DVD that she was disoriented throughout the ordeal (Today Tonight 2006).

Offender Motivation

Drawing on an analysis of 169 hate crime cases in the Boston area, McDevitt, Levin and Bennett (2002) provide four hate crime offending motivations: thrill, defensive, retaliatory and mission. The characteristics of each motivation are mapped against the core characteristics identified in their analysis of these cases. This table is replicated below to frame the following analysis of the Werribee offenders.

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Table 3 Characteristics of hate crimes by motivation of offender(s) (McDevitt, Levin & Bennett 2002: 311)

ATTACK CHARACTERISTICS	THRILL	DEFENSIVE	RETALIATORY	MISSION
Number of offenders	Group	Group	Single offender	Group
Age of offender(s)	Teens-young adults	Teens-young adults	Teens-young adults	Young adults-adults
Location	Victim's turf	Offender's turf	Victim's turf	Victim's or offender's turf
Weapon	Hands, feet, rocks	Hands, feet, rocks	Hands, feet, rocks, sticks, guns	Bats, guns
Victim offender history	None	Previous acts of intimidation	Often no history	None
Commitment to bias	Little	Moderate	Moderate	Full
Deterrence	Likely	Unlikely	Unlikely	Most unlikely

The Werribee Offenders

Using the offender typology outlined in Table 3, each of the roles played by, and culpability of, the eleven Werribee offenders are documented below. According to the sentences imposed—presented in Table 4 below—some offenders were judged more culpable than others (*R v P and others* 2007; *R v M and others* 2008). The most severe sentence included a conviction, completion of the MAPPS program and an 18 month Youth Supervision Order, whereas the lowest sentence included no conviction recorded, completion of the MAPPS program, no Youth Supervision Order but probation for a 12 month period (this sentence was imposed on three offenders) (*R v P and others* 2007; *R v M and others* 2008).

Phillips – the Leader

Phillips was the offender who filmed the events on a video camera and then actively edited, produced and distributed the DVD, *Cunt the Movie* (*R v P and others* 2007). He played a

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significant role in the assault on Shannon, attempted to set her hair on fire on at least two occasions, and kicked her clothing towards the mud at the river bank (*R v P and others* 2007). While his physical assaults were not as harmful as some of the other offenders, it is clear he was the ringleader in the behaviour, and actively encouraged others to participate in the conduct (*R v P and others* 2007). The ringleader plays the most damaging role in these assaults by encouraging others to engage in the conduct; Levin and Rabrenovic (2009) state that sometimes all that is needed is a sadistic leader filled with hate to catalyse the group. The Crown Prosecutor in this case, Michele Williams S.C., stated that Phillips was the main offender in the crime (Cooper 2007b), and Judge Grant noted his:

... central and major role in the criminal activity (R v P and others 2007: 12).

Following the incident Phillips proceeded to distribute the DVD as far and wide as possible, and produced a T-shirt and hat featuring the DVD's title (Cooper 2007b). He also produced a rap video sometime after he was sentenced where he boasted about the incident, attacked 'cunning judges', and made other hate-related statements such as 'I split lips and fuck I hate nips'¹² (Dowsley & Healey 2009). Phillips was instrumental at providing the necessary environment—through encouragement and cheering—for the remaining offenders to participate in the assault inflicted on Shannon (*R v P and others* 2007).

Riley – a fellow traveller

Riley was an active participant in the criminal behaviour (*R v P and others* 2007), and was directly involved in procuring sexual penetration, and at one stage hit Shannon on the head with his penis (*R v P and others* 2007). He also exposed his bare bottom to Shannon's face,

¹² Originated in World War II by Australian and British troops, 'nip' was a derogatory term directed toward the Japanese forces (Hughes 2006)

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and at one point grabbed her feet and dragged her along the ground (*R v P and others* 2007). Judge Grant stated that Riley showed contempt and cruelty toward Shannon (*R v P and others* 2007). Riley can be considered a fellow traveller throughout the ordeal; he did not initiate the criminal conduct but nevertheless was happy to engage in it once it commenced (*R v P and others* 2007).

Mitchell – a fellow traveller

Mitchell was also an active member in the conduct (*R v P and others* 2007). He spat on Shannon, and lit her hair on fire twice (*R v P and others* 2007), and engaged directly with the procurement of sexual penetration by intimidation, and likewise hit her on the head with his penis (*R v P and others* 2007).

Bailey – a fellow traveller

Bailey initiated the meeting between Shannon and the offenders, and was also an active member in the assault (*R v P and others* 2007). Throughout the assault Bailey spat on Shannon, forced her head into Mitchell's groin, attempted to urinate on her jacket, kicked her clothes and also took photos of her naked breasts on his mobile phone (*R v P and others* 2007). While Judge Grant noted that Bailey was not as culpable as Phillips, Riley or Mitchell—because he did not participate in the DVDs distribution or directly engage in sexual penetration—Bailey was nevertheless a fellow traveller in the assault; he actively participated and laughed at Shannon's distress (*R v P and others* 2007).

Oswald – a fellow traveller

As with Bailey, Oswald helped initiate the contact between Shannon and the group of offenders, and was actively involved in the offences at the river bank (*R v P and others* 2007). He spat on her, dropped a cigarette on her, poked her with a stick, sprayed deodorant and

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wrote across her naked breasts, pulled down her jeans, urinated on her and exposed his bare bottom to her face (*R v P and others* 2007).

Murphy – a fellow traveller

Murphy poked Shannon with a stick, spat on her, and poured a cup of liquid across her back; the contents were believed to be either water or urine (*R v P and others* 2007). Judge Grant noted that Murphy:

... went beyond encouraging and supporting others (R v P and others 2007)

and, as such, became an active participant in the conduct.

Tranter – a fellow traveller

Throughout the ordeal Tranter was mainly involved in cheering and supporting others, and also intimidating the victim (*R v P and others* 2007). Tranter committed one physical assault on Shannon; he used a can of deodorant as an accelerant and lit Shannon's hair on fire with a cigarette lighter (*R v P and others* 2007). Judge Grant described it as an:

... act of hostility (R v P and others 2007: 16).

While Tranter's involvement was less significant than those detailed above, he can still be considered a fellow traveller in the criminal conduct.

Daniels – a fellow traveller

Similar to Tranter's involvement, Daniels' behaviour is less considerable than others but it was nevertheless active throughout the ordeal (*R v P and others* 2007). Daniels could well be considered an unwilling participant, except for the fact he wrote on the victim's breasts during the incident (*R v P and others* 2007). Daniels was also actively involved in cheering the

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other offenders who engaged in the physical and sexual assault of Shannon (*R v P and others* 2007).

Smith – an unwilling participant

Smith met with several of the offenders at the train station, and decided to go with them to the river bank to watch one of the males ‘get a head job’ (*R v P and others* 2007: 18). Initially, Smith joined the group that encircled the victim and laughed at the start of the sexual penetration, but shortly thereafter left the immediate area (*R v P and others* 2007). Smith did not engage in any physical or sexual assaults on Shannon (*R v P and others* 2007), and because he removed himself from the area he was not a fellow traveller in the ordeal, but rather an unwilling participant.

Schipp – an unwilling participant

Schipp was also aware that some form of sexual conduct might occur at the river bank, and so attended to witness such events (*R v M and others* 2008). His role at the river bank included encouraging and supporting the offenders in the assault (*R v M and others* 2008); Schipp did not engage in any physical and sexual assault and so can be considered an unwilling participant in the ordeal.

Madden – an unwilling participant

Madden engaged in offensive commentary to the camera throughout the ordeal, at one point stating:

what the fuck, she’s the ugliest thing I’ve ever seen (Today Tonight 2006).

Apart from this, Madden participated primarily as part of the group in the intimidation of the victim (*R v M and others* 2008). Madden was fully cooperative in the police investigation, and

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willingly provided the names of the other offenders. Madden was an unwilling participant throughout the ordeal, as he did not engage in any physical or sexual assaults and did not engage in the acts to the same degree as the main offenders (*R v M and others 2008*).

Table 4 Sentences Imposed on the Werribee Offenders (*R v P and others 2007; R v M and others 2008*)

OFFENDER	Conviction	MAPPS	Probation	Youth Supervision Order	Culpability Label
Phillips	Y	Y	N	Y 18 months	The Leader
Riley	Y	Y	N	Y 18 months	Fellow Traveller
Mitchell	Y	Y	N	Y 18 months	Fellow Traveller
Bailey	Y	Y	N	Y 12 months	Fellow Traveller
Oswald	Y	Y	N	Y 12 months	Fellow Traveller
Murphy	Y	Y	N	Y 12 months	Fellow Traveller
Tranter	Y	Y	N	Y 12 months	Fellow Traveller
Daniels	Y	Y	Y 12 months	N	Fellow Traveller ¹³
Smith	N	Y	Y 12 months	N	Unwilling participant
Schipp	N	Y	Y 12 months	N	Unwilling participant
Madden	N	Y	Y 12 months	N	Unwilling participant

Overall, the culpability labels identified are also reflective of the sentences imposed by Judge Grant on all the offenders. Table 4 above provides the sentences imposed on the offenders, as well as the culpability label applied through an analysis of the criminal events and McDevitt, Levin and Bennett's (2002) culpability typology.

¹³ Daniels represents an outlier in the research; he received a sentence that was unique compared to his Fellow Travellers. Daniels could otherwise be considered an Unwilling Participant, except for his active cheering, and writing across Shannon's breasts. Yet, Daniels involvement was less considerable than the other Fellow Travellers, highlighting the complex nature of assigning group culpability.

Victoria Police

The assault on Shannon was never considered a hate crime (Sherry 2010). Within the state of Victoria—the jurisdiction in which the assault on Shannon occurred—McDevitt, Levin and Bennett's (2002) typology is not employed by Victoria Police. Rather, the Victoria Police Manual (2013: 4) states:

Members receiving a report of crime where prejudice may be a motivating factor should:

- *Gather information with sensitivity*
- *Identify and mitigate any risks to the victim, such as continued threats or repeat victimisation*

Emphasis is also given to ensuring that it be recorded correctly (Victoria Police 2013). No particular mention is made about how such cases should be investigated differently to parallel cases; rather the emphasis is on supporting the victims and ensuring accurate reporting for potential prosecution. The guidelines also state that the investigating officer must include in the Incident Report why the offence appears to be a hate crime, and that an Incident Fact Sheet should be formulated as there may be media interest in the case (Victoria Police 2013). The Manual also identifies three evidentiary clues to help identify a hate crime: admissions made by the accused, words spoken during the crime (i.e. verbal hostility), and:

any other evidence as to why the victim was targeted (Victoria Police 2013: 6).

It is important to note that hate crime guidelines were only first included in the Victoria Police Manual in June 2011 (Victoria Police 2013), and so this was not part of Victoria Police's standard operating procedures (SOPs) when the case was investigated. Moreover, there was no specific hate crime legislation at that time either, and the reporting of the incident was delayed because of the parent's insistence that their daughter be protected from secondary victimisation through the criminal justice system.

Results

The evidence presented suggests that prejudice was a factor in the commission of the crime. The offenders in the case were aware of Shannon's nature, perceived vulnerability and mild developmental delay prior to, during and following the incident (*R v P and others* 2007). The results indicate that consent was a critical factor in the case of disability hate crime, especially for victims with intellectual and learning disabilities. The degree of planning involved and the interpersonal relationship held between some of the offenders and Shannon also highlight important findings for disability hate crime victimisation. The results also indicate key comparisons between the Werribee case and McDevitt, Levin and Bennett's (2002) typology, particularly with regard to the culpability of offenders.

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DISCUSSION

The Werribee case has significant similarities to other instances of disability hate crime. Increased harm, vulnerability and non-reporting are all common attributes of disability hate crime, and they were also a critical feature in the Werribee case. This chapter explores such findings, and then analyses the utility of McDevitt, Levin and Bennett's (2002) typology in this case and more generally. The typology was found to have a lack of utility in the initial stages of hate crime investigation by police, but instead may be useful in the construction of common patterns within hate crime following its identification.

As with other cases of hate crime, the harm inflicted upon Shannon was more damaging and sustained than in other parallel cases (*R v P and others* 2007). Notwithstanding the assault and its resultant physical pain, Shannon also endured significant emotional and psychological harm (*R v P and others* 2007). She was re-victimised when the story entered public discourse, and the MAPPs report cited the 'significant victimising consequences' in the broadcast of the material (*R v P and others* 2007: 11). The fact the DVD was distributed for so long before coming to the attention of the police exacerbates Shannon's initial victimisation, and creates a narrative that reverses culpability due to her failure to report. Sin et al. (2009) argue that this type of victimisation can instil in the victim's mind that they are worthy of such treatment, or that the harm inflicted upon her is a matter of public debate. The shattering realisation that the offenders were in fact not her friends also victimised Shannon and added to her sense of isolation (*R v P and others* 2007).

It is a key theme within the literature that people with disabilities are often labelled 'vulnerable', and Crown Prosecutor Williams made mention of Shannon's vulnerability throughout the ordeal. According to Chakraborti and Garland (2012), it is the presence of

vulnerability in the eyes of the perpetrator toward the minority group—people with disabilities—that makes them a target. While it is important to recognise the capacity for resilience and strength for people with disabilities, it remains that Shannon was especially vulnerable given the group involvement of the offenders. This is further compounded by the ‘mate’ element, in which she was able to be lured to an area through a false sense of trust held with the offenders.

The Werribee case highlights many factors that result in instances of disability hate crime not being reported or recorded. The parents did not wish for the case to proceed to trial, in the attempt to protect her from harm, embarrassment and trauma (*R v P and others* 2007). This often results in cases where the harms inflicted upon the victim are minimised (Asquith 2012). Shannon also did not report the case, perhaps in fear of the offenders. This is compounded by the interpersonal relationship held between Shannon and the offenders, in which instances of mate crime are less likely to receive attention from the criminal justice system (Thomas 2011). It is important that appropriate mechanisms be established in which the barriers to complaint making are minimised, and to ensure that the victimisation of people with disabilities is not minimised also in the process (Asquith 2012).

It is clear that the Werribee case fits within the bounds of the McDevitt, Levin and Bennett (2002) hate crime offending typology. According to McDevitt, Levin and Bennett (2002), the typology enables police to identify and investigate instances of hate crime. If, for example, a hate crime can be classified as mission-motivated, law enforcement could focus their investigations toward local hate groups—such as the Ku Klux Klan in the event of an attack upon an African American (McDevitt, Levin & Bennett 2002). But, the question must be raised as to how a hate crime can be identified in the first instance, if there is no survivor or witness capable of, or willing to, report the incident (Fisher & Salfati 2009). When a crime-

scene classification system is based upon the motivations of the offender, what traces can be left as forensic evidence? The motives for a crime are clearly not as identifiable—nor present—at a crime scene like fingerprints or DNA, for instance (Fisher & Salfati 2009). Moreover, how are investigators able to use the typology, when the offending motivations are not mutually exclusive? For example, in three of the four categories, the crime is likely to be group-enacted (McDevitt, Levin & Bennett 2002). In any event, how are investigators at the crime scene able to deduce that the crime was either thrill, defensive or mission motivated in the absence of any apparent signs or witnesses? Without this contextual knowledge, identifying probable offenders is difficult (Phillips 2009). This detracts from the typology's ability to assist in hate crime investigations (Phillips 2009). However, in instances of mate crime, it is much easier to identify offenders due to the relationship held with the victim (Thomas 2011). In the case of disability hate crime, group-enacted and thrill-motivated hate crime may be more easily identified in cases of mate crime than the more conventional forms of hate crime.

In any event, it is clear from a comparison of the Werribee case and McDevitt, Levin and Bennett's (2002) typology that the case fits within the thrill-motivated category. Such a conclusion can be made because the offenders in this case neither acted in defence of a perceived threat, retaliated against a perceived degradation, or sought to rid Shannon of this world due to an intense hatred of disabled people (*R v P and others* 2007). Care must be taken, in the absence of interviews with the offenders, not to presuppose that the exclusion of three categories means the offenders must fit within the fourth. The identification that a hate crime offence does not fit within the typology would prove a valuable finding at evaluating the utility of the typology in relation to disability hate crime. Nevertheless, it is clear that the offenders in the Werribee case do fit within the thrill-motivated typology, as

they committed their acts in the pursuit of thrill, excitement and power (*R v P and others* 2007).

A detailed description of the thrill-motivated offending category can be found in Levin and McDevitt's (1993) initial work on the typology. In this work, they catalogue the characteristics of the thrill-motivated typology, of which the defining feature is that this type of hate crime is often committed by groups of people, and almost always by male youths (Levin & McDevitt 1993). Connected to each other through security and inspiration, the individuals within the group must validate their standing, so deviant conduct becomes the form in which their membership can become accepted (Levin & McDevitt 1993). Often, offenders would not ordinarily engage in criminal conduct on their own (Weerman 2003), but when they represent one person in a group of people they are afforded a blanket of protection (Levin & McDevitt 1993). Not motivated by an intense hatred of the victim, they nevertheless hold a shared prejudice, and view the victim as inferior and 'different' (Levin & McDevitt 1993). And as these acts are typically committed in group settings, it becomes a feature that these acts become increasingly violent as each individual seeks to insert their own act in the violent conduct (Levin & McDevitt 1993). According to Panarella (cited in Gelman & McKillop 1989), 'while the action of each individual can seem relatively minor, the action of the whole may be horrific'. This was a feature in the Werribee case; while the stick prodding, spitting, urinating, name calling, fire-setting and procuring sexual penetration by intimidation may not be extremely violent in and of themselves, when combined they form a sustained and horrific series of events that is incredibly violent (*R v P and others* 2007).

There is one important distinction between the Werribee case and the categorisation of this as a thrill motivated hate crime according to McDevitt, Levin and Bennett's (2002) typology. Unlike their characterisation of these incidents occurring near the victim's home,

this was not the case in this case study (*R v P and others* 2007). Within the typology, McDevitt, Levin and Bennett (2002) state that thrill-motivated hate crimes are characterised by offenders searching for victims where they are believed to congregate, such as gay men and lesbians near gay bars. Shannon did not live in Werribee, and in fact arranged to travel by train to meet up with some of the males (*R v P and others* 2007). This indicates the crime was both thrill-motivated, yet also pre-planned. Many offenders stated they did not anticipate criminal conduct to occur, but once involved in the group dynamics, the thrill-motivated attributes of adrenalin and power took over (McDevitt, Levin & Bennett 2002). This has important implications for how the thrill-motivated category is conceptualised; some degree of malicious planning can be instrumental in these types of assaults, especially in the unique variety of disability hate crimes, 'mate crime'. Moreover, the fact that thrill-motivated hate crimes generally occur near the victim's home should be subject to greater scrutiny, especially in an era when technology—such as internet chat forums and mobile phone texting—enable greater ease for communication, pre-planning and meeting. In mate crimes, it may be that location and space are differently enacted against people with disabilities.

Ultimately, McDevitt, Levin and Bennett's (2002) typology is useful for two primary reasons: identifying the culpability of offenders, and identifying trends and common patterns in hate crime offences. As such, it is limited in addressing the victimisation process, and its antecedent problems of reporting. McDevitt, Levin and Bennett (2002) astutely acknowledge that hate crime offenders who operate in groups each possess their distinct motivations and differing levels of culpability. Each offender is driven by varying degrees of hatred/prejudice, and each offender unequally shares the harm inflicted upon the victim (McDevitt, Levin & Bennett 2002). McDevitt, Levin and Bennett (2002) identify three culpability levels—leader, fellow traveller and unwilling participant—that provide criminal justice practitioners with a useful tool for identifying the sentences applicable to offenders

in a hate crime case, subject to the proportionality principle and its emphasis on 'just deserts' (Mason & Dyer 2012). Further study is warranted with regard to how this culpability scale works in practice, as it was beyond the scope of this thesis. Additionally, preliminary analysis of the typology in operation leads to questions about its utility, particularly with regard to the stringent and methodical nature judges approach sentencing considerations with regard to mitigating and aggravating factors (Edney & Bagaric 2007). Given that the culpability of offenders is already a relevant consideration of sentencing, it is questionable whether the typology adequately enhances the prosecution process. The classification of Daniels as an outlier identifies the complexity in adequately classifying the culpability of each offender.

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CONCLUSION

Disability hate crime has remained on the periphery of hate crime scholarship; this research has made a considerable contribution to this field especially as it relates to mate crime. The research findings documented in this thesis bring into question the promises that McDevitt, Levin and Bennett (2002) make in terms of the typology assisting in the development of better police investigation methods. Ultimately, this research has identified the inherent problem in operationalising a motivation-based typology for police investigations. The process in which the typology was created consisted of the identification of hate crimes through the analysis of case files, and then the gathering of information about the motivations of offenders involved in the crimes through interviews (McDevitt, Levin & Bennett 2002). Once the motivations were known, the most common characteristics from each motivation were collated to develop the attack characteristics representative of each group (McDevitt, Levin & Bennett 2002). This represents an inductive process, where the typology has been generated out of the data.

This research process illustrates that without the motivation being known beforehand, it is difficult to apply the typology in the initial stages of investigation, especially when no motivations can be identified from the forensic (linguistic) evidence (Fisher & Salfati 2009). With regard to the Werribee case, despite the fact that the police were able to investigate the crime by viewing the DVD, there would have been no other way to determine the motivations of the offenders if it were not for the victim explaining how she was victimised. Also, the likelihood that victims would be better able to explain such victimisation does have shortfalls, as mentioned earlier with regard to the widespread under-reporting problem of disability hate crime (Sin 2013).

Conclusion

While the core promise within McDevitt, Levin and Bennett's (2002) typology in relation to better police investigation powers is flawed, there are benefits the typology makes with regard to the culpability of offenders. Categorising the culpability of offenders—leader, fellow traveller and unwilling participant—provides criminal justice practitioners with a useful tool for the identification of applicable sentences in hate crime cases. Further study into the culpability scale is warranted, to help determine its utility and practicality. Ultimately, the typology's greatest benefit is the identification of trends and common patterns in hate crime offences.

Given the lack of utility of McDevitt, Levin and Bennett's (2002) typology, other avenues need to be explored that will enable these crimes to be more readily reported to the police. In turn, when more effective policing practices are developed in order to capture disability hate crimes incidents, the key features of disability hate crime will be progressed. With regard to Victorian Equal Opportunity and Human Rights Commission's (VEOHRC) current research into disability and crime, this research has shown that institutional changes are required to facilitate increased reporting and policing of disability hate crime. As mentioned earlier, education and training, specialist policing units, and third-party reporting can provide the necessary strategies to create an enabling environment in which disability hate crime can be reported. This will enable disability hate crime incidents to be viewed as part of a trend, and not as isolated incidents.

The current context of disability hate crime in Victoria can be viewed through two frames: McDevitt, Levin and Bennett (2002) typology and the 2006 Werribee case. The 2006 Werribee case study was used to test the McDevitt, Levin and Bennett (2002) typology, and key findings have emerged that have questioned the utility of the typology in relation to interpersonal mate crime and thrill-motivated violence. The context of disability in Victorian

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can only be understood from the perspectives of individual victims and offenders and the institutional practices of the criminal justice system. In testing McDevitt, Levin and Bennett's (2002) typology for its utility in understanding disability hate crime, this research has clearly shown that the conventional lens through which hate crime is normally viewed may be inadequate in identifying, reporting, responding and punishing hate crime.

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BIBLIOGRAPHY

R v M and others, 2008, Children's Court of Victoria, 12 February 2008.

R v P and others, 2007, Children's Court of Victoria, 5 November 2007.

Sentencing Act 1991 (Victoria).

Adolescent Forensic Health Service 2011, *Male adolescent program for positive sexuality - mapps*, retrieved 18 August 2013, <<http://www.dhs.vic.gov.au/about-the-department/plans,-programs-and-projects/programs/youth-specific/male-adolescent-program-for-positive-sexuality-mapps>>.

Asquith, NL 2008, *Text and context of malediction: a study of antisemitic and heterosexist hate violence*, VDM Publishing, Saarbrücken, Germany

— 2009, 'The harms of verbal and textual hatred', in P Iganski (ed.), *Hate crimes: volume 2: the consequences of hate crime*, Praeger Publishers, Westport, CT, pp. 161-73.

Asquith, NL 2010, 'Verbal and Textual Hostility in Context', in N Chakraborti (ed.), *Hate Crime: Concepts, Policy, Future Directions*, Willan, Cullompton, pp. 99-123.

Asquith, NL 2012, 'Vulnerability and the art of complaint making', in I Bartkowiak-Theron & NL Asquith (eds), *Policing vulnerability*, The Federation Press, Sydney, pp. 147-61.

— 2014, 'A governance of denial: hate crime in New Zealand and Australia', in N Hall, A Corb, P Giannasi & J Grieve (eds), *International Handbook on Hate Crime*, Routledge Publishing, London, forthcoming.

Berk, R, Boyd, E & Hamner, K 1992, 'Thinking more clearly about hate-motivated crimes', in G Herek & K Berrill (eds), *Hate crimes: confronting violence against lesbians and gay men*, Sage Publishers, Inc, Newbury Park, California, pp. 123-43.

Bice, K 2007, 'Youths' pack mentality sex dvd victim felt powerless', *Herald Sun*, 18 October 2007, p. 11.

Bowling, B 1993, 'Racial harassment and the process of victimization: conceptual and methodological implications for the local crime survey', *British Journal of Criminology*, vol. 33, no. 2, pp. 231-50.

Brault, MW 2012, *Americans with disabilities: 2010*, United States Census Bureau, Washington, DC.

Carter, H 2010, 'Police investigate death of man with learning difficulties tormented for years by gangs', *The Independent*, 12 March.

Chakraborti, N 2010, 'Crimes against the "other": conceptual, operational, and empirical challenges for hate studies', *Journal of Hate Studies*, vol. 8, no. 1, pp. 9-28.

Chakraborti, N & Garland, J 2009, *Hate crime: impact, causes and responses*, SAGE Publications Ltd, London.

Bibliography

- 2012, 'Reconceptualizing hate crime victimization through the lens of vulnerability and 'difference'', *Theoretical Criminology*, vol. 16, no. 4, pp. 499-514.
- Cooper, M 2007a, 'Jail unlikely despite admissions DVD teens plead guilty', *Geelong Advertiser*, 21 July, p. 5.
- 2007b, 'Werribee sex cameraman even made a T-shirt, court told DVD maker the 'worst'', *Geelong Advertiser*, 19 October.
- Craig-Henderson, KM 2009, 'The psychological harms of hate: implications and interventions', in P Iganski (ed.), *Hate crimes: volume 2: the consequences of hate crime*, Praeger Publishers, Westport, CT, pp. 15-30.
- Craig, KM 2002, 'Examining hate-motivated aggression: a review of the social psychological literature on hate crimes as a distinct form of aggression', *Aggression and Violent Behavior*, vol. 7, no. 1, pp. 85-101.
- Criminal Justice Joint Inspection (CJJI) 2013, *Living in a different world: joint review of disability hate crime*, Criminal Justice Joint Inspection, London.
- Davis, M & Wallace, R 2006, 'Teenage girl 'tricked into' dvd degradation', *The Australian*, 25 October, p. 7.
- Disability Advocacy Victoria 2013, <<http://www.disabilityadvocacyvictoria.org.au/www/home/>>.
- Dowsley, A & Healey, K 2009, 'Hate song defiant sex bully taunts victim and judge with venom-filled rap', *Heral Sun*, 13 April.
- Duncan, J 2006, 'Hunt for teen thugs - gang's abuse of girl was recorded on dvd', *Daily Telegraph*, 25 October, p. 12.
- Dunn, P 2009, 'Crime and prejudice: needs and support of hate crime victims', in P Iganski (ed.), *Hate crimes: volume 2: the consequences of hate crime*, Praeger Publishers, Westport, CT, pp. 123-41.
- Edney, R & Bagaric, M 2007, *Australian sentencing: principle and practice*, Cambridge University Press, Melbourne.
- Edwards, C & Imrie, R 2003, 'Disability and bodies as bearers of value', *Sociology*, vol. 37, no. 2, pp. 239-56.
- Equality and Human Rights Commission 2011, *Hidden in plain sight: inquiry into disability-related harassment*, Equality and Human Rights Commission, London.
- Fatic, A 1995, *Punishment and restorative crime-handling: a social theory of trust*, Ashgate Publishing Limited, Brookfield, Vermont.
- Federal Bureau of Investigation 1998, *Hate crime statistics 1997*, Federal Bureau of Investigation, Washington, DC.
- 1999, *Hate crime statistics: 1998*, Federal Bureau of Investigation, Washington, DC.
- 2000, *Hate crime statistics: 1999*, Federal Bureau of Investigation, Washington, DC.
- 2001, *Hate crime statistics: 2000*, Federal Bureau of Statistics, Washington, DC.

Bibliography

- 2002, *Hate Crime Statistics 2001*, Federal Bureau of Investigation, Washington, DC.
- 2003, *Hate crime statistics: 2002*, Federal Bureau of Investigation, Washington, DC.
- 2004, *Hate crime statistics: 2003*, Federal Bureau of Investigation, Washington, DC.
- 2005, *Hate crime statistics, 2004: Section 1*, <www2.fbi.gov/ucr/hc2004/section1.htm>.
- 2006, *Hate crime statistics, 2005: victims*, Federal Bureau of Investigation, Washington, DC.
- 2007a, *Hate crime statistics, 2006: victims*, Federal Bureau of Investigation, Washington, DC.
- 2007b, *Hate crime statistics, 2007: victims*, Federal Bureau of Investigation, Washington, DC.
- 2009, *Hate crime statistics, 2008: victims*, Federal Bureau of Investigation, Washington, DC.
- 2010, *Hate crime statistics, 2009: victims*, Federal Bureau of Investigation, Washington, DC.
- 2011, *Hate crime statistics, 2010: victims*, Federal Bureau of Investigation, Washington, DC.
- 2012a, *Hate crime statistics, 2011: location type*, Federal Bureau of Investigation, Washington, DC.
- 2012b, *Hate crime statistics, 2011: victims*, Federal Bureau of Investigation, Washington, DC.
- Fisher, C & Salfati, CG 2009, 'Behavior or motivation: typologies of hate-motivated offenders', in R Blazak (ed.), *Hate crimes: volume 4: hate crime offenders*, Praeger Publishers, Westport, CT, pp. 103-36.
- Garland, J 2011, 'Difficulties in defining hate crime victimization', *International Review of Victimology*, vol. 18, no. 1, pp. 25-37.
- Gelman, D & McKillop, P 1989, 'Going 'wilding' in the city', *Newsweek*, vol. 113, no. 19, 8 May.
- Gerstenfeld, P 2004, *Hate crimes: causes, controls, and controversies*, Sage Publications, Inc, California.
- Grattet, R & Jenness, V 2001, 'Examining the boundaries of hate crime law: disabilities and the "dilemma of difference"', *The Journal of Criminal Law and Criminology*, vol. 91, no. 3, pp. 653-98.
- Hall, N 2005, *Hate crime*, Willan Publishing, Devon, UK.
- Hollomotz, A 2013, 'Disability and the continuum of violence', in A Roulstone & H Mason-Bish (eds), *Disability, hate crime and violence*, Routledge Publishing, Abingdon, Oxon, pp. 52-63.
- Horvath, MA & Gray, JM 2013, 'Multiple perpetrator rape in the courtroom', in MA Horvath & J Woodhams (eds), *Handbook on the study of multiple perpetrator rape*, Routledge Publishing, New York, pp. 214-34.
- Houlihan, L 2006, 'Sickening acts filmed gang sells dvds at schools', *Herald Sun*, 24 October, p. 2.
- Hughes, G 2006, *An encyclopedia of swearing: the social history of oaths, profanity, foul language, and ethnic slurs in the english-speaking world*, M.E. Sharp, Inc, Armonk, New York.

Bibliography

- Iganski, P 2001, 'Hate crimes hurt more', *American Behavioral Scientist*, vol. 45, no. 4, pp. 626-38.
- 2008, *'Hate crime' and the city*, The Policy Press, Bristol, UK.
- Iganski, P & Lagou, S 2009, 'How hate crimes hurt more: evidence from the British crime survey', in P Iganski (ed.), *Hate crimes: volume 2: the consequences of hate crime*, Praeger Publishers, Westport, CT, pp. 1-13.
- Independent Police Complaints Commission 2011, *IPCC report into the contact between Fiona Pilkington and Leicestershire Constabulary 2004-2007*, London.
- Jacobs, J & Potter, K 1998, *Hate crimes: criminal law and identity politics*, Oxford University Press, New York.
- Jenness, V & Grattet, R 2004, *Making hate a crime: from social movement to law enforcement*, 2 edn, Russell Sage Foundation, New York.
- Lane, FJ, Shaw, LR & Kim, M 2009, 'Hate crimes committed against persons with disabilities', in B Perry (ed.), *Hate crimes: volume 3: the victims of hate crime*, Praeger Publishers, Westport, CT, pp. 173-97.
- Levin, J & McDevitt, J 1993, *Hate crimes: the rising tide of bigotry and bloodshed*, Westview Press, Boulder, Colorado.
- Levin, J & Rabrenovic, G 2009, 'Hate as cultural justification for violence', in B Levin (ed.), *Hate crimes: volume 1: understanding and defining hate crime*, Praeger Publishers, Westport, CT, pp. 41-53.
- Manne, A 2006, 'Love me tender? sex and power in the age of pornography', *The Monthly*, no. 19.
- Mason-Bish, H 2010, 'Future challenges of hate crime policy: lessons from the past', in N Chakraborti (ed.), *Hate crime: concepts, policy, future directions*, Willan Publishing, Cullompton, Devon, pp. 58-77.
- Mason, G 2005, 'Hate crime and the image of the stranger', *British Journal of Criminology*, vol. 45, no. 6, pp. 837-59.
- 2009a, 'Hate crime laws in Australia: are they achieving their goals?', *Criminal Law Journal*, vol. 33, no. 6, pp. 326-40.
- 2009b, 'The Penal Politics of Hatred', *Australian & New Zealand Journal of Criminology*, vol. 42, no. 3, pp. 275-86.
- 2013, 'The symbolic purpose of hate crime law: ideal victims and emotion', *Theoretical Criminology*, vol. 0, no. 0, pp. 1-18.
- Mason, G & Dyer, A 2012, 'A negation of Australia's fundamental values': sentencing prejudice-motivated crime', *Melbourne University Law Review*, vol. 36, no. 3, pp. 871-914.
- Matthew Shepard Foundation 2013, *Matthew's story*, <www.matthewshepard.org/our-story/matthews-story>.
- McDevitt, J, Levin, J & Bennett, S 2002, 'Hate crime offenders: an expanded typology', *Journal of Social Issues*, vol. 58, no. 2, pp. 303-17.

Bibliography

- McGloin, JM & Piquero, AR 2009, 'I wasn't alone': collective behaviour and violent delinquency', *The Australian and New Zealand Journal of Criminology*, vol. 42, no. 3, pp. 336-53.
- McMahon, BT, West, SL, Lewis, AN, Armstrong, AJ & Conway, JP 2004, 'Hate Crimes and Disability in America', *Rehabilitation Counseling Bulletin*, vol. 47, no. 2, pp. 66-75.
- McNamara, J & Bennett, S 2006, 'Jan juc dad's dvd anguish geelong student expelled', *Geelong Advertiser*, 25 October, p. 1.
- Medew, J 2007, 'Parents of teen in abuse film blame girl victim', *The Age*, 19 October 2007, p. 5.
- Miletic, D 2006, 'Police dvd probe becomes rape investigation - Werribee scandal - up to 14 teens could face charges', *The Age*, 26 October 2006, p. 3.
- Miletic, D & Rood, D 2006, 'The dvd that disgusted a nation - dvd scandal', *The Age*, 25 October, p. 1.
- Mitchell, N 2006, 'Violent rap video culture trashes our youth punish this disgrace', *Herald Sun*, 26 October, p. 23.
- Morrison, Z 2006, 'Abuse: it's now entertainment', *The Age*, 28 October, p. 9.
- Nicholson, A 2006, 'Stop bullies at the start', *Herald Sun*, 29 November, p. 20.
- Nolan, JJ & Akiyama, Y 2002, 'Assessing the climate for hate crime reporting in law enforcement organizations: a force-field analysis', *Justice Professional*, vol. 15, no. 2, pp. 87-103.
- Perry, B 2001, *In the name of hate: understanding hate crime*, Routledge, New York.
- 2003, 'Where do we go from here? researching hate crime', *Internet Journal of Criminology*, pp. 1-59.
- 2005, 'A crime by any other name: the semantics of hate', *Journal of Hate Studies*, vol. 4, no. 1, pp. 121-37.
- Phillips, ND 2009, 'The prosecution of hate crimes: the limitations of the hate crime typology', *Journal of Interpersonal Violence*, vol. 24, no. 5, pp. 883-905.
- Quarmby, K 2008, *Getting away with murder: disabled people's experiences of hate crime in the UK*, London.
- Roulstone, A & Sadique, K 2013, 'Vulnerable to misinterpretation: disabled people, 'vulnerability', hate crime and the fight for legal recognition', in A Roulstone & H Mason-Bish (eds), *Disability, hate crime and violence*, Routledge, Abingdon, Oxon, pp. 25-39.
- Roulstone, A, Thomas, P & Balderston, S 2011, 'Between hate and vulnerability: unpacking the British criminal justice system's construction of disabled hate crime', *Disability & Society*, vol. 26, no. 3, pp. 351-64.
- Scope 2013, *Disablism*, retrieved 28 May 2013, <<http://www.scope.org.uk/about-us/our-brand/talking-about-disability/disablism>>.
- Sherry, M 2010, *Disability hate crimes: does anyone really hate disabled people?*, Ashgate Publishing Limited, Surrey.

Bibliography

- Sin, CH 2013, 'Making disablist hate crime visible: addressing the challenges of improving reporting', in A Roulstone & H Mason-Bish (eds), *Disability, hate crime and violence*, Routledge Publishing, Abingdon, Oxon, pp. 147-65.
- Sin, CH, Hedges, A, Cook, C, Mguni, N & Comber, N 2009, *Disabled people's experiences of targeted violence and hostility*, Equality and Human Rights Commission, Manchester.
- Smart, J 2001, *Disability, society, and the individual*, Aspen Publishers, Gaithersburg, Maryland.
- Thomas, P 2011, 'Mate crime': ridicule, hostility and targeted attacks against disabled people', *Disability & Society*, vol. 26, no. 1, pp. 107-11.
- Today Tonight 2006, television program, R Wenn, 24 October. Distributed by Channel 7.
- van Mastrigt, SB & Farrington, DP 2011, 'Prevalence and characteristics of co-offending recruiters', *Justice Quarterly*, vol. 28, no. 2, pp. 325-59.
- Victoria Police 2013, *Victoria police manual - procedures and guidelines*, Victoria Police, Melbourne.
- Victorian Equal Opportunity and Human Rights Commission 2013, *Experiences of people with disabilities reporting crime*, Victorian Equal Opportunity and Human Rights Commission, retrieved 5 July, <www.humanrightscommission.vic.gov.au/index.php/component/k2/item/619-experiences-of-people-with-disabilities-reporting-crime>.
- Weerman, FM 2003, 'Co-offending as social exchange: explaining characteristics of co-offending', *British Journal of Criminology*, vol. 43, no. 2, pp. 398-416.
- Whalley, J 2006, 'Net safety a concern for parents', *Geelong Advertiser*, 25 October, p. 4.
- Williams, M 2013, *Disability hate crime: R v P and others, R v M and others*, Prosecutors Chambers, Lonsdale Street, Melbourne, 13 October.
- Woods, JB 2010, 'Policing hatred: a case study of an English police force', *Journal of Hate Studies*, vol. 9, no. 1, pp. 127-48.
- Yin, RK 2009, *Case study research: design and methods*, 4th edn, Sage Publications, Thousand Oaks, California.