The Legislative Context of Prejudice Motivated Victimisation:
Perceptions of Police Legitimacy and Citizen Decisions to Report Hate Crime Incidents

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Master of Arts
Bachelor of Science

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The University of Queensland in 2016

Institute for Social Science Research
Abstract

Prejudice motivated crime (PMC) legislation varies across different jurisdictions in Australia. Some use criminal codes and civil codes, while other laws are based in anti-discrimination legislation. These variations, I propose, influence patterns of victimisation and the willingness of citizens to report PMC across different Australian states and territories. I use Leximancer, a text analytics tool, to explore hate crime legislation in different Australian jurisdictions. Drawing on the Australian National Security and Preparedness Survey (NSPS), I explore the factors that help explain differences in victimisation of crime and PMC in Australia, as well as variations in reporting behaviour. From a national probability sample of 4256 respondents, I discuss jurisdictional differences between victims of PMC and victims of non-PMC. I also compare PMC and non-PMC victim groups with people who have not been victimised. My thesis explores differences in hate crime legislation and the context surrounding the different laws in Australia and how these laws shape patterns in the reporting behaviour of victims. I hypothesise that there are a number of factors that influence variations across the states and territories in Australia, particularly perceptions of the legitimacy of state institutions (police and government), as well as perceptions of the legitimacy of the law. My findings suggest that hate crime victims are more likely to be foreign born and have lower perceptions of police legitimacy. My findings also indicate that people not identifying as an Australian citizen and people with lower perceptions of police legitimacy and less willingness to cooperate with the police are less likely to report crime incidents to police. My findings suggest that the politicisation of hate crime legislation plays an important part in the legislative and reporting context of hate crime victimisation and that there is a continuing importance of fostering PMC victims’ confidence and trust in the police.
Declaration by author

This thesis is composed of my original work, and contains no material previously published or written by another person except where due reference has been made in the text. I have clearly stated the contribution by others to jointly-authored works that I have included in my thesis.

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No publications included.
**Contributions by others to the thesis**

The quantitative data utilised in Chapters 6 and 7 originate from the National Security and Preparedness Survey (2011-2012) collected under the auspices of the Australian Research Council Centre for Excellence in Policing and Security (CEPS).

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**Statement of parts of the thesis submitted to qualify for the award of another degree**

None.
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hate crime, prejudice, bias, race, legislation, victimisation, police legitimacy

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ANZSRC code: 180102, Access to Justice, 20%
ANZSRC code: 189999, Law and Legal Studies not elsewhere classified, 20%

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<td>ABS</td>
<td>Australian Bureau of Statistics</td>
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<td>ACT</td>
<td>Australian Capital Territory</td>
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<td>ADCQ</td>
<td>Anti-Discrimination Commission of Queensland</td>
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<td>ADR</td>
<td>Alternative Dispute Resolution</td>
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<td>AgAG</td>
<td>Action Program against Aggression and Violence</td>
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<td>AGG</td>
<td>General Equal Treatment Law (Allgemeines Gleichbehandlungsgesetz)</td>
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<td>AIC</td>
<td>Akaike Information Criterion</td>
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<td>AIDS</td>
<td>Acquired Immunodeficiency Syndrome</td>
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<td>ATSI</td>
<td>Aboriginal and Torres Strait Islander</td>
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<td>BIC</td>
<td>Bayesian Information Criterion</td>
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<td>CALD</td>
<td>Culturally and Linguistically Diverse</td>
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<td>CATI</td>
<td>Computer Assisted Telephone Interviews</td>
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<td>CEPS</td>
<td>Centre for Excellence in Policing and Security</td>
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<td>CI</td>
<td>Confidence Intervals</td>
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<td>CSEW</td>
<td>Crime Survey for England and Wales</td>
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<td>CVT</td>
<td>Cultural Victimisation Theory</td>
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<td>DE</td>
<td>Germany (Deutschland)</td>
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<td>ECRI</td>
<td>European Commission against Racism and Intolerance</td>
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<td>IVT</td>
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<td>MLM</td>
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<td>NCRS</td>
<td>National Crime Recording Standard</td>
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<td>NSPS</td>
<td>National Security and Preparedness Survey</td>
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<td>NSW</td>
<td>New South Wales</td>
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<td>NT</td>
<td>Northern Territory</td>
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<td>NTER</td>
<td>Northern Territory National Emergency Response</td>
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<tr>
<td>OLS</td>
<td>Ordinary Least Squares (regression)</td>
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<td>OR</td>
<td>Odds Ratio</td>
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</table>
PMC  Prejudice Motivated Crime
PU   Penalty Unit
Q    (National Security and Preparedness Survey) Question
QCAT Queensland Civil and Administrative Tribunal
Qld  Queensland
RDA  Race Discrimination Act
RRR  Relative Risk Ratio
SA   South Australia
SD   Standard Deviation
SE   Standard Error
SSVT Social-structural Victimisation Theory
Tas  Tasmania
UCLA University of California Los Angeles
UCR  Uniform Crime Reporting
UK   United Kingdom
U.S. United States
Vic  Victoria
VIF  Variance Inflation Factors
WA   Western Australia
WADC District Court of Western Australia
WASCA Supreme Court of Western Australia, Court of Appeal
Für Opa Jochen
Chapter 1: Introduction & Problem

Silence [...] doesn’t rid discrimination but makes it invisible and allows it to continue to escalate undetected until it results in very public acts of hate incidents and hate crimes.

(Friedman, Hurh, Manganelli, & Wessler, 2009, p. 183)

1.1 Introduction

In 2011, the District Court of Western Australia charged Brendan Lee O’Connell with six counts of racial vilification, including uploading footage of himself insulting a Jewish man, and sentenced the perpetrator to three years imprisonment (Perth District Court, DPP v. Brendan Lee O’Connell [2011] WADC [unreported] [Austl.]) (Barker, 2011). O’Connell was the first person convicted of racial vilification under Western Australia’s anti-vilification laws (Criminal Code Act Compilation Act 1913 [WA] s. 77 [Austl.]) (Barker, 2011). Western Australia is the only jurisdiction in Australia which uses the criminal code for racial vilification cases (Meagher, 2006). Although O’Connell tried to appeal the court’s decision in 2012 (O’Connell v. The State of Western Australia [2012] WASCA 96 [Austl.]), the court denied his appeal and held up the three year sentence.

In contrast, Queensland’s anti-vilification provisions are based in anti-discrimination legislation and are, therefore, referred to the anti-discrimination board (Mason, 2009). In 2009, Jo Brosnahan, a member of the transgender community, lodged a complaint with the Anti-Discrimination Commission of Queensland (ADCQ) against Jason Ronoff for screaming obscenities. ADCQ tried to schedule conciliation conferences with the perpetrator, which Jason Ronoff refused to attend. Consequently, the matter was referred to the Queensland Civil and Administrative Tribunal (QCAT) (Brosnahan v. Ronoff [2011] QCAT 439 [Austl.]). In 2011, QCAT ordered the perpetrator to pay the victim AU$10,000 for vilifying conduct. The examples of Western Australia and Queensland show how differently matters of vilification based on race (or religion) or gender identity are dealt with in different jurisdictions, which is an important aspect of my thesis.
Prejudice motivated crime (PMC)\(^1\) is a problem in countries around the world. Research on the topic of prejudice-motivated victimisation is, however, scarce in the Australian context (see Jayasuriya, 2012; Mason, 2009; McNamara, 2002; Meagher, 2005, 2006). Gerstenfeld (2011) defines PMC victimisation – also referred to as ‘hate crime,’ ‘bias crime’ and ‘targeted violence’ – as crimes committed against people based on their race, religion, ethnicity, sexual orientation, gender or disability. Prejudice motivated crime is a “modern legal invention that signals a shift in how we think about and respond to historically familiar conduct” (Jenness, 2007, p. 142). Historically, the actors of prejudice violence have not only been individuals, but also governments of nation states (Jenness, 2007). In recent decades, scholars have dedicated considerable attention to the topic of prejudice motivated victimisation; however, gaps concerning the topic are ever-present (see Perry, 2003b).

One way to understand better the context of hate crime is to examine the legislative frameworks that vary across jurisdictions (Petrosino, 2004). Legislation is the manifestation and articulation of state power and sets the scene for police, in particular, and how they respond to PMC victimisation. My thesis sets out to analyse the different legislative approaches across the states and territories in Australia and then explores how variations in the legislative context influence the way police do their job. Australian states and territories employ different legislative approaches to tackle the problem of hate incidents. Some provisions are situated in discrimination legislation, the civil or criminal code, and differences exist in the use of penal models (Mason, 2009). From the outset, I explore if these different legislative frameworks, and the concomitant policies and front line responses to PMC, influence the public’s willingness to report hate crime incidents to police (Hall, 2012). Drawing from the extant literature on police legitimacy, I assess whether or not there is an association between perceptions of trust in police and the willingness to cooperate (Tyler, 2005, 2011). I also explore how opinions towards government and its responsibility lead to differences in reporting behaviour (Goudriaan, Lynch, & Nieuwbeerta, 2004).

\(^1\) The literature uses the term ‘hate crime’ predominantly. According to Mason, McCulloch, and Maher (2012 [unpublished]), scholars have critiqued the term hate crime for being too broad and assuming violent and pathological elements, for dramatization and simplification of offences, for implying strangers as perpetrators, as well as suggesting that hate itself is the crime. Walters (2014a) also points out that “‘hate’ is a highly emotive term and narrow in meaning” (p. 58). Other terms include bias crime and targeted violence. For the purpose of this thesis, any of these terms can be used interchangeably. I will, however, predominantly resort to the term prejudice motivated crime (PMC). According to Mason and Dyer (2013), parallel crimes (p. 874) consist of comparable crimes that do not have the motive of prejudice, bias or hate. Lewis (2013) refers to parallel non-bias-motivated offenses (p. 57). I will refer to non-PMC in this context.
In my thesis, I will draw out the differences in each Australian jurisdiction and explain how these differences in legislative approaches can influence reporting of prejudice motivated crime in each state and territory. In addition, I will explore the risk factors for victimisation and the potential barriers for reporting crime/hate crime to police. I will employ a mixed-methods approach in my thesis. Firstly, I will carefully analyse, compare and contrast each of the relevant laws pertaining to hate crime and vilification that are currently in place in each state and territory in Australia. Secondly, I will use the National Security and Preparedness Survey (NSPS), collected under the auspices of the Australian Research Council Centre for Excellence in Policing and Security (CEPS), to explore the factors that distinguish PMC victims from other crime victims and the barriers that might help explain differences in reporting rates of PMC. In the remainder of this chapter, I will introduce the topic of PMC, discuss the emerging difficulties associated with hate crime and explain the context and extent of victimisation globally and particularly in Australia and conclude with an overview of my research topic and a thesis outline.

1.2 Definitions of Prejudice Motivated Crime

The term ‘hate crime’ has not appeared in the criminal justice system until the 1970s in the United States (Jenness, 2007). According to Walters (2006), “[h]ate crime is an umbrella term for all crimes which are committed by reason of some characteristic held by the victim” (p. 66, footnote). The definition of the term itself warrants difficulties concerning historical and cultural contexts. No global description of hate crime exists, due to cultural differences, social norms and political interest (Chongatera, 2013, p. 44; see also Kääriäinen & Ellonen, 2007). PMC, as a social process, is “dynamic and in a state of constant movement and change, rather than static and fixed” (Bowling, 1993, p. 238). Scholars use different terms when referring to PMC, such as hate crime, bias crime and targeted violence – which can often be used interchangeably, leaving the matter of which term suits best up for discussion.

Finding a universal definition is problematic, with scholars criticising hate crime definitions for being either too broad or too narrow. Gerstenfeld (2011), for example, tries to simplify the definition and describes PMC as “a criminal act which is motivated, at least in part, by the group affiliation of the victim” (Gerstenfeld, 2011, p. 11). Mason (2009a) offers a similar definition, labelling hate crime as a “crime wholly or partly motivated by, grounded in, or aggravated by bias or prejudice towards particular groups of people” (Mason, 2009, p. 327). On the one hand, broader definitions have the advantage and ability to cover multiple categories of group affiliation (i.e., race, ethnicity, nationality, gender and sexual orientation) that are all in need of protection. On the other
hand, the disadvantage of simple or broader definitions of hate crime is that PMC definitions can overlap with definitions of other crime, such as gang violence, terrorism, political violence and war (Gerstenfeld, 2011). Unfortunately, broader definitions lack the specifics necessary for the application in PMC legislation, due to the absence of a unified understanding of protected groups in different jurisdictions. In addition, definitions of the term “hate crime” can vary in different countries, as well as jurisdictions, which complicates accurate data collection (Adamczyk, Gruenewald, Chermak, & Freilich, 2014).

The *Hate Crime Statistics Act 1990* (US), passed in 1990 and amended in 2009, defines PMC more specifically as “crimes that manifest evidence of prejudice based on race, *gender and gender identity*[^2^], [...] religion, disability, sexual orientation, or ethnicity” (The Federal Bureau of Investigation [FBI], 2011; emphasis in original). Although more specific, the above definition lacks comprehensiveness, in that it excludes categories such as age and homelessness, which are additional categories in need of protection. Scholars are still working on finding a collective and agreed upon definition, which is proving difficult due to cultural differences and social norms, as well as political interests (Boeckmann & Turpin-Petrosino, 2002; Lawrence, 1999). Chakraborti (2015) suggests that academics and policy makers now have a similar understanding of hate crimes being hostility toward a person’s identity or difference.

Variations in definition influence the recording of prejudice motivated crime, as one jurisdiction ranks a violent or property crime as a hate crime, whereas another jurisdiction will count it as a crime not particularly connected to certain protected groups. A country-specific definition and a country-wide understanding of hate crime could provide criminal justice authorities with the tools to successfully identify, prosecute and convict hate crime cases. Walters (2011) points out that “such difficulties do not prevent us from exploring the causes of hate crime, instead they simply make the task that little bit more difficult” (Walters, 2011, p. 315). Wickes, Pickering, Mason, Maher, and McCulloch (2015) have explored different terminology used in the Australian context and found that shared vocabulary can build trust between the police and minority groups, consequently promoting victims’ reporting behaviour. Wickes et al. (2015) established that although victims favoured some terminology (i.e., hate crime, targeted crime or group specific

[^2^]: In 2013, the U.S. government added *gender* and *gender identity* as motivating factors to this data collection effort (Levin, 2015).
terms) over others (i.e., PMC), reasons for not reporting hate crime to police were more often linked to police community trust and procedural just practices than to terminology.

### 1.3 Overview of Victimisation as a Result of Prejudice Motivated Crime

Victims of PMC vary across different areas of the world depending on historical context, and cultural and ethnic differences. Common PMC victims in the United States, for example, are Native Americans, African Americans, Asian Americans and Hispanics (Marshall & Farrell, 2008), while victims in Germany are often members of the large Turkish minority, people of African origin and other immigrant minorities. The next sections outline the minorities prominently victimised in Australia, as well as the extent of the problem in the United States and Europe.

#### 1.3.1 Who Are the Victims in Australia?

The limited availability of data hinders a meaningful data collection on victim groups in Australia. Data are often only available through administrative records from police, courts and prisons (Johnson, 2005a). Due to the high under-reporting of PMC, the majority of the victims will not appear in official reports. A Northeastern University study has found that less than 5% of hate crime victimisation is reported to police (cited in Steer, 2011, p. 4). In its *Report of the National Inquiry into Racist Violence in Australia*, the Human Rights and Equal Opportunity Commission [HREOC] (1991) has established that victims of racist violence include the Indigenous population (in social and institutional arenas), Jewish, Asian (particularly Vietnamese) and Arabic communities, as well as silent minorities (HREOC, 1991, p. 139), such as Central and South Americans, Maoris and Pacific Islanders. On more recent data, the Australian component of the 2004 *International Crime Victimisation Survey*\(^3\) has uncovered 42% of racially-motivated assaults, 53% of threats, and 38% of attacks against Middle Eastern and Vietnamese respondents, resulting in higher levels of fear for future victimisation (Johnson, 2005c, p. 4). In Australia, the Indigenous population and certain immigrant groups experience racist victimisation at different times.

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\(^3\) The *International Crime Victimisation Survey* is a comprehensive victimization survey covering around 60 countries worldwide and measures victimisation rates and variations, crime-reporting rates and reasons for non-reporting, fear of crime and perceptions of safety and crime protection efforts (Johnson, 2005a).
1.3.2 Extent of the Problem in the United States and Europe

In most, if not all countries, quantifying the extent of the hate crime problem with certainty is elusive (Stobbs, 2008). Measuring PMC has proven problematic in the United States and in other countries (Gerstenfeld, 2011). The severe under-reporting of such crime has taken its toll, as have other measures (Gerstenfeld, 2011). According to Gerstenfeld (2011), activities concerning ‘hate’ had their peak in the early to mid-1990s and have since, although not considerably, tapered off. On the other hand, Al-Hakim (2010) reiterates that according to the 2008 Hate Crime Survey, prejudice motivated crimes are increasing around the world. Gan, Williams III, and Wiseman (2011) share this view, citing the FBI statistics, which show that PMC incidents have increased from 4,588 in 1991 to 7,160 in 2005 (Gan et al., 2011, p. 674). The authors admit that increased reporting may be a factor, which still constitutes an increase of attention to the issue of hate crime (Gan et al., 2011). An empirical increase in PMC is inherently difficult to detect, due to under-reporting and under-recording (Steer, 2011).

A Special Report released in 2013, which collected data from National Crime Victimization Surveys from 2003 to 2011, has shown no change in the total number of prejudice motivated crimes (Sandholtz, Langton, & Planty, 2013, p. 1). As table 1.1 displays below, however, PMC based on religion has doubled, while PMC based on race has dropped slightly; violent PMC has increased slightly, while property PMC has decreased; and reporting PMC to police has decreased. The Bureau of Justice Statistics further reports that hate crime occurrences have dropped in the last decades in the United States (Adamczyk et al., 2014).

Table 1.1 United States PMC Victimisation Changes from 2003-2006 to 2007-2011

<table>
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<tr>
<td>PMC based on religion</td>
<td>10%</td>
<td>21%</td>
</tr>
<tr>
<td>PMC based on race</td>
<td>63%</td>
<td>54%</td>
</tr>
<tr>
<td>Violent PMC</td>
<td>84%</td>
<td>92%</td>
</tr>
<tr>
<td>Property PMC</td>
<td>15%</td>
<td>8%</td>
</tr>
<tr>
<td>PMC reported to police</td>
<td>46%</td>
<td>35%</td>
</tr>
</tbody>
</table>

Source: altered from Sandholtz et al. (2013).

Europe also experiences prejudice motivated victimisation based on racism, xenophobia, religious intolerance, a person’s disability, sexual orientation or gender identity (European Union Agency for

4 For more information see Human Rights First (2008).
A survey conducted by the FRA (2013, p. 1) has reported that 16-32% of Roma, 19-32% of people of African origin, a quarter of LGBT people and a third of Jewish people have been victimised. The Crime Survey for England and Wales (CSEW) indicates that 278,000 people were victims of a hate crime between 2011 and 2013, with race being the most common motive for victimisation (Home Office, Ministry of Justice, & Office for National Statistics, 2013). The CSEW estimates that victims reported only around 40% of hate crime, a number that had decreased from 51% from the previous CSEW in 2007-2009 (Home Office et al., 2013). This decrease in reporting PMC may have been due to an increase in less serious offences (i.e., assault without injury), which victims are less likely to report to the police (Home Office et al., 2013). Victims, for example, tend not to report hate crime due to a perceived ineffectiveness of the police (Home Office et al., 2013). Findings also show that under-reporting is an issue in other European countries (FRA, 2013). Between 57% and 74% of assaults or threats towards a minority or migrant group and between 75% and 90% of incidents of serious harassment are not reported to police, while eight out of ten LGBT people and three-quarters of Jewish people choose not to report PMC to police (FRA, 2013). The decision not to report hate crime to police has consequences for the European Union (EU), in that PMC remains unprosecuted and consequently invisible (FRA, 2013). The European Union does not have a uniform data collection system and each member state has employed mechanisms that vary from country to country.

Even though PMC is not the main form of crime compared to non-PMC, it is still a global problem targeting certain country- and history-specific minority groups. The under-reporting of such crimes is an issue that especially needs further exploration. Finding the barriers that deflect victims from reporting prejudice motivated crime is one step towards closing this apparent gap.

1.4 PMC – A Problem in Australia

Australia is a country of multiculturalism – and migration shifts in population can trigger hate crime. Members of a society fear losing elements of their own culture and national identity with the impact of globalisation and the ease of moving from one country to another. With this movement arrive immigrants, refugees and asylum seekers, who in turn introduce different cultures, languages, religions and customs. The public debate around immigration views newcomers as suspicious and focuses on fears around higher unemployment rates, substance abuse problems and violent crime involvement (Martinez Jr., 2006). Accordingly, these demographic shifts in population fuel social tension, prejudiced thinking and discrimination and so an influx of minority group members influences the occurrence of PMC incidents (Stacey, Carbone-López, & Rosenfeld, 2011). I will
discuss the historical context and contemporary issues involving PMC in Australia in the sections below.

1.4.1 Historical Context Concerning the Indigenous Population of Australia

Australia is a country of colonisation and immigration and has a history of racial hatred and racial vilification (Stobbs, 2008). In 1788, Britain colonised Australia. Tensions between the Indigenous population and the newcomers erupted and, by the mid-1880s, violence and imported diseases led to a decline of the mainland population from 300,000 to 60,000 people (Stobbs, 2008, p. 21). Although a devastating situation, the Indigenous population did not disappear but population numbers started to increase again (Stobbs, 2008). After the two World Wars, policies increased supporting assimilation of the Indigenous population (Hollinsworth, 2006; Stobbs, 2008). In the 1960s, the Australian government allowed the Indigenous population access to social security, the right to vote and the inclusion in the census data (Stobbs, 2008). In the mid to late 20th century, the Australian government removed Indigenous families and communities from their homelands and relocated different Indigenous cultures together in missions and settlements (Stobbs, 2008). The Australian government also removed children from their families and either placed them with white families or in dehumanising institutions (Australian Human Rights Commission [AHRC], 2012a; Stobbs, 2008). This practice continued well into the 1970s (Hollinsworth, 2006). According to Stobbs (2008), such policies, as well as a failure to meet human rights obligations, have led to continuing racial tensions between the Indigenous and non-Indigenous population. Racist victimisation of the Indigenous population is still visible today in the disparities in infant mortality, life expectancy, employment opportunity, imprisonment and health standard rates (AHRC, 2012a; Stobbs, 2008).

1.4.2 Australia’s Migration Patterns

Australia is not only a country with a history of colonisation but also a country of immigration. Patterns of immigration and the resulting combination of different cultures and ethnicities coincide with patterns and occurrences of racist victimisation (Stobbs, 2008). Historically, white immigrants from the United Kingdom have been the largest percentage of immigrants to Australia (Stobbs, 2008). This is also due to the White Australia Policy favouring English-speaking European

5 These children are also known as The Stolen Generation (Stobbs, 2008).
residents in the 1900s (Stobbs, 2008, p. 23) and excluding Asian and other non-White immigrants (Louis, Duck, Terry, & Lalonde, 2010). After World War II, labour shortages resulted in the admittance of immigrants of Jewish descent and of immigrants from Eastern European countries, coinciding with their racist victimisation in the mid-20th century, including inferior work conditions (Stobbs, 2008). In the 1970s, the White Australia Policy ended and in the 1980s refugees from the Vietnam War landed in Australia (Louis et al., 2010). The 1990s saw a large intake of skilled immigrants, as well as asylum seekers, coinciding with harsh policy measures and public condemnation (Louis et al., 2010). Between 1997 and 2007, migrants from Africa and Asia more prominently entered Australia (Makkai & Taylor, 2009). Historically, Australia has employed policies to secure its ethnic homogeneity. The majority of immigrants have arrived from the United Kingdom, New Zealand and Europe (Makkai & Taylor, 2009). However, immigration from those countries has declined and today Australia is one of the most multicultural societies globally (Stobbs, 2008).

In 2010-2011, immigrants from 185 countries entered Australia, with China providing the largest group of permanent migrants (AHRC, 2012a, p. 26). Other major sources of permanent migration to Australia, stem from the United Kingdom, India, the Philippines, South Africa, Malaysia, Vietnam, Sri Lanka, South Korea and Ireland (AHRC, 2012a). Unfortunately, with the migrant status comes the label of being associated with criminal activities (Makkai & Taylor, 2009). Compared to the general population, migrants have disproportionate numbers of people involved with the criminal justice system, which is influenced by biased media reporting (Makkai & Taylor, 2009), so that the label “migrant” has developed negative connotations. Consequently, such stereotyping and labelling can lead to racist victimisation of foreigners entering Australia.

1.4.3 The Make-up of the Australian population

The Indigenous population of Australia consists of Aboriginal and Torres Strait Islander people. They are Australia’s native population and the government counts them as Indigenous if they (1) are of Aboriginal and/or Torres Strait Islander descent, (2) identify as such and (3) are accepted as such by the community they reside in (AHRC, 2012a). The Aboriginal people of Australia use many different languages and consist of varying tribal groups (AHRC, 2012a). The Torres Strait Islander people have migrated from the Torres Strait Islands region to mainland Australia, some through forced removal, others in search of employment and education (AHRC, 2012a). In 2011, the Indigenous population represented 2.5% of Australia’s population (Australian Bureau of Statistics [ABS], 2013a).
Since Australia’s initial colonisation, many people from varying countries and nationalities have immigrated to Australia at different times and due to policy changes. Culture and language diversity in Australia is measured by ancestry, country of birth, birthplace of parents, religious affiliation and language spoken at home other than English (ABS, 2013a). In 2011, 53.7% of people, for example, indicated having both parents born in Australia, while 34.3% indicated both parents being born overseas (AHRC, 2012a). The top five responses to language spoken at home other than English (76.8% of people in Australia spoke only English at home) included Mandarin (1.6%), Italian (1.4%), Arabic (1.3%), Cantonese (1.2%) and Greek (1.2%) (AHRC, 2012a). Although Australians are proud of their social and ethnic diversity and regard themselves as tolerant, such diversity also creates tension, which can lead to racist victimisation (Stobbs, 2008).

1.4.4 Multicultural Australia and Racism

Australia is a country with a high level of ethnic diversity (Pedersen, Fozdar, & Kenny, 2012). It prides itself on cultural, religious and linguistic diversity (Bowen, 2011). In 1973, the term multiculturalism entered public debate challenging practices of assimilation (van Krieken, 2012). Multiculturalism embraces fairness and inclusion, as well as respect and support for diverse groups that want to make Australia their home (Bowen, 2011). Since 1945, Australia has admitted seven million immigrants into the country, and one in four people living in Australia today has been born overseas (Bowen, 2011). 260 different languages as well as 270 different ancestries are present in Australia’s multicultural society (Bowen, 2011). In such a diverse environment with the presence of multiple cultural and ethnic groups, occurrences of racism can be an issue.

Racism in the 20th century in Australia, as well as globally, has largely focused on otherness and outsider status, so-called xeno-racism, which is now the most common form of racism (Gershevitch, 2010, p. 230). Racism takes many forms, such as “stereotyping, name calling or insults, commentary in the media, speeches at public assemblies and abuse on the internet” (AHRC, 2012b, p. 3). In Australia, victims of racism include the Indigenous population and culturally and linguistically diverse communities (CALD), with Arab and Muslim Australians and African Australians being more prominent victims (AHRC, 2012b). Racism impacts not only the individual victims, but also the wider community, it undermines social cohesion and counteracts inclusion into the community (AHRC, 2012b).

Additionally, assessing racism is a difficult task (Hollinsworth, 2006). Although scholars use surveys to measure racism, problems involve unreliable responses and interpretations about self-evaluating racist attitudes (Hollinsworth, 2006). According to Walker (2001), racism is not only an
individual problem, but is also influenced by “social, structural, institutional, historical and cultural forces propelling the individual towards prejudice” (Walker, 2001, p. 42). Australia employs anti-discriminatory legislation, federally (Racial Discrimination Act 1975 [Cth] [Austl.] or RDA 1975), as well as through state and territory based anti-discrimination legislation (AHRC, 2012b). The majority of people in Australia recognise the problem of racism (see Dunn, Forrest, Burnley, & McDonald, 2004). Although racist violence exists in more obvious and extreme forms committed by authorities, the less obvious forms of racism have a more common occurrence, such as from extremist organisations, as well as marginalised individuals (Hollinsworth, 2006). Government structures and processes involve racial and ethnic groups unequally, such as the over-representation of Indigenous Australians in the criminal justice system (Hollinsworth, 2006). Unfortunately, it is often easier to recognise such racism in Australia’s past than in its present (Hollinsworth, 2006).

1.4.5 Australia’s Political Climate

In the mid-1990s, the One Nation party emerged with an agenda of anti-immigration and anti-Aboriginal policy (Gibson, McAllister, & Swenson, 2002). In 1998, the One Nation party, led by Pauline Hanson, accumulated almost one quarter of the state votes in Queensland taking the spot of the third largest party in chamber, as well as accruing one in ten votes nationally (Gibson et al., 2002). With this support, the One Nation party brought race and immigration back onto the political agenda (Gibson et al., 2002). Since then, the popularity of the One Nation party has declined due to internal divisions and the breaking off of competing independent groups (Louis et al., 2010).

In mid-2009, international students experienced racial attacks in Melbourne and Sydney (Dunn, Pelleri, & Maeder-Han, 2011). Unfortunately, authorities downplayed the issue (Dunn, Pelleri, et al., 2011) and political leaders and federal parliament denied the matter of racism concerning these cases, trying to save face overseas (Mason, 2012a). Federal politicians engaged in three discursive manoeuvres, ranging from avoidance, opposing rhetoric, to deflection (Mason, 2012a). Politicians publically refused to take up the topic of racism and condemn racist violence, instead creating positive images of multiculturalism and normalising the issue as everyday violence (Mason, 2012a). The Indian media, with the portrayal of Australia as being racist and in denial, highlighted that political denial can be just as harmful to the preservation of national face (Mason, 2012a). Students and sponsors voiced their concerns about the negative media coverage in India, while the government became concerned about a loss of AUS $18.6 billion in the international education export market, being the fourth highest export earner (Dunn, Pelleri, et al., 2011, p. 71). The Australian government since implemented the National Anti-Racism Strategy and Partnership to
create awareness of racism and its consequences, identify, promote and build preventative initiatives and empower communities and individuals (AHRC, 2012b).

In August 2001, the *Tampa* crisis renewed political interest in the topic of immigration (Gershevitch, 2010). The Norwegian tanker called “Tampa” rescued 433 asylum seekers originally from Afghanistan and Iraq who had been struggling to get across the Indian Ocean via boat trying to get to Christmas Island (Gershevitch, 2010). Australia did not send medical assistance, but threatened with sanctions of people smuggling if the Tampa did not return to Indonesia (Poynting & Mason, 2007). Shortly after that, 9/11 happened and since then asylum seekers have been portrayed as *sleeper terrorists* (Gershevitch, 2010, p. 240). The Prime Minister during that time, John Howard, used these events to create specific strategies on immigration issues (Gershevitch, 2010). The government, for example, has excised islands from the migration zone, toughened up on mandatory detention, created complex off-shore detention programs (the *Pacific Solution*) and has implemented certain policies, such as detainees paying for their detention after release, repatriation, as well as temporary protection visa schemes (Gershevitch, 2010). These drastic responses resulted in John Howard and his Liberal Party gaining the votes of the One Nation voting block (Gershevitch, 2010). Topics of immigration, refugees and asylum seekers have led to political discussion to gather party support and votes. Gershevitch (2010) levels the criticism that “[o]ther than the RDA, multicultural policy, and various laws and programs at the second tier of government, Australia lacks any other way of addressing the persistence of racism other than what could be described as moral suasion” (Gershevitch, 2010, p. 245). Responses to prejudice motivated crime start in the political sphere, which in turn transforms the social landscape (White, 2002).

### 1.4.6 Terrorism and Prejudice Motivated Crime

Terrorism and prejudice motivated crime are legally distinct, but also conceptually overlapping (Deloughery, King, & Asal, 2012). Similarities exist in their motivations, objectives and perpetrator characteristics (Deloughery et al., 2012). According to Hanes and Machin (2014), a link exists between terrorist acts and subsequent hate crime occurrences. Deloughery et al. (2012, p. 665) argue that terrorism is an *upward crime* (targeting individuals higher up on the social ladder), while PMC is a *downward crime* (often committed by the majority or powerful groups in society). Deloughery et al. (2012) find that PMC is not a precursor to future terrorism events; however, PMC often happens in response to such events, indicating retaliation. The study further finds that (a) many PMCs are reactionary, (b) minorities are at the highest risk after a terrorism event and (c) the backlash lasts only a short time (Deloughery et al., 2012). Hanes and Machin (2014, p. 251) argue
that evidence exists for a relatively short and intense shock period, peaking at around two to three months, though, still affecting people years later. Hanes and Machin (2014) estimate that hate crime attacks have still remained at a high six months after 9/11, and even one year after the terror attack in London in 2005 (7/7).

Studies in the United States, the United Kingdom and Australia have found that after the occurrence of a terrorist event, hate crime victimisation increases (see Akram & Johnson, 2002; Borell, 2015; Hanes & Machin, 2014; King & Sutton, 2013; Rubenstein, 2004; Sheridan & Gillett, 2005; Swahn et al., 2003). Targets include unprovoked attacks against individuals, mosques, Islamic centres and institutions (Burnett, 2013). Poynting and Mason (2007) argue that the transition from the Arab Other (or ‘Leb’) to Muslim Other was well under way before 9/11 (Poynting & Mason, 2007, p. 81), which moral panics in regards to ‘ethnic gang rape’ and ‘boat people’ before 9/11 exemplify. Unfortunately, terrorism events such as 9/11 create heightened social anxieties and prejudices and increase attacks on Australians of Arab and Muslim background (Goel, 2010; Poynting & Noble, 2004). Dunn, Klocker, and Salabay (2007) have found that the Australian population has a poor public perception of Islam and racism against the culturally Other is common in Australia. It is estimated, for example, that around 50% of people in Australia hold anti-Muslim sentiments (Veiszadeh, 2015, February). Although distinct from each other, racial and religious discrimination often co-occur, with perpetrators targeting not only Muslims, but also people of Middle Eastern or Arab decent and Sikhs, mistakenly identified as Muslims (Hanes & Machin, 2014).

Terrorist events (domestic, as well as international) can contribute to an environment that triggers incidents of prejudice motivated crime. People of Muslim and Middle Eastern background are often perceived as potential terrorists with a religion that is out to destroy the Western culture (Walters, 2006). The media is also a powerful instrument to communicate events of terrorism, as well as PMC, to the public. The media sensationalises and simplifies cultural and racial issues, influencing the public and voters who still oppose diversity in Australia (Gershevitch, 2010). Poynting and Noble (2004) note that the media is somehow shielded from state control; therefore, victims see the state not as a solution, but as part of the problem. The media has the ability to shape the nature of public debates, as well as the language used and the perceptions involved (Noble, 2008).

1.5 Introduction to Research Topic and Questions

Over the last twenty-five years, different jurisdictions in Australia have developed PMC legislation in varying ways, creating a complex set of laws to tackle prejudice motivated victimisation. Some jurisdictions in Australia have modelled PMC legislation on already existing bodies of legislation
[such as the modelling of US PMC legislation by the Northern Territory and Western Australia (Morgan, 2002)], while other jurisdictions introduced highly specific PMC legislation (such as the ‘hate’-based legislation of New South Wales). My thesis explores if differences in legislation and the context surrounding the various laws in Australia shape patterns in the reporting behaviour of victims. I explore factors that put people at risk of experiencing a crime or hate crime and potential barriers that most likely influence victims from refraining to report a crime to police. I hypothesise that there are a number of factors that influence variations across states and territories in Australia, particularly perceptions of the legitimacy of state institutions (police and government) as well as perceptions of the legitimacy of the law.

I will explore the link between different PMC legislative approaches in Australian jurisdictions and the decision to report PMC. I will investigate the risk factors for PMC victimisation and the phenomenon of barriers that emerge in the PMC reporting scope and address the following research questions:

**RQ1: Do differences in PMC legislation influence patterns of reporting PMC?**

- What are the different legislative approaches in each Australian state and territory?
- Are there differences in the definition, reporting and recording of prejudice motivated crime in each state and territory?
- Is there an association between the legal framework for dealing with PMC and the occurrence and patterns of reporting of PMC?

**RQ2: How do perceptions of police and government legitimacy influence the decision to report crime and/or PMC?**

- What are the differences between PMC victims, non-PMC victims and no-victims?
- What are the differences between reporting PMC and reporting crime?
- What individual characteristics and potential barriers influence the decision to report crime and/or PMC?

Although research in legislation tackling prejudice motivated victimisation has been on the agenda in the United States and Europe, the topic is scarce in the Australian context (see Jayasuriya, 2012; Mason, 2009; McNamara, 2002; Meagher, 2005, 2006). My thesis will try to fill part of this gap and explore the means of PMC legislation in Australia. According to Mason (2014a), an “[i]nvestigation into the development of law in this area is timely as domestic legislatures and
international agencies highlight the need for robust definitions and principled thresholds for the identification of hate crime” (p. 295).

1.6 Thesis Overview

This introduction has served as an overview of the broad topic of prejudice motivated crime. It has discussed issues concerning the definition of PMC; has given an overview of PMC victimisation in Australia, as well as the extent of the problem in the United States and in Europe; has discussed Australian issues concerning PMC, covering historical and contemporary issues; and has concluded with an introduction to the research topic and questions. I have divided my thesis into eight chapters. Chapter 2 presents the first part of my literature review discussing prejudice motivated crime legislation. After an overview of the history of PMC legislation globally and a comparison specifically to Australia, I will summarise the sociological and criminological commentary around PMC legislation globally and in Australia. I conclude this chapter in highlighting the issue of law legitimacy.

Chapter 3 provides the second part of my literature review illustrating PMC victimisation and the subject of victim reporting and policing PMC. I will first discuss theories around state power and victimisation, such as social-structural victimisation, cultural victimisation and institutional victimisation. I will then discuss how PMC legislation is setting the scene for police and how police respond to PMC victimisation, and move on to outline the issues surrounding the policing of PMC, including the barriers influencing police responses to PMC, the recording of PMC by police and the lack of collective hate crime statistics. Next follows a discussion around the victim’s decision to report crime generally and PMC particularly. Further, I will outline the normative perspective and instrumental perspective in relation to victim reporting behaviour and move into a discussion of the importance of legitimacy and minority groups’ trust in police and confidence in government and how these can influence reporting behaviour.

Chapter 4 presents the methodology of my thesis. My methods are qualitative and quantitative modes of inquiry. First, I describe my qualitative analysis of the most recently implemented PMC legislation in each state and territory and introduce the content analysis method and Leximancer as my content analysis tool. Second, I describe the quantitative use of the National Security and Preparedness Survey (2011-2012), the constructs created for the statistical analysis of my thesis and my proposed analytical method and proposed models.
Chapter 5 presents the results of the legislative analysis of state and territory PMC legislation in Australia. Firstly, I will introduce the legislative responses to PMC in Australia, including a conceptual and relational analysis of emerging themes and concepts in the maps created with the Leximancer software, as well as exploring jurisdictional differences and comparing and contrasting different legislative frameworks. Secondly, I will discuss the theoretical implications of different PMC laws and discuss the complexities involved regarding victims’ reporting behaviour. This chapter illustrates the differences and similarities between varying Australian jurisdictions in regards to PMC legislation. I will conclude this chapter with acknowledging the limitations of using Leximancer.

Chapter 6 presents the results of the first quantitative part of this thesis regarding the exploration of victimisation in the NSPS. I will first uncover the distribution of different victimisation groups (PMC victims, non-PMC victims, and no-victims) before comparing these three victim groups to each other using Multinomial Logit Regression. I will explore the influence of control and explanatory variables on the likelihood of respondents being in one victimisation group over the other, as well as explore the descriptive statistics of risk factors by victimisation group. Secondly, I will display differences in victimisation groups by state and territory and in regards to police, government and law legitimacy. Thirdly, I will show the descriptive statistics of property and violent crime by victimisation groups and, finally, conclude this chapter with acknowledging the limitations of my study 2.

Chapter 7 presents the second part of my quantitative analysis in this thesis and explores the reporting behaviour of PMC victims and non-PMC victims in the NSPS. Firstly, I will explore how many people report PMC compared to non-PMC and will use descriptive statistics to explore police, government and law legitimacy and property and violent crime reporting. Secondly, I will use Generalised Linear Latent and Mixed Models (Gllamm) to analyse which individual characteristics and potential barriers impact on the decision to report crime incidents to police. Thirdly, I will explore jurisdictional differences of crime reporting. Fourthly, I will discuss the association between the legislative contexts and the differences in reporting behaviour across different Australian states and territories. I will conclude this chapter with acknowledging the limitations of my study 3.

Finally, chapter 8 concludes with a discussion of the key contributions to the literature of this thesis and addressing the gap this thesis fills. I will discuss the influence of PMC legislation on reporting
behaviour and the politicisation of PMC legislation. I will further consider implications for policy and practice and provide recommendations for future research.
Chapter 2: Prejudice Motivated Crime Legislation

It is not for me to say what type of legislation is appropriate for individual jurisdictions, be it penalty enhancing, dedicated or civil, but legislation is an important part in any hate crime response strategy. (Steer, 2011, p. 11)

2.1 Introduction

Prejudice motivated crime is a long-standing phenomenon in history. The persecution of Jews in Germany and Native Americans in the United States, as well as atrocities in Rwanda and Bosnia are a few examples. During World War II and much of the post-war era, “[l]egally and politically speaking, racist violence was considered absolutely ordinary” (Bleich, 2007, p. 149). In contrast to the lengthy history of hate crime, PMC legislation is a fairly recent development. Countries have created hate crime legislation in order to condemn crime committed due to prejudice or bias against an individual or group of people, as well as deter offenders by identifying hate crimes and enhance punishment guidelines for PMC incidents (Spieldenner & Glenn, 2014). Federal and state laws differ globally in their protection of certain categories of victims, such as race, religion, ethnicity, sexual orientation, gender and disability (Gerstenfeld, 2011). As Bleich (2007, p. 149) states, racist violence is transformed from ordinary to extraordinary crime through targeted laws and policies.

In the first part of my literature review, I will introduce PMC legislation. Firstly, I will outline the history of PMC legislation in the United States including its monopoly on the term ‘hate crime’, followed by a short history of the beginnings of PMC legislation in Europe and Canada. Secondly, I will discuss the history of legislation addressing hate incidents in Australia, covering both federal approaches and state and territory based legislation, as well as punishment models used in Australian jurisdictions. Thirdly, I will briefly compare and contrast these legislative approaches with their United States, European and Canadian counterparts. Finally, I will move into the sociological and criminological commentary around PMC legislation, address issues specifically debated in Australia and conclude with a discussion about law legitimacy.

2.2 The United States as the Leader of PMC Legislation

In the late 1800s, i.e. preceding specific hate crime laws, the United States started out with federal statutes directed to protect the rights of African Americans and other minority groups (Gerstenfeld, 2013; Mason, 2014d). In 1977, the Nationalist Socialist Party of America (NSPA) planned a demonstration in Skokie, Illinois that was met with public outcry from the village, which contained
a large Jewish population and many Holocaust survivors (Gerstenfeld, 2011). The village of Skokie was able to enact orders prohibiting the permits necessary for the demonstration, but the NSPA successfully sued against such orders (Gerstenfeld, 2011). The demonstrations never took place but national attention on the controversy was inevitable (Gerstenfeld, 2011). The United States is frequently referred to as the leader in PMC policy approaches (Berard, 2010). Likewise, it was the first country to circulate terms such as ‘hate crime’ and ‘bias crime’ during the 1980s (Green, McFalls, & Smith, 2001).

The first legal responses to prejudice and bias date back to the early 20th century with statutes against racist organisations such as the Ku Klux Klan (Marshall & Farrell, 2008). Grattet and Jenness (2001), however, describe prejudice motivated crime “as an age-old problem approached with a new sense of urgency” (Grattet & Jenness, 2001, p. 668). Although debatable, depending on whether the Civil Rights Act is regarded as PMC legislation, the first state PMC statutes date back to 1981 (Marshall & Farrell, 2008; Shively, 2005). Grattet, Jenness, and Curry (1998) and Blazak (2011) date it back even further, naming California the first state to implement state level PMC legislation in 1978. As a response to the civil rights movement in the 1960s, as well as lobbying efforts in the 1970s, significant federal PMC legislation emerged in 1990 with the Hate Crime Statistics Act 1990 (US), followed in 1994 by the Hate Crime Sentencing Enhancement Act 1994 (US) (Dixon & Gadd, 2006). This inclusion on the legislative agenda was dictated by “radical social movements involving black people, peace activists, women, gays, lesbians and people with disabilities” (Dixon & Gadd, 2006, pp. 310-311).

Depending on each state, protected categories are based on race/ethnicity, religion, sexual orientation and gender, as well as other categories (Dixon & Gadd, 2006). By 1999, 41 US states

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6 The Anti-Defamation League of B’naï B’rith (ADL) paid close attention to such incidents and tracked anti-Semitic incidents as early as 1978 (Gerstenfeld, 2011). Due to an alarming rate in PMC incidents, the ADL together with similar organisations started lobbying and drafted model PMC statutes (Gerstenfeld, 2011).

7 In 1964, the United States government enacted the Civil Rights Act 1964 (US) prohibiting discrimination concerning race, colour, national origin, religion and gender, followed by the Fair Housing Act 1968 (US) (Blazak, 2011).

8 In 1981, Washington and Oregon first passed PMC statutes (Shively, 2005).

9 California passed the first PMC law on state level in 1978 including race, religion, colour and national origin as protected categories (Grattet et al., 1998). Washington and Oregon followed including ancestry as a protected category. Between 1981 and 1983, seven other states enacted PMC legislation. In 1982, Alaska included creed and gender while New York added disability and marital status to the list. Marital status is a unique category only recognized by New York, so far. The implementation of PMC legislation took off in 1987 when 18 states enacted such laws. (Wright, 2010).

10 Morgan (2002) tops this number by stating that 43 states (including the District of Columbia) had implemented hate crime statutes by early 1999 (Morgan, 2002).
had implemented some type of PMC legislation (Gan et al., 2011). In 2009, the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act 2009 (US)\textsuperscript{11} started protecting sexual orientation, gender, gender identity and disability in its civil rights provisions (Blazak, 2011). The past twenty years marked a rapid spread of legislative changes concerning PMC statutes in the United States and the U.S. government has also advanced and invested in data collection programs concerning law enforcement reports and self-reported victimisation, not in existence prior to 1991 (Marshall & Farrell, 2008). Additionally, legislative campaigns have successfully lobbied for innovative guidelines in sentencing PMC offenders and classifications for PMC, as well as the implementation of training policies for prosecutors and police officers and specialised law enforcement units (Grattet & Jenness, 2001).

The United States holds the leading role in contemporary policy approaches dealing with PMC (Berard, 2010). The U.S. has implemented four main categories of hate crime statutes, including institutional vandalism, sentence enhancements, substantive offenses and data collection (Gillis, 2013). Since 2010, the United States has laid claim to PMC legislation in federal government and almost all states throughout the nation (Berard, 2010). According to the Anti-Defamation League, violence and intimidation based on prejudice and bias receive criminal penalties in all but five states\textsuperscript{12}; albeit four of these five states at least criminalise institutional vandalism (Berard, 2010). The majority of United States jurisdictions have laws that either penalise hate crimes or increase civil liability (Lyons & Roberts, 2014). The origins of the term ‘hate crime’ are based in the United States; nevertheless, PMC is a worldwide phenomenon and different countries take on different approaches and implement varying bodies of legislation to fight crime involving prejudice and bias (Gerstenfeld, 2011, p. 11). I will discuss the history of PMC legislation in the United Kingdom, France, Italy, Germany and Canada, as just a few examples, below.

\section*{2.3 The Beginnings of PMC Legislation in Europe and Canada}

In the past two decades, encouraged by the United States legislation and politics, Western countries have explored battling racist violence with similar legislative approaches (Bleich, 2007). In the first half of the Twentieth century in Europe, discussions around hate crime legislation emerged in the context of international human rights treaties and domestic statutes set out to conquer victimisation

\textsuperscript{11} This law was named after the victims that were brutally attacked in an incident in 1998 (Blazak, 2011).
\textsuperscript{12} Arkansas, Georgia, Indiana, South Carolina, and Wyoming do not have PMC laws (Blazak, 2011).
and genocide of certain groups (Goodall, 2013; Mason, 2014d). Different countries have responded to social and political movements and have started implementing PMC legislation at varying times in history. In the United Kingdom (UK), PMC legislation first made an appearance with the 1965 Race Relations Act 1965 (UK) and the amendment of the Public Oder Act 1936 (UK) including racial hatred as an offence; however, the term ‘hate crime’ itself was not in circulation until the late 1990s (Dixon & Gadd, 2006; Wright, 2010). In the 1990s, a rise in numbers of racist incidents provided the impetus for further legislative approaches concerning hate crime (Iganski, 1999a).

During this period in the UK, the ‘New’ Labour government debated immigration policies, race relation and community cohesion and worked towards sentencing enhancements for racially aggravated offenses (Dixon & Gadd, 2006). The UK government has introduced a number of legislative statutes, which the police and courts can utilise to aggravate a racially and/or religiously motivated offence, including assault (with and without injury), harassment, public fear, alarm or distress and criminal damage (Home Office et al., 2013, p. 50). After incidents of racist violence, as well as issues around the legitimacy of the police in the 1980s, the police changed their counting and categorising system of racist incidents, started collaborating with other public organisations, spent more resources on dealing with racism and created the Racial and Violent Crime Task Force (Bleich, 2007).

The Association of Police Officers has also established a hate crime manual comprised of 127 pages and changes have been made concerning UK courts (Bleich, 2007). In 1998, after the Macpherson Report, an inquiry that followed the Steven Lawrence incident, the Crime and Disorder Act 1998 (UK) was enacted, this being the first comprehensive legislation in the UK condemning racially motivated crime (Gerstenfeld, 2011). This Act created nine new offences concerning racial aggravation and increased penalties for racist aggravated crime (Bleich, 2007). This Act also required police and other administrative bodies to support preventative measures and equality (Bannenberg, 2003). At the time of the creation of this legislation, race and religion had protected categories; however, the inclusion of sexual orientation and disability had not been protected until recently (Gerstenfeld, 2011). Since 2002, hate crimes have been clearly defined for English police

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13 Bleich (2007) names housing agencies and voluntary organizations as examples of such organizations.
14 Next to more vigorous data collection, the police force in the United Kingdom started follow-ups with victims of prejudice motivated crimes and issued public policy statements (Bleich, 2007).
15 The Racial and Violent Crime Task Force was later renamed Diversity Directorate employing around 200 police officers and dealing with racist and domestic violence (Bleich, 2007).
16 Stephen Lawrence was a black teenager murdered by white teenagers in 1993. The police failed to convict the murderers, in spite of knowing their identities (Bleich, 2007).
and collected through the National Crime Recording Standard (NCRS), which simplifies the recording, quantifying and studying of hate crime occurrences (Hanes & Machin, 2014).

As far as Europe is concerned, the UK has had an early start on PMC legislation, while France and Italy have followed later (Bleich, 2011). Italy had no PMC provisions until 1993 and did not use antidiscrimination penalties until 1998; however, so far, such penalties have rarely been enforced (Bleich, 2011). In a report, the European Commission against Racism and Intolerance [ECRI] (2006) strongly advised Italy’s authorities to make use of the implemented criminal and civil sanctions when dealing with hate crime and to create an awareness of such provisions in all criminal justice bodies, the public and vulnerable groups. France implemented comprehensive racial discrimination legislation in the 1970s and started paying full attention to the issue in the early 2000s (Bleich, 2011). France implemented legislation concerning racism and sexism in 1972 and 1975 (Bannenberg, 2003). Since 1972, France has had a law in place that prohibits incitement to racial hatred and racial discrimination and enables the banning of racist groups (Bleich, 2007). Since 1994, France has added sections to the existing legislation prohibiting discrimination on the basis of descent, gender, family circumstances, health, disability and political opinion etc. (Bannenberg, 2003). After international media covered the French government’s failure to deal with a surge in attacks on the Jewish community, France started addressing the issue of anti-Semitism and racism in 2002 – significantly, an election year (Bleich, 2007). France amended its criminal code in 2003 making racist motives an aggravating factor in sentencing (Human Rights First, 2007). This law protected hate crime victims based on ethnic group, nation, race and religion, until in the same year, France extended the protection to victimisation based on sexual orientation (Human Rights First, 2007).

While the UK has put more effort into reforming the police and the following judicial process, France has highlighted high-profile symbolic actions and has reformed educational policies (Bleich, 2007). France has implemented strategies to limit racial attacks, supplying increased security measures for “sensitive sights” (Bleich, 2007, p. 158), better data collection and more rigorous investigations into racist attacks (Bleich, 2007). Critics have labelled France’s approach, the Lellouche Law 2003 (FR) implemented in 2003, more symbolic than effective, as it resulted in the prosecution of only a handful of cases, but no convictions in its first year (Bleich, 2007). On the other hand, France has funded school programs educating pupils on the issue of tolerance, created a Holocaust memorial day and overall dealt with racism in a more symbolic and socialising way (Bleich, 2007).
In Germany, racial attacks heightened after the reunification in the early 1990s (Bannenberg, 2003), stirring increased pressure on Germany to act against racist incidents (Bleich, 2007). Abrupt changes in immigrant settlement policy has led to a surge in hate crime incidents (Krueger & Pischke, 1997). Like the UK, but on a lower scale, Germany has strengthened its policing and prosecution approaches, as well as its data collection strategies and the establishment of ‘hate crime units’ in some German states (Bleich, 2007). Germany has also tried combating racist violence on another level, targeting potential offenders and supporting victims of such crimes. Although Germany launched the Action Program Against Aggression and Violence (AgAG)\(^\text{17}\) in 1992, this approach has sparked much debate about being too sympathetic towards offenders (Bleich, 2007). In 2001, moving away from the former approach, the German government spent 200 million Euros on funding civil society programs building a culture of tolerance and supporting victims more thoroughly (Bleich, 2007).

Surprisingly, Germany has had a slow introduction to PMC legislation (Bleich, 2011). It is one of the last European countries to have implemented such laws and did not do so until after the European Union-imposed deadline of 2003 (Bleich, 2011). Germany’s explanation for this late introduction has comprised provisions in the German Constitution already prohibiting unequal treatment by race, and the prospect of other statutes being applied to discriminatory offenses (Bleich, 2011). Finally, in 2006, the government established the General Equal Treatment Law 2006 (DE) (Allgemeines Gleichbehandlungsgesetz, or AGG) making discrimination in employment, housing and trading unlawful, protecting categories such as race, ethnic origin, religion, ideological belief, gender, disability, age, and sexual identity (Bleich, 2011; ECRI, 2009).

Germany classifies PMC offenses as politically motivated, anti-Semitic and xenophobic, rather than calling them “hate crime”, a term that was not applied until 2001 (Gerstenfeld, 2011). According to Bannenberg (2003, p. 25), the German Criminal Code does not utilise the term ‘Hasskriminalität’ (hate crime); however, the motive of hate is still punishable. Germany has no penalty enhancements for PMC, per se; however, hate motivation can be an aggravating factor in sentencing (Gerstenfeld, 2011). In 2006, Germany strengthened its criminal code concerning neo-Nazi groups and the expression of racist views, that legislation consequently leading to a decline in public gatherings

\(^{17}\) Targeted potential offenders were mostly youths in East Germany, who had less hope for employment opportunities and were easy targets for right-wing organizations. The idea was to fund youth centres and organize sporting events and trips, as well as organise discussions about future employment. The program ran until the end of 1996 (Bleich, 2007).
and demonstration of neo-Nazi groups (ECRI, 2009). Additionally, Germany has some discrete offenses concerning prejudice and bias, such as “incitements to racial or ethnic violence; arousal of hatred; Holocaust denial; and production, distribution, or display of Nazi symbols” (Gerstenfeld, 2011, p. 252); as well as the banning of political parties. Furthermore, in 1994, Germany established anti-extremist police units and even today, the German educational curriculum includes compulsory education on World War II and the Holocaust (Gerstenfeld, 2011).

Returning to the North American continent, Canada implemented anti-discriminatory legislation in the 1970s, creating a law to restrict hate propaganda (Gerstenfeld, 2011). However, there is controversy about whether this law is set too broadly or too narrowly, and although the use of penalty enhancement under the discretion of the judges is permitted, prosecutions under the law are a rare occasion (Gerstenfeld, 2011). Sentencing enhancements are the primary means by which hate crime cases are legislated in Canada (Janheovich, 2001). In Canada, racism is treated as an opinion or belief; however, the human rights legislation (see Canadian Human Rights Act 1985 ss. 12–13) prohibits racist behaviour and statutes under the criminal law forbid incitement to genocide or hatred (see Criminal Code 1985 ss. 318–320.1) (Wemmers, Lafontaine, & Viau, 2008). According to Janheovich (2001), Canada lacks a centralised system for the recording of PMC by police.

PMC legislation in varying countries and different states in these countries differs in the protection of categories, the use of the civil or criminal code and, as well, the punishment outcomes for convicted offenders. Depending on the context of each country and targeted victim groups, different approaches are necessary. Governments use hate crime legislation “as an instrument of deterrence or retribution but also as a venue and medium for expressing social values through condemnation” (Berard, 2010, p. 17). One of the concerns regarding PMC legislation is the difficulty of demonstrating the motivation of bias or prejudice behind the crime. PMC offenders can receive harsher penalties for the same crime committed by another offender, where proof of motivation concerning prejudice or bias against a protected category is absent (Dharmapala, Garoupa, & McAdams Richard, 2009). After the U.S. government had implemented PMC legislation in around 1980, the recording of ‘official’ hate crimes started (Gerstenfeld, 2011). The U.S. is, therefore, considered the forerunner of PMC legislative attempts and a model of comprehensiveness and other countries including Australia have followed suit.

2.4 The History of PMC Legislation in Australia

Australia, like the United States, has introduced legislation addressing hatred and vilification partly in response to social movements from historically oppressed groups which lobbied against
discrimination and lack of equality (Mason & Dyer, 2013). Compared to the U.S., which had a rapid spread of legislative changes concerning PMC statutes between 1981 and 2004 (Marshall & Farrell, 2008; Shively, 2005), Australia had a very slow introduction to dealing with hate incidents through legislation. Even though cultural, linguistic and legal ties to the UK exist, Australian states and territories have developed their own legal frameworks for dealing with prejudice and bias (Gerstenfeld, 2011). At state level, the first legislative statute dates back to the 1960s in South Australia with the *Prohibition of Discrimination Act 1966* (SA) (Jayasuriya, 2012). This Act prohibits discrimination against individuals on the base of race or colour. The first federal legislative attempt to make discrimination unlawful – and therefore considered landmark legislation – has been the *Racial Discrimination Act 1975* (Cth) (RDA 1975) (Jayasuriya, 2012). The *RDA 1975* did not cover the regulation of racial vilification until the amended *Racial Hatred Act 1995* (Cth) (McNamara, 2002).

Differences between anti-discrimination legislation and prejudice motivated crime legislation exist, in that the former acts against discriminatory behaviour not necessarily involving crime, while the latter is a crime committed with racist or prejudiced intent. Although racial discrimination has been on the legislative agenda for twenty years, Australia had no national racial vilification legislation until the *Racial Hatred Act 1995* (Cth) (McNamara, 2002). I will outline an historic account of attempts at federal legislation addressing hate and vilification in Australia and provide an overview of legislative enactments in each Australian state and territory.

### 2.4.1 Federal PMC Legislation in Australia

In 1975, the Commonwealth enacted the *Federal Racial Anti-Discrimination Act 1975* (Cth) (Austl.) (also referred to as the *Racial Discrimination Act 1975* [Cth] [Austl.]) making public racist behaviour unlawful, excluding art work and academic pieces (Gerstenfeld, 2011) and using it to strike down legislation in Australia’s High Court (Stobbs, 2008). The RDA 1975 was the first federal anti-discrimination legislation (Raper & Ronalds, 2012) and forbids “any distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin” (Wright, 2010, p. 15). The implementation of this landmark legislation came at a time when public awareness of racism and concern about discriminatory legislation in Australia peaked (Jayasuriya, 2012). The government had only just granted Indigenous Australians full citizenship rights in 1967 and demonstrations against apartheid displayed public consciousness around issues of racism (Jayasuriya, 2012). The RDA is binding to all Australian jurisdictions, and in turn, states and
territories have had to oblige and conform to subsequent state laws according to RDA requirements (Jayasuriya, 2012).

After the ‘Great Immigration Debate’ of 1983 and concerns regarding racist media statements projected towards Asians in the late 1980s and further public awareness18, talks about amending the original RDA emerged (Jayasuriya, 2012, p. 64). Debates regarding strategies against racism and bias, especially concerning the Indigenous population, Jews and Asian immigrants, developed (Jayasuriya, 2012). It was not until 1992 – and due to international and domestic pressure – that Australia proposed an amendment to the RDA, the so-called Racial Discrimination Amendment Bill 1992 (Cth) (Austl.) (RDA 1992) (Jayasuriya, 2012). This Bill removed restrictions concerning free speech and expression and implemented statutory offences (Jayasuriya, 2012). Due to the dissolution of parliament, the amendment failed, so that in 1994 the government introduced the Racial Hatred Bill 1994 (Cth) (Austl.) (RDA 1994) (Jayasuriya, 2012). It included the censure of racist statements or propaganda, as well as threats to property (Jayasuriya, 2012). Unlike the RDA 1992 and 1994, the following RDA 1995 has no criminal sanctions (Jayasuriya, 2012). It specifies a public act offending, insulting, humiliating or intimidating a person or group on the basis of their race, colour, ethnicity or nationality as unlawful (Jayasuriya, 2012). Australia has no federal PMC legislation to date, failing to act due to matters of rights to freedom of speech and expression (Gerstenfeld, 2011; Jayasuriya, 2012; Wright, 2010). Although racist vilification is considered unlawful under federal legislation, it is not part of the criminal code (Jayasuriya, 2012).

2.4.2 Overview of the Australian State and Territory Legislation

Two waves of reform mark the introduction of legislation dealing with hatred in Australia. The first wave started in the late 1980s with the introduction of criminal offences of serious vilification based within anti-discrimination legislation in all states and territories but Tasmania and the Northern Territory (Mason & Dyer, 2013). The second wave started in the early 2000s by amending existing sentencing laws with aggravating sentencing provisions (Mason & Dyer, 2013). All states and territories in Australia now have legislation condemning discriminatory behaviour concerning matters of employment, accommodation and housing, etc. (Stobbs, 2008). These bodies of legislation are thought to be moderately successful concerning high profile or straight-forward

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18 Reports by the HREOC, the National Inquiry into racist Violence (1991) and the Royal Commission into Aboriginal Deaths in Custody (1991), as well as the Australian Law Reform Commission’s reference on Multiculturalism and the Law (1992) brought racial vilification back on the legislative agenda (McNamara, 2002).
cases, but are less effective relating to everyday circumstances, systemic discrimination and institutional or government policies discriminating against certain groups of people (Stobbs, 2008). Since 2006, all Australian states and territories have implemented various laws condemning hatred. Such legislation displays intolerance for PMC and draws attention to civil or criminal punishment in regards to PMC (Meagher, 2005). New South Wales, for example, was the first state to enact PMC legislation in 1989 (McNamara, 2002). Within seven years, Western Australia, the Australian Capital Territory, South Australia and the Commonwealth, as well as Queensland and Victoria in 2001 (McNamara, 2002), and the Northern Territory in 2006 (Mason, 2009) implemented varying legislative approaches dealing with hatred.

After social movements, public outcry over racism or campaigns of white supremacy groups, many Australian states and territories have had discussions of racial vilification legislation under way. Differences exist in the protection of categories, as although different Acts of Australian states and territories assume religion in their definition of race, not all states and territories specify religion or religious belief as a protected category by itself (Jayasuriya, 2012). Only Queensland, Tasmania and Victoria have identified religion as a protected category in their legislative attempts to battle discrimination (McNamara, 2007). Not only the issue of protected categories, but also the processes and procedures behind making use of such legislation are difficult and time-consuming.

The process of lodging a complaint with the Anti-Discrimination Board in each state is a cumbersome procedure, and so far jurisdictions have had little success concerning criminal prosecutions, compared to the relatively successful civil provisions (Gerstenfeld, 2011). This procedure starts out with the lodgement of a complaint followed by an investigation, a possible conciliation and, if unavoidable, a hearing (McNamara, 2007). This complaint-based approach and the long process of getting from victims reporting a crime to the prosecution of the offender may have implications for victims’ reporting behaviour. Victims that have reported PMC and have not received the desired outcome may decide against reporting the next time they are victimised. Also, if too much time elapses before a verdict decision, the victim may feel abandoned by the legislative process and may decide against reporting such crime in the future. These experiences can influence trust in government and law enforcement. PMC legislation is also less effective battling institutional

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19 There is an ongoing debate about the number of refugees and asylum seekers entering Australia. In its so-called ‘Pacific Solution’, Australia removed certain regions – Christmas Island and the Ashmore Reef Islands – from the migration zone to hinder individuals from seeking asylum (Stobbs, 2008, p. 34). These individuals, who are unable to access consular offices in their own countries, are labelled ‘queue jumpers’ (Stobbs, 2008, p. 34).
or government policies, for example in regards to the treatment of refugees and asylum seekers (Stobbs, 2008). PMC offenders have only rarely been prosecuted criminally and, although a tedious procedure, victims seem to prefer lodging complaints with HREOC.

### 2.4.3 PMC Punishment Models in Australia

Since the 1980s, Australia, along with many other Western countries, moved towards a *tough on crime* approach, departing from rehabilitation, welfare and humanitarianism and adopting more punitive, retributive and *law and order* measures (Mason, 2009, p. 1). According to Mason (2009), “it is difficult to accurately categorise the diverse and sometimes idiosyncratic legislative provisions that have been introduced under the umbrella of hate crime” (Mason, 2009, p. 5). Mason (2009), however, was able to identify three broad penal models applied to hate crime internationally, counting the penalty enhancement model, the sentence aggravation model and the substantive offence model.

First, the most common model for dealing with prejudice motivated crime is the penalty enhancement model, where offenders receive an additional maximum or minimum sentence on top of the charges for the already established offence (Mason, 2009). Since 2004, Western Australia is the only jurisdiction in Australia using this penalty enhancement model (Mason, 2009). Second, the sentence aggravation model allows for more judicial discretion, keeping the prejudice or bias motive in mind (Mason, 2009, 2014d). Since 2003, New South Wales implemented the sentence aggravation model under the *Crimes (Sentencing Procedure) Act 1999* (NSW) (Austl.), the Northern Territory introduced this procedure in 2006 (Mason, 2009) and Victoria also has utilised this penal model since 2009 (Mason, 2014d; Mason & Dyer, 2013). Finally, the substantive offence model allows for elevation of a civil offence to a criminal offence for serious vilification under discrimination laws (Mason, 2009). In Australia, New South Wales, Victoria, Queensland, South Australia and the Australian Capital Territory apply such provisions (Mason, 2009). Due to provisions being situated in the anti-discrimination legislation and the police not investigating claims but referring them to the Anti-Discrimination Board, no conviction or prosecution for serious vilification has taken place in Australia (Mason, 2009). Internationally, Great Britain, the United States and Canada criminalise prejudice motivated crime (Mason, 2009).

### 2.4.4 Australian PMC Legislation in Comparison and Contrast to Global Approaches

The U.S., Canada, the UK, Germany and Australia have all experienced high rates of immigration followed by increased diversity, as well as concerns about right-wing extremism and PMC
occurrences (Gerstenfeld, 2011). All countries named above have acknowledged the problem of PMC in recent years, but have done so in different ways. Gerstenfeld (2011) deems it surprising that although the patterns of bias and prejudice are similar, countries have different approaches in dealing with the issue of PMC. Although PMC targets can vary in different countries, the similarities of underlying causes of prejudice and bias remain (Gerstenfeld, 2011). According to Chongatera (2013, p. 45), “cycles of economic patterns, population flows, and changes in the political environment” can cause hate crime incidents. The offender profile – “young men, often working class, often acting in small groups, but not necessarily affiliated with organized hate” (Gerstenfeld, 2011, p. 265) – is similar in all five countries. According to Mason (2014d), Australia’s hate crime legislation is fairly new and less comprehensive than its US, UK and Canadian counterparts.

The U.S. uses penalty enhancement laws more prominently to deal with the hate crime problem and, in addition, protects more categories under its laws, while other countries have originally protected race and nationality and sometimes religion (Gerstenfeld, 2011). Many countries had caught up by the late 2000s and have implemented legislation protecting additional categories, but none of them are as broad as the U.S. laws (Gerstenfeld, 2011). Not until recently did other countries include sexual orientation as a protected category, nor were gender, age and disability addressed in hate crime legislation (Gerstenfeld, 2011). While answering the question of why countries differ in regards to protecting other categories, Gerstenfeld (2011) suspects less tolerant attitudes toward homosexuality or less politically active groups in these countries. Like the U.S., Canada also uses penalty enhancers, but operates on federal law rather than state legislation, resulting in different jurisdictions using the same legislative approach (Gerstenfeld, 2011). Additionally, Canada implemented hate speech laws, which are considered unconstitutional in the U.S., and unlike the U.S., Canada has no legislation requiring PMC data collection (Gerstenfeld, 2011).

Unlike Australia and the UK, the U.S. and Canadian constitutions promise the right of freedom of expression, which often provides a problematic hurdle when it comes to drafting hate crime legislation (Jayasuriya, 2012). Australia also implies freedom of speech in its constitution, but that freedom is more narrowly limited to political freedom of speech (Jayasuriya, 2012). Unlike North America, Germany has not implemented explicit PMC legislation with punishment enhancers, but draws on other statutes addressing hate issues (Albrecht, 2008). The British approach is closer to the U.S. tactic, but like Germany, the British system fights PMC federally, thereby contributing to a uniform method throughout the country (Gerstenfeld, 2011). The UK also has a broader definition
of hate crime than the United States (Gerstenfeld, 2011). Furthermore, in the UK, the victim or witness defines the motivation of bias or prejudice, while in the U.S. this falls under the police officer’s discretion (Gerstenfeld, 2011). As one of the earliest European countries to implement anti-racist legislation, France has passed this legislation with very little controversy and has adopted it unanimously (Body-Gendrot, 2008). France did not deal with the source of racist violence until the early 2000s, compared with the UK in the early 1980s and Germany in the early 1990s (Body-Gendrot, 2008).

Compared with the U.S. and the UK, Australia has limited and rarely enforced PMC legislation on federal and state levels, and additionally misses a comprehensive data collection approach (Gerstenfeld, 2011). Like the UK’s Macpherson Report, Australia has also had the National Inquiry Into Racist Violence20, suggesting that action should be taken concerning PMC (Gerstenfeld, 2011). Australia, however, has seemed more reluctant to implement the resulting recommendations (Gerstenfeld, 2011). Gerstenfeld (2011) suggests that politics, indifference or other factors may be the reasons behind this decision.

The three broad penal models dealing with hate crime are also found internationally. Like Great Britain and the majority of the U.S., Western Australia utilises the penalty enhancement model; while New South Wales and the Northern Territory follow the sentence aggravation model also used in New Zealand, Canada and Great Britain (Mason, 2009). Most countries have at least studied the issue of PMC, but the recommendations suggested in such studies are barely enforced (Gerstenfeld, 2011). So far, the UK takes the lead in using the broadest definition of hate crime and has the most comprehensive PMC legislation utilising the criminal law in battling prejudice and bias (Gerstenfeld, 2011). Evaluations of government approaches to prejudice and bias are scarce; therefore, it is unclear which approach is preferable and what variables are effective (Gerstenfeld, 2011).

2.5 The Sociological and Criminological Commentary around PMC Legislation

Several social movements have helped to put the prejudice motivated crime discourse on the political and legislative agenda. Jenness (2007) names the following examples applicable to the United States:

20 Due to an increase in incidents of racially motivated violence, the HREOC initiated the National Inquiry into Racist Violence, which was published in 1991 (HREOC, 1991).
The modern civil rights movement politicized violence against racial minorities, including lynching and police brutality against blacks; the women’s movement politicized violence against women, such as rape and domestic violence; the gay and lesbian movement politicized violence against homosexuals, especially gay bashing; and the disabilities movement politicized violence against persons with disabilities, including mercy killings against those deemed unfit to live meaningful lives. (Jenness, 2007, p. 144)

These social movements have laid the foundation for anti-violence movements and have united the social movements named above to one single movement, the so-called anti-hate crime movement (Jenness, 2001; Jenness & Grattet, 2001). After this movement received public attention, the struggle to create policy or legal responses was under way (Grattet & Jenness, 2001). According to Jenness and Grattet (2001), social movements and interest group politics are followed by legislation and policy-making, courts and statutory interpretation and necessary law enforcement action.

Many debates around the use of hate crime legislation exist. As Jenness (2001) acknowledges, “a recently invented and institutionalized phenomenon – such as hate crime – is particularly vulnerable to debate insofar as its content and structure is, to a greater degree, unsettled” (Jenness, 2001, p. 288). The following account will lay out arguments pro and contra PMC legislation addressed in the standing criminological and sociological literature around the nature of legislation. Topics covered below include arguments concerning PMC being a more serious offense than other crimes; issues related to proving motivation and thought crime; the criminalisation of prejudice motivated crime; the symbolic character of PMC; the use of more severe punishments for PMC; the use of criminal code vs. civil code; issues concerning protected categories under PMC legislation; and the social and political impact of PMC legislation.

2.5.1 PMC vs. Non-PMC

The literature around PMC legislation incorporates arguments that prejudice motivated crimes are more serious offenses than non-PMCs. Lawrence (1999) states that PMC has a more violent nature in that it firstly involves more physical assaults and secondly implicates serious physical injuries to victims. Blazak (2011) also argues that PMC is more violent because the offenders are trying to send a message. McDevitt, Balboni, Garcia, and Gu (2001) suggest that PMC is often brutal and involves mutilation. According to Shively, McDevitt, Cronin, and Balboni (2001), the literature names vandalism, assault, assault and battery, theft, sexual assault/harassment or other forms of harassment as the most common hate crimes. Furthermore, prejudice motivated crimes have a
greater psychological impact and extend harm towards the victim’s associated group (Blazak, 2011; Gan et al., 2011; Lawrence, 1999; Perry & Alvi, 2012). A study conducted in England and Wales has found that when compared with non-PMC victims, hate crime victims are twice as likely to experience a loss in confidence, feelings of vulnerability, fear, difficulties sleeping, anxiety or panic attacks after PMC victimisation (Home Office et al., 2013). Compared with non-PMC, PMC is committed more often by a group of people instead of an individual alone (Lawrence, 1999).

Gan et al. (2011) differentiate between PMC and non-PMC by pointing out that potential targets might hide their identities to avoid being victimised, which can be difficult with certain characteristics such as skin colour (see also Lawrence, 1999). Compared with PMC, non-PMC also has more potential targets (Gan et al., 2011). Mason (2014d) identifies three levels of harm to be considered, which include the individual victim, the targeted group and the community as a whole. Al-Hakim (2010) adds a fourth broad form of harm invoked by PMC, listing the “impact on the individual, impact on the targeted group, impact on other vulnerable groups, and impact on the community as a whole” (p. 356). Perry and Alvi (2012) examine the behavioural and emotional patterns of the proximal victims compared with the distal victims and conclude that there are strikingly similar reactions, as well as a change in social interaction in both groups. Lawrence (1999) argues that PMC is more harmful to society than similar crimes without the presence of a hate or bias factor and, therefore, legislation condemning hate crime is necessary. Mason and Dyer (2013) agree that PMC has a harmful impact on individuals, groups and society and that offenders have heightened blameworthiness.

On differences between offenders of PMC and non-PMC, Woods (2008) argues that opportunistic hate crime has greater advantages for the offender, such as the possibility of victims not reporting the crime to police. Social isolation and discrimination hinder PMC victims from coming forward and reporting such crimes (Woods, 2008). Woods (2008) iterates examples such as a homosexual individual deciding against reporting PMC to the police for concerns of involuntarily outing himself/herself, individuals with a disability being seen as incompetent witnesses, or cultural stereotypes that certain groups might be less capable of defending themselves. Perpetrators profit unfairly from the exploitation of the perceived disadvantaged position certain groups are in, due to an unjust economic and social isolation and discrimination (Woods, 2008). Governments should,
therefore, include opportunistic PMC, not just prototypical hate crime, in PMC legislative approaches (Woods, 2008). Lieberman (2010) also claims that there is a difference between criminal PMC and other criminal conduct, due to PMC not occurring without bias against a distinct group identity. These scholars argue for the necessity of PMC legislation in terms of being substantially different than non-PMCs.

On the other hand, scholars have put forward arguments why PMC is not so different from any other crime. Jacobs (1993) contends that crimes such as murder, rape, kidnapping and arson already have a devastating character and that it does not make a difference if the perpetrator is motivated by bias or prejudice. Opponents of PMC legislation debate whether every crime cannot perhaps be considered a ‘hate crime’ (Blazak, 2011). Blazak (2011) rejects this idea by stating that according to crime data, crimes can have numerous motives and are usually not a matter of love or hate, but that money is the primary motivation for crime. Not every crime is therefore a PMC. In another attempt to level PMC with non-PMC, Al-Hakim and Dimock (2012) reject the idea of PMC being more violent and argue that there is no empirical evidence for such an assertion. Al-Hakim and Dimock (2012) point out that if courts desire to punish the additional harm, they should do so directly and not indirectly through the hate-factor. Furthermore, PMC is not the only crime that impacts third parties and therefore does not justify unique treatment before the law (Al-Hakim & Dimock, 2012).

Scholars argue that PMC legislation can be counterproductive in that it harms minority groups (Gerstenfeld, 2011). Policy makers might get too comfortable having addressed PMC in their legislation, but might overlook prejudice in more pressing issues, such as employment, education and housing (Gerstenfeld, 2011). PMC legislation can cause the resentment of minorities, in that members of society might misunderstand legislation and consider ethnic minorities as receiving special treatment (Gerstenfeld, 2011). The government already has a history of encouraging bias, and minority groups are not only disproportionately likely to be victims of PMC, but also to be perpetrators (Gerstenfeld, 2011). PMC legislation might also increase prejudice, concerning the offender blaming the victim and the victim’s group for the consequences (Gerstenfeld, 2011).

\[21\] Opportunistic PMC differs from prototypical PMC in that it is not motivated by the ‘hate’ aspect towards a certain group, but the intentional selection of vulnerable groups “for personal gain, such as easy money or the respect of their friends” (Woods, 2008).

\[22\] According to Woods (2008) prototypical PMC “is an act of violence where a perpetrator targets a victim because of animus towards the victim’s group membership, usually defined by age, disability, ethnicity, gender, gender identity, nationality, race, religion or sexual orientation” (Woods, 2008, p. 491).

\[23\] See Harel and Parchomovsky (1999) for more information.
Moreover, a racist offender, being sentenced to a prison term, may not cease to be racist, due to prison being one of the most racist institutions in society (Gerstenfeld, 2011; Perry, 2010a). Instead, Perry (2010a) recommends valuable alternatives to prison sentences, such as educational programs and counselling for offenders, as well as victim-offender mediation.

2.5.2 Proving Motivation, Thought Crimes, or Punishing ‘Hate’

Hate crimes incorporate the full range of criminal behaviour; however, the offender’s motivation about a victim’s sociocultural characteristics distinguishes hate crime from non-PMC (Chongatera, 2013; Shively et al., 2001). Another debate concerning PMC legislation is, therefore, the need to prove prejudice motives. The first issue as to this debate is that ‘why’ an offender committed a crime is difficult to prove (Gerstenfeld, 2011). Unlike more straight-forward property crimes, for example, where racial messages are spray-painted on a building, the intent by assaults on minority groups without racial slurs are more difficult to verify (Blazak, 2011). Franklin (2002) argues that proving prejudice or bias as a motive is inherently difficult, leaving it to police, prosecutors, judges and jurors to decide if prejudice and bias were involved. The conflict is if and how well the law can assess motivation, and if it is the appropriate tool to do so (Berard, 2010). Robertson (2012) argues that proving motivation is difficult because it is “a narrow evidentiary category” (p. 461) and courts can only assume the offender’s reasons for hostility. Jacobs (1993) also acknowledges that motivation is hard to prove because prejudice needs a precise definition.

In contrast, Sullaway (2004) assumes no problems exist with the proof of motivation, suggesting that perpetrators might pursue future goals, such as sending messages to certain groups or discouraging immigration, rather than just expressing some form of emotion, therefore satisfying the provision of intent (Sullaway, 2004). Additionally, because the bias factor, not the harm to the individual, is the critical determinant of guilt, the cognitive process of deliberately choosing a victim by group membership can already be powerful evidence of racial animus (Lawrence, 1999; Sullaway, 2004). While analysing all Australian cases considering aggravation provisions, Mason and Dyer (2013) found that courts rely on evidence of group hostility and the absence of an ulterior motive when making judgments about prejudice motives.

Another issue concerning PMC legislation is the query of punishing thoughts. Opponents of PMC legislation argue that PMCs are thought crimes, and PMC legislation “punish[es] individuals for politically incorrect ideas” (Blazak, 2011, p. 252). Hurd and Moore (2004) argue that PMC legislation penalizes ‘hate’ and the bad character of an offender and unfairly targets an offender’s worldview and character, by punishing personal beliefs, opinions and dispositions (Al-Hakim,
Walters (2006) differentiates between mere opinions and opinions that provoke prejudice motivated violence and argues that legislators did not create hate crime laws to punish opinions but to punish the consequences of violent behaviour.

2.5.3 The Criminalisation of PMC

Another debate around PMC legislation has been around the problems associated with the criminalisation of crimes committed based on bias and prejudice. This criminalisation is often displayed through harsher penalties, punishing an offender on top of the primary crime. As stated above, this can be problematic when perpetrators start blaming victims for the additional punishments (Gerstenfeld, 2011), as well as problematic in regards to freedom of speech concerns. Jacobs and Potter (1998) state that PMC laws “recriminalize or enhance the punishment of an ordinary crime when the criminal's motive manifests a legislatively designated prejudice like racism or anti-Semitism” (Jacobs & Potter, 1998, p. 6, emphasis in original). Lieberman (2010) states that hate, bigotry, racism, homophobia and anti-Semitism cannot be outlawed, “but [that] laws shape attitudes […] and attitudes influence behaviour” (Lieberman, 2010, p. 82). Lieberman (2010, p. 84) refers to PMC legislation as a blunt instrument, but argues that laws are necessary for society to take the issue seriously. In the opinion of Rosenthal (1989) “criminal laws against racist propaganda and racial harassment may be the only effective means of protecting members of minority groups from the most visible forms of racial abuse […] and may contribute to teaching that racism is immoral” (p. 166).

On the other hand, arguments against this re-criminalisation stress concerns about an individual’s freedom of speech and freedom of expression (Berard, 2010). Blazak (2011) counters that it is ‘politically incorrect’ that PMC legislation challenges constitutionally protected behaviour, because legislation does not outlaw hate, nor does it create new criminal acts, but already existing ones, such as murder or assault (Blazak, 2011, p. 246). Opponents, therefore, consider PMC legislation redundant because murder and assault are already crimes (Blazak, 2011). Jacobs (1993) argues that most PMC cases “result from impulsive behaviour or situational disputes, often involving juveniles” (Jacobs, 1993, p. 4) and that such type of crime does not need to be enhanced to a serious
offense. Al-Hakim and Dimock (2012) admit that criminal punishment condemns prejudice behaviour, but the expressive function is not enough to treat PMC differently from other crimes. Al-Hakim and Dimock (2012) argue that ‘hate’ alone cannot be punished, but it can be an aggravating factor in sentencing; however, the primary crime independently must already be a criminal offence. If the additional sentence on top of the underlying crime is equal to or exceeds the actual primary crime, courts would punish the hate equal to or even exceeding the primary criminal act, which Al-Hakim and Dimock (2012) disagree with.

2.5.4 The Symbolic Character of PMC

Prejudice motivated crime is often referred to as a message crime communicating bigotry and prejudice to ethnic minorities. Berard (2010) refers to PMCs as expressive crimes and consequently to PMC legislation as expressive law. The reaction to prejudice motivated crime – PMC legislation – also carries a message condemning racist and prejudiced behaviour. Supporters of PMC legislation advocate the expressive and symbolic character of such laws (Beale, 2000), where the punishment delivers a message counteracting the message of the crime itself (Hurd & Moore, 2004). The French sociologist Emile Durkheim has suggested that the expressive nature of the criminal law conveys the disapproval of society towards an offence, and with it repairs threats to society (Berard, 2010). Walters (2005) argues that the symbolic value is not the only effect of PMC legislation; it also promotes the “recognition and support to groups who are fearful of the abuse their community suffers” (p. 206).

According to Mason (2014c), hate crime law is also based on emotional thinking, “in a sense that we draw upon our emotional reactions to situations and events as an ethical or moral tool for judging how we should respond” (p. 76). Berard (2010) highlights that Durkheim’s theory about the law and its expressive function display that society is more likely to share the same opinion on the most serious offenses, such as murder, rape and terrorism, but because PMC legislation is a more recent development, it lacks a collective understanding. Hurd and Moore (2004) make the argument that if the expressive character of the law when promoting PMC legislation is important, the perpetrators that have not received the message will also be punished. Hurd and Moore (2004) conclude that such punishment is unjust and undeserved and can only be corrected by not enforcing

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24 Jacobs (1993) refers to the State vs. Wyant case in 1989, where David Wyant, a white male, was convicted of ethnic intimidation on accounts of racial slurs about taking a gun and killing Jerry White, an African-American. Consequently and without proving that a gun was present, Wyant received a sentence of 18 months in jail.
PMC legislation. Beale (2000) goes as far as keeping the symbolic character of PMC legislation but not prosecuting such cases, therefore just relying on morality. Hurd and Moore (2004) admit that this will result in losing the condemnation factor of the law.

Not only the law, but also the enforcement of such law by the police and prosecutors convey messages (Berard, 2010). Political, legislative, and law enforcement responses to PMC all illustrate expressive law, but the condemnation of PMC is only effective under social and political context allowing for such disapproval, for example, through promoting diversity (Berard, 2010). It is important to consider who sends the message and it is important to consider who the message is sent to. Jacobs and Potter (1998) argue that there are at least three recipients of messages conveyed by PMC legislation, including lobbyists and their represented minority groups, the general public and least importantly the offender. Additionally, governments send messages to victims and their respective minority group, implying that it does not tolerate prejudice motivated crime (Berard, 2010; Mason, 2014c). Jacobs and Potter (1998) also suggest an international audience and the expression of moral leadership on a global scale (Berard, 2010; Jacobs & Potter, 1998).

2.5.5 PMC Punishment Enhancers

Another debate around PMC legislation is the use of sentencing enhancers, which means applying enhanced sentences to the primary crime. Berard (2010) calls the use of sentencing enhancers “an expression of censorship […] and] an expression of thought control” (Berard, 2010, p. 25). Lawrence (1999) argues that PMC warrants extra punishment due to the additional harm inflicted by the offender, such as the negative effect on the victim’s living standard and the fear and intimidation beyond the actual victim. Wellman (2006) also agrees with this opinion and adds that in the light of punishment theory greater sanctions for PMC are necessary, fitting in with the retribution, deterrence and rehabilitation scheme.

According to Blazak (2011), three rationales exist for PMC legislation and punishment enhancement, namely deterrence, incapacitation and symbolism. First, the consequences following a prejudice motivated crime, higher penalties, will deter offenders from committing crime (Blazak, 2011). Many such crimes, however, do not involve rational thinking and are committed under the influence of alcohol or under peer-pressure (Blazak, 2011). According to Walters (2014a), it would be unfair to punish someone for a crime that the perpetrator is unaware of. Secondly, penalty enhancements keep offenders locked away longer, making them, therefore, unable to engage in more such behaviour (Blazak, 2011). This rationale assumes that offenders will be rehabilitated in prison and will commit fewer crimes when released (Blazak, 2011). Blazak (2011) argues that
penalty enhancers and consequently longer prison sentences can be counter-productive because prisons are loaded with racist gangs. Finally, as discussed above, the symbolic character of PMC legislation shows government support that such crimes will not be tolerated in society (Blazak, 2011). Mason (2014c) argues that penalty enhancements “mark prejudice as a distinct moral wrong that is worthy of additional denunciation over and above the base criminal offence” (p. 78).

A U.S. study conducted by Steen and Cohen (2004) found that there is little public support for harsher penalties for PMC offenders. Steen and Cohen (2004) suspect a concern for sentencing proportionality, as well as a focus on the immediate harm and not the long-term effects of such crimes. Al-Hakim and Dimock (2012) emphasise that there is a difference between an offence targeting a property being considered a crime against an identifiable group and an offence targeting a person, as judging property PMCs equally to personal PMCs is an unacceptable kind of ‘level-jumping’. Legal scholars have criticised penalty enhancements extensively, not only because of free speech concerns, but also because of the social ramifications (Franklin, 2002; Jacobs & Potter, 1998).

### 2.5.6 Criminal Code vs. Civil Code

The difference between the use of the criminal law and the civil law is that after a criminal conviction, punishment follows (Adams & Toth, 2006). Berard (2010) describes the use of the criminal law as an effective means of deterrence and retribution, as well as expressing the moral value of condemning PMC. According to Berard (2010), “a behavior or type of behavior is not a crime unless it is punished or proscribed by the criminal law” (p. 18). The problem is that not every type of behaviour that could be described as a ‘hate crime’ is actually prosecuted under criminal laws, for example in regards to violence against women, elderly and the homeless (Berard, 2010). Jacobs (1993) is sceptical of applying the criminal law as a tool to fight PMC and suggests exhausting other strategies such as social education and institution-building in dealing with this social problem.

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25 Al-Hakim and Dimock (2012) describe level-jumping as the judge’s discretion of jumping from one crime to another while sentencing.
2.5.7 The Issue of Protected Categories

PMC legislation lays out which categories are protected under each provision. When categories do not receive protection, they cannot be brought to trial under PMC statutes. To illustrate such failure of protection, Blazak (2011) refers to an example of the brutal murder of a transgendered person from Oregon in the United States in 2001. The police have not found the perpetrator, but if police were to arrest the perpetrator, the courts could not apply PMC charges if the offender/s acted based on the victim being transgender (Blazak, 2011). On the other hand, if courts were to convict the offender/s based on prejudice against gay men, courts could hand down PMC judgements (Blazak, 2011). Here lies the problem with not including gender identity in the definition of sexual orientation, thereby omitting protection of this vulnerable category (Blazak, 2011).

According to Spieldenner and Glenn (2014), there is a lack of consistency in protected categories in hate crime legislation. Categories that are not named under PMC legislation are not protected “and thus deemed less worthy” (Mason-Bish, 2012, p. 2). Gender is a highly debated category. Women are not a statistical minority per se, but have suffered from oppression and stereotypes in the past (Mason-Bish, 2012). Rape, for example, can be considered a gender-motivated crime but, due to the high number of rape cases, could dilute the more traditional hate crimes (Mason-Bish, 2012). Wellman (2006) argues that courts should prosecute rape, as well as domestic violence, as a ‘hate crime’ under penalty enhancements. Courts could factor in some cases of domestic violence under PMC legislation (Mason-Bish, 2012). According to Gill and Mason-Bish (2013), including gender-based crime into hate crime legislation would further complicate existing problems in regards to the scope of the legislation due to the difficulties of defining the term “hate crime”. Some scholars (e.g. Chakraborti & Garland, 2009) consider the inclusion of additional categories, such as “transgender, homelessness, political affiliation, and subcultural membership” (Mason-Bish, 2012, p. 3). Mason-Bish (2012) found certain conceptual and practical reasons for the exclusion of age and gender as a protected category, one of them being that the definitions of domestic violence and elder abuse already exist. Categories such as disability and homelessness are also debatable because everyone has a race, nationality and so forth, but courts would not sanction crimes against people with no disability or people with homes (Blazak, 2011). Levin (2015) counters that the homeless are one of the worst examples of legal favouritism and that disability status is already protected under PMC legislation. Blazak (2011) emphasises that governments have implemented PMC legislation not to ensure special rights, but to guarantee civil rights.
2.5.8 The Social Impact of PMC Legislation

According to Espiritu (2004), crime committed based on a victim’s perceived difference or bias against minority groups potentially damages the social fabric of society and fragments communities. Cunneen, Fraser, and Tomsen (1997) argue that the law is useful in educating the public, but it lacks the impact on the overall hate phenomena. Furthermore, Cunneen et al. (1997) argue that creating legislation cannot be the only strategy combating PMC; the underlying base of hate, the fear of the other, needs to be addressed. Franklin (2002) opposes this view by stating that the goal of PMC legislation is to reduce crime based on prejudice and bias, but legislation is also necessary in raising and signalling a moral condemnation of PMC and creating a more tolerant environment. Mason and Dyer (2013) argue that hate crime “undermines society’s core value of acceptance of those who are harmlessly non-conformist” (p. 882). Berard (2010) argues that ‘hate crime’ has a threatening character and challenges social relations and social order. Blazak (2011) agrees that PMC threatens the social fabric of community and goes as far as comparing it to a type of terrorism. He also states that PMC can increase distrust towards neighbours and that hate crimes can define whole locations (Blazak, 2011). According to Walters (2014a), hate incidents can enhance fear and create tensions throughout the community and between identity groups. In contrast, Jacobs (1993) argues that all crimes, such as shootings and stabbings, have repercussions and can lead to social instability. Fear of crime is one of the main explanations for people to migrate from the city into suburbs or from one neighbourhood to another (Jacobs, 1993).

Jacobs and Potter (1997) point out that just like affirmative action, “such race-conscious laws and policies divide the society and destroy common ground” (Jacobs & Potter, 1997, p. 40). Jacobs and Potter (1997) do not believe that PMC legislation can help create a harmonious society but, on the contrary, can form conflict and social strain. They argue that society should rather condemn criminal behaviour than dividing a society by pointing out the conflict between one group with another group (Jacobs & Potter, 1997). This tension can undermine the value of freedom and democracy in society (Al-Hakim & Dimock, 2012). Sullaway (2004) counters this opinion and states that “there is no evidence that hate crime laws further divide racial, ethnic and religious groups and increase intergroup tensions” (Sullaway, 2004, p. 270). Sullaway (2004) criticises comparisons of PMC instances with inter-ethnic conflict encouraged by political leaders, as in the case of former Yugoslavia.

Challengers of PMC legislation argue that these laws favour minority groups over majority groups (Blazak, 2011), creating special rights for certain groups (Wellman, 2006), consequently leading to
greater social divisions (Franklin, 2002). Blazak (2011) opposes this view, arguing that statutes are applied to prejudice against any race and are therefore also applicable to anti-White assaults\(^{26}\) (Blazak, 2011). Wellman (2006) suggests that “justice does not require that we treat all cases alike; rather, it demands that we treat like cases alike” (Wellman, 2006, p. 72, emphasis in original). Only certain people are victimised by PMC, therefore, this group of people requires more protection than others (Wellman, 2006).

2.6 The Sociological and Criminological Commentary of PMC in Australia

As Burgmann (2003) explains, social movement “is an enduring process of confrontation characterized by capacity for protest” (p. 4), recognises a common interest of a group of people and enables political and legal impact in society. Australia had its own share of social movements – the labour movement, the Aboriginal movement\(^{27}\), the women’s movement\(^{28}\), the green movement\(^{29}\) and the anti-capitalism and anti-corporate globalisation movement\(^{30}\) (Burgmann, 2003), as well as the gay and lesbian movement\(^{31}\) (Power, 2011) – aiming for social change and more precisely greater equality and to challenge those abusing power (Burgmann, 2003). In the next few sections, I will explore the sociological and criminological debate around PMC legislation in Australia.

2.6.1 Why Do We Need a Set of Different Laws Regarding PMC?

On a global scale, Australia has one of the highest immigration rates (Johnson, 2005c). Minority groups suffering more prominently from hate crime in Australia are the Jewish, Muslim, Arab, Asian, Aboriginal, gay and lesbian, transgender and disabled communities (Mason, 2009). Although the Indigenous population constitutes only 2.4% of Australia (Paradies, 2005), they are twice as likely to experience racism than non-Indigenous Australians (Wright, 2010). More recent

\(^{26}\) In 2008, the FBI data recorded 716 anti-White, 56 anti-Protestant and 33 anti-heterosexual ‘hate crimes’ in the United States (Blazak, 2011).

\(^{27}\) The Aboriginal movement has only limited support and government policies had been responsible for dividing communities and hindering political mobilisation (Burgmann, 2003).

\(^{28}\) The first wave of Australia’s feminist movement fought for more rights and freedom of choice, enabling access to a variety of jobs and better education, while the second wave demanded “equal pay; equal opportunity in employment; access to affordable, good-quality childcare; access to safe and legal abortion; equal opportunity in education; and an end to sexism and sex-role stereotyping in society generally” (Burgmann, 2003, pp. 103-104).

\(^{29}\) The green movement entails the prevention of destruction and preservation of planet earth, concerning issues such as global warming, pollution, and decreasing biodiversity (Burgmann, 2003).

\(^{30}\) The anti-capitalism and anti-corporate globalisation movement challenges the economic exploitation and undemocratic nature of globalisation (Burgmann, 2003).

\(^{31}\) The gay and lesbian movement challenged the legal status of homosexuality and demanded legal protection for the gay and lesbian community (Power, 2011).
research\textsuperscript{32} shows that Aboriginal and Torres Strait Islander compared to non-Indigenous individuals are four times more likely to experience racism (AHRC, 2012b). Additionally, CALD communities born overseas experience higher rates of racist incidents (AHRC, 2012b). The Challenging Racism Project\textsuperscript{33} has found that 85% of respondents believe racism is a problem in Australia, 20% of respondents have experienced race-hate talk, 11% have identified workplace or social exclusion, 7% have experienced unfair treatment and 6% have experienced racist violence (AHRC, 2012b). According to Mason (2014d), hate crime legislation “provide[s] an extra layer of protection and recognition for selected victim groups” (p. 162), mainly through the criminalisation of such offences and the use of punishment enhancers.

2.6.2 Australian Concerns Regarding PMC Legislation

In Australia, cases that fall under the federal \textit{Racial Discrimination Act 1975} (Cth) (Austl.) are lodged with the HREOC, which consequently investigates and prosecutes cases of racism (Stobbs, 2008). Participants seek conciliation as an outcome of this process, including, but not limited to, an apology, a commitment of staff training or a monetary compensation (Chapman, 2004). HREOC, however, is not convinced that the current regulation in Australia is effective in regards to the fundamental social issues spurring racism (Chapman, 2004). Critics also have expressed doubts about the deterrent effects of the original legislation due to a lack of criminal sanctions (Chapman, 2004). Stobbs (2008) explains that criminal provisions may be effective on a case-by-case basis, but fail to lead to a systemic or community-wide change, and that prosecutions under criminal sanctions are rare. Stobbs (2008) adds that if community acceptance and a true sense of multiculturalism are the solution, then reactive punitiveness will have no effect on racism.

The global debate around PMC legislation also applies to Australian legislative approaches. While discussing if bodies of PMC legislation in Australia are achieving their goals, Mason (2009) examines four issues with the sentence aggravation provisions implemented in New South Wales since 2003, including the inclusion of individual forms of hatred, of intra-group conflict, of an applicable motive test and the protection of categories. Mason (2009) argues that neutral definitions of protected categories undermine the purpose of PMC legislation, as well as the lack of including

\textsuperscript{32} For more information see the 2011 Challenging Racism data by Dunn et al. (2008).
\textsuperscript{33} For more information see Challenging Racism Project by Dunn, Forrest, et al. (2011).
certain categories, which protects one minority group but not another. So far, race and ethnicity are the only categories that are protected under all state and territory legislation (Mason, 2009).

According to Mason (2009), New South Wales has utilised its legislation to protect a unique category, not only by Australian standards, but also on a global scale, recognising paedophiles as a protected group. Mason (2014d) discusses two recent Australian cases, where courts have utilised hate crime legislation when judging paedophiles, and explores if people who sexually assault children should be a protected category under PMC legislation (see also Mason & Dyer, 2013). Although violence against this group is not justified, there is a great difference between paedophiles hurting others and protected groups that have done nothing wrong (Mason, 2009). Although legal action is necessary, protecting paedophiles as a category under hate crime law is not justified, as this “human attribute or activity… has no legitimate claim to tolerance, respect or equality” (Mason, 2014d, p. 162). On the contrary, Ardill and Wardle (2009) argue for the inclusion of sex offenders under hate crime law, as the categories protected under New South Wales legislation are open-ended (‘such as’) and protection of this category will grant less violence in society. Mason (2014d) argues that “[i]t is an oxymoron for the criminal law to simultaneously claim that people who engage in sex with children deserve special protection on the grounds that crimes against them undermine their right to equality and tolerance” (p. 170). Mason (2014d), consequently, calls for more concrete guidance on which victim categories should be protected under hate crime law. Although New South Wales has a unique way of interpreting which categories should be protected under hate crime laws, New South Wales is at the forefront of protecting categories such as homosexuality, transgender identity and HIV status (Morgan, 2002).

Arguments surrounding PMC vs. non-PMC have also found hold in the Australian debate over PMC legislation. Scholars additionally have raised the issue of redundancy of PMC legislation, pointing out the extensive body of options under existing criminal law, raising the issue of the invalidity of punishing thoughts and jeopardising equality before the law (Morgan, 2002). Some Australian jurisdictions have placed legislative approaches under existing anti-discrimination laws,

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34 For more information see Dunn v. The Queen [2007] NSW CCA 312.
35 The first case was R v. Robinson (NSW), where the offender brutalized the victim in prison after having found out that the victim was convicted for sexual offences against school children. The victim later dies of his injuries. The offender’s sentence consequently was aggravated under hate crime legislation after establishing prejudice or hatred towards paedophiles. The second case (Dunn v. The Queen [NSW]) included arson, where the offender twice set fire to his neighbour’s property assuming falsely that the victim was a paedophile, which was an aggravating factor in sentencing. (Mason, 2014d).
which has led to a very cumbersome process of lodging complaints of serious vilification with the Anti-Discrimination Board (Mason, 2009). Mason (2009) names New South Wales as one example, showing that if a victim of serious vilification reports the crime, the police will not investigate but refer the case to the Anti-Discrimination Board. Meagher (2006) criticises this process, which hinders criminal prosecution and undermines the seriousness of the crime. Australia, so far, has not seen a conviction or prosecution for serious vilification (Mason, 2009), which is due to prosecutors using the general laws due, especially, to time and resource issues, and will only convict under criminal provisions if a successful prosecution is guaranteed (Meagher, 2006). In addition, without a direct admission of the offender that prejudice was a motive in the offence, proving motivation is a difficult task for prosecutors in hate crime cases (Walters, 2013).

According to Meagher (2006), locating racial vilification in the criminal law sends out a strong message to the public that PMC is a serious crime and is unacceptable. Meagher (2006) also argues that other than in Western Australia, where courts utilise the criminal code to prosecute PMC, all other legislative attempts are flawed. Instead of situating PMC provisions in Anti-Discrimination legislation, complaints should be tried under the Criminal Code (Meagher, 2006). Although unintended consequences, complications and technical difficulties are unavoidable, the effects of PMC legislation – even though always partial – are dependent on the political and social environment (White, 2002).

2.6.3 Australian Fundamental Rights Concerns

Another concern around PMC legislation is that it undermines the fundamental rights of Australian citizens (Mason, 2009). According to Meagher (2006), “[i]t is imperative for a law that makes racial vilification a crime to be sensitive to and protective of freedom of speech” (p. 209). As long as the act does not involve a threat to a person or property, consulting the criminal law will not be necessary, therefore protecting and promoting freedom of speech (Meagher, 2006). McNamara (2007) suggests that PMC legislation does not restrict the expression of hatred and even less serious cases of incitement. Blazak (2011) adds that although the right of freedom of speech is important, it is not absolute. Blazak (2011) names examples such as not being allowed to yell ‘fire’ without a fire being present in a crowded place; not having the right to say you carry a bomb on an airplane; or

\[\text{[36] Meagher (2006) names the Wisconsin-style penalty enhancement statute as the best fit for the Australian situation.}\]
even threatening the president. Courts could reprimand these examples of freedom of speech (Blazak, 2011).

In Australia, the High Court established “an implied freedom of political communication” (Gray, 2012, p. 168)\(^\text{37}\). Gray (2012) argues that real concerns regarding the constitutional validity of PMC legislation exist in regards to the expression of opinions. He adds that discussions and comments regarding race, such as the refugee debate, multiculturalism and Indigenous affairs, are all of political interest (Gray, 2012). Further, censoring racist speech will not decrease racism, but strategies such as “including effective education of the community on such matters, government policies that bring different groups in society together, organization of multicultural festivities and events etc.” (Gray, 2012, p. 192) might have a bigger impact. McNamara (2002) asserts that “the legality and constitutionality of various forms of legislative regulation of such conduct are not seriously in question” (McNamara, 2002, p. 2). The freedom of communication is narrowly defined, does not have a constitutional source and stems from the common law (McNamara, 2002). Freedom of speech and freedom of expression concerns should, therefore, not be an issue in Australia.

2.7 A Matter of Law Legitimacy

According to Jenness and Grattet (1996), it is uncertain if particular laws and policies will work and therefore effectiveness is less important than the matter of legitimacy. According to Murphy, Tyler, and Curtis (2009), law legitimacy is the agreement or disagreement with values behind such laws. Murphy and Cherney (2010) found “that people’s perceptions of the legitimacy of the law matters” (p. 19), in that groups questioning law legitimacy might not cooperate with police. Perceptions of law legitimacy, therefore, are likely to influence the decision to report PMC to the police. Criminal policies are also often based on the assumption that people will obey the law when formal policing and sanctions are present (Jackson et al., 2012). When people view the law and agents of the law as rightful owners of authority, who have the right to make decisions about citizen behaviour and demanding obedience and, as well, entertain the notion that obeying the law is the right thing to do, legitimacy is present (Iganski, 1999a; Jackson et al., 2012; Tyler, 2006a). Although not everyone will agree with every single law, the public recognises that a system of laws is necessary (Jackson et al., 2012).

\(^{37}\) Compared to the incorporation of freedom of speech in the United States’ Bill of Rights and in Canada’s Charter (Gray, 2012).
Tyler and Jackson (2013) point out two issues in regards to law legitimacy. First, agreement with the underlying legitimacy of the rules differs from the concept of legitimacy of authority. Burney and Rose (2002) found that people questioning the legitimacy of the laws were less compliant, but that compliance could be improved with procedural justice through improving social distance. In comparison, procedural justice had less of an effect on people who considered laws legitimate, as they already voluntarily complied with such values regardless of the treatment they received (Murphy et al., 2009). Second, there is an additional difference between low legitimacy and social disengagement (Tyler & Jackson, 2013). People who feel disengaged from society might not find procedural justice to promote legitimacy; therefore, a distinction between low legitimacy and social disengagement is necessary (Tyler & Jackson, 2013). According to Tyler and Jackson (2013), legitimacy is also built through the implementation of laws and policies. Cooperation, such as reporting dangerous actions to authorities, is essentially voluntary, usually not sanctioned and virtually undetectable; therefore, people’s broader loyalty and sense of duty to the community and authorities influences their willingness to cooperate (Tyler & Jackson, 2013).

2.8 Summary

According to White (2002), PMC legislation has to be considered with caution and constantly scrutinised. As Berard (2010) explains, “[w]hat exactly hate crime laws express and to whom and with what consequences are pivotal considerations which deserve much more research and analysis” (p. 24). Blazak (2011) acknowledges this lack of research and recommends further research into recidivism rates comparing offenders sentenced within the restorative justice process and those who received penalty enhancements, predicting that the actual impact of the law might be less important than the message PMC legislation sends. My thesis seeks to better understand variations in state and territory legislation, how these differences influence police processes, and how, in response, these variations influence victim reporting behaviour.

Although scholars have explored the differences in legislation addressing hate and prejudice in Australia in the past (see Mason, 2009; McNamara, 2002; Meagher, 2006), they have not addressed the possible link between different approaches in Australian jurisdictions and PMC victim reporting behaviour. My study will add to the body of literature concerning PMC legislation in Australia. In my thesis, I will explore different approaches in each Australian state and territory, and how these variations in the legislative and operational context of policing shape victim reporting of PMC.
Chapter 3: Hate Crime Victimisation – Theories of Victimisation and Victim Reporting

_Hate is like a virus, and no society is immune. […] An effective response requires us to understand it, to confront it, and to address the symptoms directly and forcefully while the search for a cure continues._ (Freeman, 2009)

3.1 Introduction

In this chapter, I seek to explore the literature to better understand the social, economic and political context around PMC legislation and how this context influences variations in victim reporting of prejudice motivated crimes. I will first explore how state power victimises minority groups in particular and then discuss how PMC legislation is setting the scene for police processes and procedures. I will then explore problems regarding the policing of prejudice motivated crime, addressing issues such as police responses and the recording of such crime. Further, I will discuss factors influencing the decision to report crime in general and PMC more specifically and finally will explore the citizen perspective, arguing that perceptions of police and government legitimacy shape the decision to report PMC.

3.2 State Power and Victimisation

The social, political and economic context of society shapes the legislation within state, territory or country. Dominant groups, which are usually majority groups, utilise the law as a tool to “maintain power and exercise control over “threatening” populations” (King, 2007, p. 195). The state defines, controls and punishes crime and employs the entities that make the law and police it (Poynting, 2008). According to Jenness (2001), the literature around the innovation, formulation and institutionalisation of policies points out four large social processes that influence the culture, structure and workings of legislation. The first social process is issue creation, which is the recognition and naming of a problem that needs a legal solution (Jenness, 2001). The second social process is the adoption of a solution and policy form to combat this problem (i.e., law and statutes) (Jenness, 2001). The third social process is the rulemaking phase, whereby government officials and the courts adapt the operationalisation of the law (Jenness, 2001). Finally, the fourth social process concerns law enforcement agents, who apply laws to ‘real world’ circumstances (Jenness, 2001, p. 292). Laws set the scene for law enforcement agencies, with respect to police agency processes and policing procedures.
Three theories of victimisation are relevant for exploring prejudice motivated victimisation: social-structural victimisation theory, cultural victimisation theory and institutional victimisation theory (Schneider, 2001). I discuss each of these theoretical perspectives in turn.

3.2.1 Social-Structural Victimisation Theory

Marginalised and powerless minorities often become victims of social discrimination and personal violence (Schneider, 2001). According to Lyons and Roberts (2014), “the historical legacy of victimization of traditionally marginalized groups may compound the harm of hate crime” (p. 272), which includes victimisation by mainstream institutions, such as the police. Social-Structural Victimisation Theory (SSVT) explains how victimisation of marginalised and powerless minorities may occur. SSVT suggests that victimisation is seen as “reflect[ing] the economic and the power structures of a society” (Schneider, 2001, p. 458). According to Perry (2001), power hierarchies and power dynamics in society are based on dominance over ‘difference’ (for example, difference pertaining to gender, race, sexuality and class, etc.). Walters (2011, p. 318) asserts that in-groups resist those deemed as different in society and that feelings of fear stem from the perception that Others encroach upon the in-groups’ identity and cultural norms. This threat to society’s identity ideal forces Others to take on subordinate positions with marginalised identity groups receiving unequal distributions of wealth, housing and education (Perry, 2001). These Others are also systematically discriminated against through policies and practices by private and state agencies, which also include the criminal justice system (Walters, 2011). Galtung (1975) calls this ‘structural or indirect violence’ (p. 12) given there is no clear actor present during such victimisation. Violence and victimisation are part of the system and are visible in unequal power dynamics (Galtung, 1975). Marginalised identity groups experience various forms of discrimination, which ultimately can turn into severe acts of prejudice, namely hate crime (Perry, 2001). Galtung (1975) explains that violence is present in a society that tolerates starvation, where avoidance of famine is possible.

Pedersen et al. (2012) identify Australia’s treatment of asylum seekers as an example of structural violence since many asylum seekers experience inequality in society compared with other members of the public. Another example of structural violence is illustrated by the treatment of Indigenous people in Australia, who suffer from a minority/majority relationship, as well as from their social-structural positions in society (Griffiths, Yerbury, & Weafer, 1987; Schneider, 2001). Social-structural disadvantages concerning the Indigenous population of Australia include “poorer outcomes across all measures of quality of life, such as health, education, employment and housing [...], as well as an] over-represent[ation] in the criminal justice system and the care and protection
systems” (AHRC, 2012a, p. 6). Accessible and culturally appropriate services are limited (AHRC, 2012a). The Indigenous population suffers from marginalisation and discrimination, as well as an overall lack of access to clinics, hospitals and pharmacies (AHRC, 2012a). Some health issues experienced by the Indigenous population relate back to racist experiences, causing adverse health conditions, “such as smoking, substance use, psychological distress and poor self-assessed health status” (AHRC, 2012a, p. 8).

SSVT implies that the state and governments are responsible for shaping patterns of victimisation and marginalisation. Marginalised and powerless minorities become victims and social discrimination is followed by personal violence (Schneider, 2001).

### 3.2.2 Cultural Victimisation Theory

According to Schneider (2001), the customs, traditions, religion and ideology of a society can lead to the victimisation of certain groups. This may also occur if the structure of an economy, and the system of power governing a society, has an impact on the views, values and stereotypes of majority group members toward minority groups (Schneider, 2001). Herek’s (1990) work on cultural heterosexism, suggests that just as with other ideologies of oppression (e.g., racism and sexism), heterosexism is evidenced in societal customs and institutions (cultural heterosexism, i.e., in religion and the legal system), as well as in individual attitudes and behaviours (psychological heterosexism). Under Cultural Victimisation Theory (CVT), for example, a homophobic society will be less tolerant of those who display non-normative sexualities, typically resulting in the victimisation of gay, lesbian and bisexual people (see Balsam, 2002; Neisen, 1993). According to Herek (1990), the ideology of denying and stigmatising homosexuality fosters anti-gay prejudice and facilitates the victimisation of lesbians and gay men and only institutional changes and personal interventions can remove the stigma attached to homosexual orientation. Another example is Van Dyke and Tester’s (2014) assumption that “[c]ultural biases may lead White students on a predominantly White campus to assume that their college campus is a White space” (p. 293) with minority group students as a threat to the campus. In addition, under CVT, CALD groups may experience prejudice at a higher rate than other minority groups (AHRC, 2012a). In Australia, CVT has also been reflected in the treatment of Indigenous people in their exclusion from social activities and cultural events. Therefore, CVT suggests that the cultural norms and stereotypes of a society can shape the patterns of victimisation that are directed toward minority groups.

CALD groups, as well as native populations, have different ideas of what is culturally acceptable. In regards to sexual violence, research has found that negative beliefs and stereotypes are present in
such communities, ranging from temporary domestic violence being acceptable if the perpetrator regrets his/her actions, women using such claims during custody battles, to men not being able to help themselves and, therefore, not being responsible (Taylor & Mouzos, 2006; Willis, 2011).

Schneider (2001) uses prejudice motivated crime as an example of cultural victimisation, due to the symbolic status of the victims. PMC victims have outsider group status while offenders belong to the insider group (Schneider, 2001). The offender commits a hate crime to reassure himself/herself of status differences and to assure the solidarity and identity of the insider group (Schneider, 2001). Four categories exist for offenders engaging in hate crime, including thrill crime, defensive hate crime offenders, retaliatory offenders and crusaders (Chongatera, 2013; McDevitt, Levin, & Bennett, 2002). Thrill crimes are driven by excitement and power, while defensive hate crime offenders try to defend their resources, which they see threatened. Retaliatory offenders are driven by revenge and retaliation for a certain wrong against their group, while a crusader’s mission is to rid the earth of evil (Chongatera, 2013; McDevitt et al., 2002). When hate crimes occur, the victims are likely to identify the offender with the dominant culture in society (Perry, 2010b). An offender targeting gay, lesbian and bisexual people tries to affirm the ideology that such sexual inclinations are “illegal, sinful, and morbid” (Schneider, 2001, p. 459).

Although 87% of Australians believe that cultural diversity is beneficial, one out of ten Australians still believe in the inferiority of some and the superiority of other races (AHRC, 2012a, p. 35). At least 10% of the adult population in Australia has a certain level of intolerance towards minority groups (AHRC, 2012a, p. 35). Such intolerance can lead to race-hate talk, the exclusion from social activities or workplace, as well as physical attacks (AHRC, 2012a). Recent arrivals of immigrants experience higher levels of racism than more settled migrants, and Muslim Australians experience prejudice at a higher rate than other minority groups (AHRC, 2012a). Such outsider group status determined by a different religion and customs conflicts with the ideology of the insider group, which might try to establish its identity through vilification and prejudice motivated crimes.

### 3.2.3 Institutional Victimisation Theory

Victimisation not only occurs by institutions, but also in institutions (Schneider, 2001) and this is known as Institutional Victimisation Theory (IVT). According to Poynting and Perry (2007), political climates through negative media portrayals, stereotyping and bias, as well as state institutional discriminatory policies and practices, and the targeting of certain groups (i.e., Muslims), seem to facilitate a ‘permission to hate’ and seem to convey “a sort of ideological licence to individuals, groups and institutions to perpetrate and perpetuate racial hatred” (p.167). This
climate of hate creates an enabling environment for hate crime perpetrators, and provides a formal framework through state practices, policy and rhetoric, in which perpetrators commit hate crime as an informal mechanism of control (Poynting & Perry, 2007).

At present, police agencies across Australia target their recruitment strategies to encourage applications from all members of society. However, until the anti-discrimination legislation of the 1980s changed work restrictions and policies regarding the roles of women and ethnic minorities within the police force, many police organisations in Australia have discriminated against these members of society. For example, before the 1980s, women in the Australian police force lacked full police powers, received lower wages and did not receive pension entitlements (Prenzler, 1995). In addition, until recently recruitment restrictions also have made it impossible for members of ethnic minority groups or members of other diverse groups (such as gays and lesbians) to enter the police force. Thus, IVT proposes that when an institution such as the police exhibits discriminatory practices (such as institutional victimisation), they may be more likely to be ineffective in handling incidents of bigotry and intolerance such as PMC.

Systemic discrimination disadvantages people from different backgrounds and denies access to certain goods, services and opportunities (AHRC, 2012a). Migrants, for example, have a better chance of employment the longer they stay in Australia; however, 36% of migrants reported having trouble finding employment due “to discrimination, a lack of Australian work experience, references and local contacts and networks” (AHRC, 2012a, p. 27). Migrants are allowed welfare benefits only after staying in Australia under permanent residency for at least two years and therefore they are initially cut off from “unemployment assistance, sickness benefits and student allowances” (AHRC, 2012a, p. 27). ‘Unlawful non-citizens’ are another example of systemic discrimination, as the government can detain them in mandatory detention centres until their visas are approved or the government comes to the conclusion to return them to their home countries (AHRC, 2012a, p. 41). Unfortunately, the Australian government has no legislation mandating certain standards for conditions in and the treatment of individuals held in these detention centres and no set limit on the length of stay, which can range from days to years (AHRC, 2012a).

38 Immigration detention centres are based in locations such as “Maribyrnong (Melbourne), at Villawood (Sydney), in Perth, in Darwin, near Derby in Western Australia, near Weipa in northern Queensland, on Christmas Island, at Wickham Point near Darwin and in Pontville, Tasmania” (AHRC, 2012a, p. 42), while an additional one is planned for Yongah Hill in Northam, Western Australia.
3.3 PMC Legislation Is Setting the Scene

The legislation in each Australian state and territory sets the scene for police and how they respond to PMC victimisation. Hate crime laws ensure that law enforcement personnel pay attention to hate crime incidents and how to tackle such crime (Iganski, 1999b; Walters, 2013). This link between legislation, police practice and the manner in which crimes are reported and handled is well established in the crimino-legal literature. Before the introduction of laws concerning rape in marriage, for example, such misconduct was lawful and victims were left unprotected (see Geis, 1977-1978). South Australia was the first jurisdiction that removed distinctions between married and unmarried women regarding intimate-partner violence in 1976, while other jurisdictions delayed reforms until the 1980s (Larcombe & Heath, 2012). Consequently, when governments finally have introduced legislation, the police have changed their procedures and processes and charged husbands with a crime. Another example of the link between legislation, police practice and patterns of victimisation is around legislation pertaining to homosexuality. South Australia was the first state in Australia to legalise homosexuality in 1975, making homosexuals and heterosexuals equal under the law (Sinclair & Ross, 1985). In comparison, Victoria, with maximum prison sentences of 20 years, did not legalise homosexuality until 1981 (Sinclair & Ross, 1985). In those six years, governments and police treated homosexuals differently in Victoria compared with South Australia. After the decriminalisation of homosexuality, the police handled cases involving homosexuals differently (Geis, Wright, Garrett, & Wilson, 1976).

In comparison and in regards to domestic violence, the United States government mandates arrest and no-drop prosecutions in all domestic violence cases, therefore, making police officers, prosecutors and the public aware of the seriousness of the issue (Klarfeld, 2011). According to Balboni and McDevitt (2001), “[t]he characterization of hate crime as no different from other crime is reminiscent of myopic discussions about domestic violence two decades ago that focused on why the woman just would not leave” (p. 25). Education, increasing community awareness and training have improved the lives of many victims (Balboni & McDevitt, 2001). With prejudice being a learned experience, proper education should foster recognition and tolerance, as well as an appreciation for diversity (Espiritu, 2004). The police have handled hate crime cases as a regular assault or property crime offense. After the implementation of federal, state and territory PMC legislation, the seriousness of the issue became apparent and the policing of such crimes has started to take shape. Continuing research and education will contribute to the awareness and seriousness of the problem, and consequently more insightful and strategic law enforcement interaction will impact on PMC victims’ quality of life (Balboni & McDevitt, 2001).
3.4 Policing Prejudice Motivated Crime

Prejudice motivated crime legislation is reactive in nature due to its focus on investigations and criminal justice responses taking place after the event occurs. The responsibility to identify a PMC, therefore, lies on the first responder, which are the police. The police “act as the primary liaison between victims and the legal system, as well as communities and the legal system” (Gerstenfeld, 2011, p. 284). Differences in laws will have implications on the procedures and processes of law enforcement agencies. The law is translated into action by police (see, e.g., Grattet & Jenness, 2008). This translation of the law and consequently effective police processes encourage victims to trust police, their enforcement procedures and responses to PMC. Successfully hunting down perpetrators, for example, might encourage victims to report such crime.

Next to the symbolic effect of legislation condemning PMC, the “instrumental effects when court rulings, legislation and public policy results in changes in the behavior of officials, organizational entities or citizens, presumably to ameliorate a purported public problem” (Grattet & Jenness, 2008, p. 502), are also important. Bell (1996-1997) acknowledges the importance of police officers’ (and police organisations’) discretion and their understanding of hate crime laws. Law enforcement is responsible for the detection, reporting, investigation, arrest and conviction of perpetrators (Grattet & Jenness, 2008). Hall (2012) categorises the factors impacting on the policing of hate crime into the following four reciprocal relationships between 1) the law and law enforcement, 2) the police and the public; 3) the public and the law; and 4) the social, political and historical context and the law. Hall (2012) suggests that, regardless of jurisdiction, none of these areas should be viewed in mutual isolation.

Complications are likely to occur in every step of the process, starting with a victim’s willingness to report PMC and ending with the judge’s decision to penalise the perpetrator (Franklin, 2002). According to Freeman (2009), three key aspects assist police in the pursuit of effectively responding to PMC, which include (1) police-community cooperation creating trust and confidence in law enforcement officials, (2) training starting with high ranking authorities and (3) data collection enabling resource allocation and training needs. Firstly, literature shows that ethnic minorities display low levels of confidence and trust in the police, consequently diminishing

See also Bell’s influential (2002) work on policing hatred, in which she ethnographically portrays how hate crime law works in practice.
voluntary cooperation (Cherney & Chui, 2009a; Murphy & Cherney, 2011; Tyler, 2011). Freeman (2009) suggest different steps to foster trust with vulnerable communities, such as employing officials focusing on PMC, communicating with community leaders, and presenting documentation in different languages. Consequently, a good police-community relationship creates confidence and trust in law enforcement officials. Police have the ability to prevent PMC incidents and influence the perception and treatment of ethnic minorities (Franklin, 2002). If victims decide to report a prejudice motivated crime, the actions of the first responding officer will be crucial. The responses will depend on the police officers’ personal beliefs and discretion and also on an understanding of what constitutes a hate crime and the protocol and practices of the police station (Franklin, 2002).

Secondly, Freeman (2009) suggests two steps towards more effective law enforcement training practices, including law enforcement buy-in and useful content. An important factor of effectively responding to PMC include attitudes of the rank-and-file officers, support of authorities, funding levels, as well as public attitudes towards PMC policies (Franklin, 2002). Attitudes of senior officials towards prioritising training and evaluating officer performance concerning PMC incidents is crucial for buy-in, as law enforcement operates on discipline system within the ranks (Freeman, 2009). According to Freeman (2009) useful content, such as recognising PMC and offenders, is important, next to officially condemning PMC, reminding officers of the appropriate use of PMC legislation and providing information on vulnerable minority groups in the area (regarding special holidays, sacred places and texts and traditions). Police officers benefit from cultural awareness and sensitivity training to deal with the unique needs of multicultural societies (Perry, 2010b).

Third, Freeman (2009) argues that data collection is critical in facilitating the allocation of resources and strengthens arguments for training needs. Problems arise when law enforcement agencies differ in their use of PMC definitions, which police officers have to correctly identify as such (see Grattet & Jenness, 2005). Officers need to recognise protected categories; if this is not the case, official statistics will be faulty (Grattet & Jenness, 2005). Additionally, district attorneys (or crown prosecutors) rely on police officers’ recommended charges and evidence, which, if wrongly identified, can result in the failure of prosecuting PMC (Grattet & Jenness, 2005). The law with its ambiguous nature leads to officials deciding on how the law is applied and when to narrow and elaborate the scope of the law’s application (Grattet & Jenness, 2005). Cronin, McDevitt, Farrell, and Nolan III (2007) confirm the challenges patrol officers face regarding PMC, which include “identifying and accurately classifying bias crimes, including the ambiguity of applying legal definitions to cases, uncertainty regarding bias motivation and infrequency of reported events to law enforcement” (Cronin et al., 2007, p. 213).
3.4.1 Barriers Influencing Police Responses to PMC

PMC legislation that lies outside of the criminal code is not immediately relevant to police (James, 2005). Taking down a prejudice motivated crime report is the first response of law enforcement signalling the mobilisation of the law (Grattet & Jenness, 2008). Police may not investigate the crime due to their own biases towards a certain group or might not identify the incident as a crime (Spieldenner & Glenn, 2014). When PMC is reported to police, other barriers can still hinder the recording and prosecution of such crimes. These barriers include the police officer’s discretion and own bias towards the victim, his or her training in identifying and dealing with PMC and its victims, different definitions and classifications, the specific philosophy of the police department and its connection with interest groups, the population proportion in the jurisdiction belonging to ethnic minorities and the existence of so-called ‘hate crime’ units (Gerstenfeld, 2011).

Additional explanations influencing police responses to PMC consist of the bureaucratic requirements and underplay of the problem of bias in the department’s jurisdiction, as well as the dislike of additional paperwork, and personal beliefs of the responding officer that PMC is not a legal category worth pursuing (Gerstenfeld, 2011). Identifying a PMC in the absence of racial slurs is often difficult, especially without proper training (Steer, 2011). A study conducted by Balboni and McDevitt (2001) surveying law enforcement officers in the United States have found two broad categories that influence PMC reporting by police officers. These include “overt departmental influences and the belief that it is the right thing to do” (Balboni & McDevitt, 2001, p. 23). The authors stress the importance of managerial prioritising and official policies on PMC and the significance of an officer’s definition of minorities and PMC (Balboni & McDevitt, 2001).

According to Steer (2011), effective responses to PMC will influence a positive public image of the police, as well as less negative media coverage and complaints, and will build community confidence and trust in the police. Although the police are unable to reduce prejudice, they can create an environment where PMC is less likely to happen through fair, effective and open policing in a government tolerant to diversity (Bayley, 2002). Differences in legislative approaches influence how law enforcement reacts to prejudice motivated crime. If PMC is not situated in the criminal code, the police are left out of the investigation process and refer the case to HREOC. Hate crime victims, as well as the community, might disagree with this protocol, might feel not being taken seriously and might find it ineffective, which in turn might hinder PMC reporting.

There are also issues with translating the law into action. Jenness and Grattet (2005) discuss the importance of law enforcement agencies, referred to as the “law-in-between” (p. 339), as the link
“between policy innovation (i.e., the creation of law) and policy implementation (i.e., the enforcement of law)” (Jenness & Grattet, 2005, p. 338). The commitment of local law enforcement agencies is important in enforcing PMC legislation (Jenness & Grattet, 2005). This commitment is a significant connection between successful legislation (law-on-the-books) and effective policing (law-in-action) (Jenness & Grattet, 2005). Specific law enforcement agency policies might equip their police officers with tools to sensitise them to PMC and identify the problem more efficiently, resulting in a reporting surge (Jenness & Grattet, 2005). Recommendations to deal effectively with issues of PMC include multilingual public information about community resources and criminal and civil remedies; a toll-free hotline and online form to report PMC; legislation for standards and financial support for prevention and response networks; training for educational institutions, law enforcement officers and other law enforcement staff, correctional personnel and prosecutors; and funding for educational institutions and law enforcement agencies partnering with local community agencies (Lockyer, 2001). Difficulties in terms of prosecution exist with prosecutors often considering the seriousness of the offence and weighing it against the likelihood of a conviction and the little experience most prosecutors have with hate crime cases in front of courts (Byers, Warren-Gordon, & Jones, 2012).

### 3.4.2 Minimal Recording of Prejudice Motivated Crime by Police

According to Cronin et al. (2007), “[h]aving complete and accurate statistics on the scope and trends in bias motivated crime across the country is an important step in preventing and responding to bias-motivated incidents” (p. 230). Even if a victim reports a PMC, difficulties in data recording still arise (Gerstenfeld, 2011). Law enforcement agencies differ in information recording and accounting for PMC, or might be challenged by determining the victim’s group, due to mixed race or ethnicity (Gerstenfeld, 2011). In addition, a lack of detail in police incident reports exists which limits the collection of officials statistics (Wickes, Ham, & Pickering, 2013). Although the majority of PMCs is an attack against individuals, when attacks against institutions (i.e., synagogues, cemeteries or community centres) occur, official statistics reflect such a crime as a single victim, while everyone being part of the institution is also victimised and worth counting (Gerstenfeld, 2011).

Research from England and Wales indicates that the police recorded 42,236 hate crimes in 2012/2013, only 1% of all recorded crime, with race as the main motivator for offenders, while the Crime Survey for England and Wales (CSEW) indicated 40% of hate crime victimisation (Home Office et al., 2013). In a U.S. study, Nolan and Akiyama (1999) found that the issue of PMC data
collection lies as much with the police officer as it lies with the police agency. The police officer is in charge of identifying and recording the incident as a hate crime (Nolan & Akiyama, 1999). Even when police officers record PMC accordingly, the agency may fail to forward this information to the responsible national program (which in the United States is the Uniform Crime Reporting [UCR] Program or the FBI) (Nolan & Akiyama, 1999). The five factors affecting law enforcement participation in PMC reporting are (1) the shared attitudes or beliefs about PMC, (2) the utility in community relations, (3) the organisational self-preservation, (4) the efficacy of police involvement and (5) resource allocation (Nolan & Akiyama, 1999, p. 124). Additional elements affecting police officers’ participation in recording PMC include supportive organisational policies and practices, individual attitudes or believes about PMC reporting, professional self-preservation, work-related difficulties and an organisation’s commitment (Nolan & Akiyama, 1999, p. 125). In addition, Perry (2010a) argues that the starting point is not hate crime sensitive training of police officers, but already starts with the hiring of police officers with a background of being exposed to diversity and multiculturalism, as well as recruiting from minority groups.

### 3.4.3 The Lack of Collecting PMC Statistics

The under-reporting of hate crimes is a serious obstacle for accurate data collection (Shively et al., 2001). Basic questions about hate crime, such as its prevalence, its dark figure and trends over time are difficult to answer when lacking sound data (Shively et al., 2001). In 1990, the U.S. implemented the *Hate Crime Statistics Act*[^40], which has made the reporting of annual PMC statistics mandatory (Perry, 2010a; Shively et al., 2001). Unfortunately, in 2008, less than 20% of law enforcement agencies had complied with this requirement (Perry, 2010a). Perry (2010a) recommends the improvement of data gathering through public and police reporting stating that community policing is an important factor in accomplishing that goal. A trusting relationship between the police and diverse communities is achieved through “community involvement, proactive strategies, and decentralization of control” (Perry, 2010a, p. 354). Differences in legislation will also result in different outcomes regarding data collection (Perry, 2010a). Improved data collection will lead to more effective policy development, which will benefit the victims, offenders, communities, as well as the region and nation state (Perry, 2010a). According to Hanes and Machin (2014), police forces in England collect good quality data on hate crime, due to precise

[^40]: For more information on the United States *Hate Crime Statistics Act* refer to the website of the FBI (2011).
Definitions police utilise when recording hate crimes. English police officers identify hate crimes via a *racist flag*, comprised by the offense category and victim ethnicity, which officers will enter into the system as racially motivated (Hanes & Machin, 2014). The definition for a hate crime in use by criminal justice agencies in England is “any criminal offence which is perceived, by the victim or any other person, to be motivated by a hostility or prejudice towards someone based on a personal characteristic” (Home Office et al., 2013, p. 11). The five strands the UK centrally monitors are *race, religion/faith, sexual orientation, disability* and *gender-identity* (Home Office et al., 2013, p. 11).

Australia does not employ a specific PMC tracking system, which makes it difficult to count PMC occurrences (Gerstenfeld, 2011). The *National Inquiry into Racist Violence 1991* found that Australian jurisdictions are not required to keep statistics concerning prejudice motivated crime (HREOC, 1991; Stobbs, 2008). Most offenses are reported in regards to the type of offence committed (e.g., assault), rather than its motivation (e.g., prejudice), which makes it difficult for police services to record PMC accurately (Stobbs, 2008).

According to Wickes et al. (2013), differences in PMC legislation make it difficult to understand variations in PMC victimisation in different jurisdictions. In Australia, only a few systematic victimisation surveys exist that concentrate on prejudice motivated crime, making it difficult to comprehend the prevalence of PMC incidents (Wickes et al., 2013). The Victorian Police recorded 3,219 PMCs between 2000 and 2011 (Wickes et al., 2013, p. 5). Wickes et al. (2013) point out that not only under-reporting and the lack of detail in police reports is an issue, but also variations in PMC legislation limit our understanding of the prevalence of PMC in Australia. A report administered by the Victorian Equal Opportunity and Human Rights Commission [VEOHRC] (2010) also found an apparent lack of data regarding PMC, due to under-reporting and no effective data collection. The report names media reports as an indicator of hate crime incidents in recent years (VEOHRC, 2010).

The barriers influencing police responses, minimal recording of PMC incidents, as well as the lack of collective PMC statistics influence the battle against prejudice motivated crime. Another important aspect is the reporting behaviour of PMC victims. Without their willingness to report PMC, such crimes officially go undetected.
3.5 The Victim’s Decision to Report Prejudice Motivated Crime

The victim is the *initiator* and *gatekeeper* of the criminal justice process, and therefore holds a very influential and important position (Gottfredson & Gottfredson, 1988; Hindelang & Gottfredson, 1976, pp. 57-58). Without a victim report, the police and criminal justice system are not aware of the crime and cannot get involved (Gottfredson & Gottfredson, 1988; Hindelang & Gottfredson, 1976). Unfortunately, the under-reporting of crimes is a problem (Gerstenfeld, 2011). There are two factors influencing the dark figure of crime, which are the lack of crime reporting, and the reporting but not recording of crime (Gittins & Tiffen, 2009). In the past, the dark figure of crime was estimated at 50% or more, which means that just as much crime is reported as goes unreported (Kury, 2001, p. 76). According to Kury (2001, p. 83), this percentage cannot be supported anymore, and it is estimated that only about 10% of crime is reported to police. In a study conducted on the Finnish Racist Crime Monitoring System, Kääriäinen and Ellonen (2007) discuss many of the problems related to police reports (e.g., the dark figure of crime and the absence of records of the ethnic background of victims). The dark figure of crime is exposed when official reporting statistics are compared to victim surveys (Carcach, 1997; Clare & Morgan, 2009; Gerstenfeld, 2011). Such comparisons reveal community participation, as well as public confidence in the criminal justice system (Carcach, 1997). Crime surveys are a tool for measuring reporting behaviour, as well as disclosing who is willing to report crime and what factors contribute to such disclosure of crime occurrence (Carcach, 1997).

3.5.1 Citizen Decision-Making about Reporting Crime Generally

Carcach (1997) names the following implications when crime goes unreported: 1) victims’ compensation and insurance payments cannot be fulfilled, 2) official crime statistics are faulty and underestimate the problem limiting the collected offender information, 3) the tasks of the police, such as strategic and operational planning, as well as budgeting and resource allocation, will be incorrectly allotted and 4) different groups are less likely to report crime, therefore, disadvantaged and vulnerable groups will be further deprived. Resource misallocation leaves areas and victims unprotected (Skogan, 1984). While analysing the 1993 National Crime and Safety Survey, Carcach (1997) has come to the conclusion that certain factors contributed to victims reporting behaviour, including the seriousness of the crime (physical harm or threat was reported more frequently); number of incidents (repeat victims were less likely to report the last crime); the relationship to the offender, as well as the victim’s gender (females reported robberies committed by known individuals more frequently, while males are less inclined to do so; on the other hand, females are
less likely to report assault when they know the offender, while this factor has no influence on males; the state of disadvantage (i.e. unemployed respondents are less likely to report crime); community participation in crime prevention (e.g., in neighbourhood watch programs, increases the likelihood of reporting breaking and entering to the police); and age (young victims are less likely to report crime) (Carcach, 1997).

Victim characteristics, therefore, play an important part in reporting behaviour. Goudriaan et al. (2004) sum up that victims being older, male, in a relationship and with higher than average incomes are more prone to report property crimes; while victims who are older or in a relationship are more likely to report contact crimes. Additionally, victims who regard the police as competent are also more willing to report misconduct (Goudriaan et al., 2004). Further, Miles-Johnson (2013) has found that variations between LGBTI individuals and heterosexual individuals exist, in that only 25% of LGBTI respondents, compared to almost all heterosexual participants, will report crime to the police, which is partly due to negative perceptions of police homophobia.

Goudriaan et al. (2004) consider a cost-benefit analysis when looking at the social context in reporting behaviour, but also discuss normative considerations, such as the legitimacy of police or government, norms regarding self-help and compliance norm. In regards to the normative perspective, the victims assess the appropriateness or inappropriateness of reporting a situation on a micro-level: for example if the victim knows the offender, he/she might decide against engaging the police (Goudriaan et al., 2004). Opinions towards the government and its responsibility, as well as the obligation of individuals, lead to differences in reporting behaviour (Goudriaan et al., 2004).

Additionally, Goudriaan et al. (2004) acknowledge that “[s]ome jurisdiction-level victimization surveys have been conducted, but they have not been used to investigate the influence of jurisdiction on the decision to report crimes to the police” (p. 942). This is also evident at state and territory level in Australia. An analysis of the link between varying legislation in different jurisdictions and consequent law enforcement approaches and the decision to report prejudice motivated crime still remains unknown. Goudriaan et al. (2004) have found that on country level, when the perception of the competence of the police is high, victims are more likely to report property crimes; however, there is no association with contact crimes. A study conducted by Culotta (2005) has found that distrust in the criminal justice systems, as well as fear of re-victimisation, affect crime reporting.

Indigenous Australians especially have specific barriers when reporting a crime. Next to cultural and language barriers, Indigenous communities fear negative repercussions while residing in small
and isolated communities (Willis, 2011). Stigmatisation and banishment, as well as more violence between family and community, are factors under consideration (Willis, 2011). Shame is also a major stimulus for refraining from reporting crime to the police (Taylor & Putt, 2007; Willis, 2011). Lack of awareness of unlawful behaviour, such as marital rape, and a deficiency in victim support, government and non-government services and police resources are identified barriers (Willis, 2011).

3.5.2 Citizen Decision-Making about Reporting PMC Specifically

There are certain attributes of individuals that have found prominence in early victimisation theories, which account for being more prone to victimisation than other individuals. These attributes include – but are not limited to – ethnicity, gender, socio-economic status and mental status (Burgess & Regehr, 2010; Zur, 1995). The German scholar von Hentig (1948) pioneered in the field of victimology and demonstrated in his 13 category typology that immigrants and minorities suffer more victimisation, due to a lack of equality (Burgess & Regehr, 2010; von Hentig, 1948). Not only do the above attributes contribute to the chance of overall victimisation, but they also play a more specific role in prejudice motivated crime victimisation. As Culotta (2005) states, “[t]he very reason a victim may have been singled out (i.e. ethnicity) may also create an obstacle for reporting the incident” (p. 23). Prejudice motivated crime is severely under-reported and under-reporting happens on an unequal basis (Gerstenfeld, 2011). Some minority groups refrain more prominently from reporting than others, inhibited by poor police-to-victim relations, linguistic difficulties or the lack of a voice in society (Gerstenfeld, 2011).

A study by Zaykowski (2010) exploring the U.S. National Crime Victimization Survey (NCVS) has found that minority groups, compared to the majority, not only report non-PMC victimisation but also PMC victimisation less frequently. In addition, although racially motivated crime occurs most frequently, racial victimisation is less likely to be reported to the police than other forms of PMC (Zaykowski, 2010). Anti-religion victimisation has the highest percentage of reporting, followed by incidents involving sexual orientation and association (Zaykowski, 2010). Empirical studies show that the reporting of non-PMC is largely dependent upon the seriousness of the crime, such as serious injury or great financial loss (Goudriaan et al., 2004; Skogan, 1984). Wong and Christmann (2008) conclude, PMC victims are more likely to report more serious crime; however, most PMCs are non-violent and therefore tend to go unreported.

As established, prejudice motivated crime has more serious implications than non-PMC and, due to its inherent seriousness, one would assume that PMC victims are more likely to file a police report.
Unfortunately, being part of a minority and experiencing a prejudice motivated crime further decreases the reporting of such crime. PMC victims are more likely to refrain from filing reports and less likely to involve the police (Perry, 2001). In 2001, the California Attorney General’s Civil Rights Commission on Hate Crimes Report laid out a number of reasons for the non-reporting of PMC (Gerstenfeld, 2011; Lockyer, 2001). Reasons include being unaware of the definition of PMC and the laws behind such crimes, the victim’s denial and shame, concerns about retaliation, re-victimisation and exposure, cultural and personal beliefs on how such events are dealt with, concerns about English language proficiency and inadequate communication and deportation concerns (Lockyer, 2001). Victims of PMC are more prone to be in a powerless situation, as well as more likely to have poor relations with law enforcement officials (Gerstenfeld, 2011). Personal barriers such as language, culture, sexual orientation, PMC law knowledge, trust in police and city responses to PMC affect reporting behaviour (Culotta, 2005; Shively et al., 2001).

In Asian cultures privacy and pride play a role and lead to non-reporting of PMC because individuals are embarrassed about what happened to them (Culotta, 2005). In addition to language barriers, immigrants might be unaware of their rights and the criminal justice system in their arriving country (Culotta, 2005). Additionally, sexual orientation plays a role in reporting of PMC (Culotta, 2005; Miles-Johnson, 2013). LGBT prejudice motivated crime is said to be the most under-reported of all PMC (Culotta, 2005). The uniqueness of LGBT victims consists of the concern to unintentionally revealing their sexual identity in the process of reporting a PMC (Culotta, 2005). For other PMC victims, targeted characteristics are usually visible (Culotta, 2005). In addition, PMC based on sexual orientation has an increased chance to be violent in comparison to other PMC (Culotta, 2005; Dunbar, 2006). Dunbar (2006) has also found that multiple minority group individuals, such as sexual identity and demographic characteristics, increase the likelihood of being victimised. A study concerning experiences with PMC by Arabs, Muslims and individuals of Middle Eastern appearance points out that the ignorance of relevant authorities, the victims’ distrust towards these authorities, as well as a feeling of resignation influence the willingness to report PMC (Poynting & Noble, 2004). Those few who have reported the incident are dissatisfied with the response and service they have received, resulting in victims avoiding public places and feeling excluded from public life (Poynting & Noble, 2004). The Leicester Hate Crime Study conducted in the UK also finds that hate crime victims have felt not taken seriously by police or by other authorities they have reported the crime to and only a few have declared that they will report the hate crime again (Chakraborti, Garland, & Hardy, 2014).
3.5.3 Theories of Victim Reporting Behaviour

Research from all over the world indicates that victims rarely report prejudice motivated crime to police (Gerstenfeld, 2011). Although PMC legislation is present in some form or another in many countries, PMC reporting is mostly dependent on individual-level perceptions of what constitutes a prejudice motivated crime and the willingness to report and mobilise the law by reporting such incidents (Lyons, 2008). The following two perspectives will guide my analysis of victim reporting behaviour, which are the normative perspective and the instrumental perspective.

**Normative Perspective**

The normative perspective helps to understand variations in the reporting behaviour of victims depending on their perceptions of the state and the law. According to Suchman (1997) and Tyler (2006b), victims act and make decisions on the basis of embedded moral values even if such decisions conflict with self-interest. People know, for example, that reporting a crime is the appropriate action. Procedural justice is an important aspect with a link to the normative perspective. People who believe that procedures of criminal justice authorities are legitimate and morally correct, as well as fair, are more likely to report crime. In contrast, victims in jurisdictions with, for example, no insurance coverage or in countries where the government or police are corrupt might not report a crime. Former experiences with corruption and power inequalities in a victim’s home country (e.g. India or Pakistan) might lead to reluctance to report crime in Australia. Opinions towards the government and individual obligations lead to differences in reporting behaviour (Goudriaan et al., 2004). Weak PMC legislation might discourage victims from reporting prejudice motivated crime.

**Instrumental Perspective**

The instrumental perspective plays a role in the decision-making process of victims of crime (see Suchman, 1997). As Suchman (1997) suggests, an individual’s material self-interest drives decision-making processes. The outcome that victims seek is likely, therefore, to influence their propensity to report a crime. In property crime, for example, a victim may hope to achieve a number of things, such as recovery and compensation, avoidance of further or repeat victimisation, prevention of victimisation of neighbours or the community and revenge (Schneider, Burcart, & Wilson II, 1976). On the other hand, personal crimes give fewer incentives to report because of no specific monetary loss and less chance to recover losses due to physical or psychological injury (Schneider et al., 1976). Victims hope that reporting a crime will have a desired result, such as an
effective prosecution (Willis, 2011). Police performance is therefore an important part of the instrumental perspective. When reporting a crime to police, victims believe that the case will be taken seriously, rigorously investigated and effectively solved. The victim will make a judgment on the basis of which behaviour will lead to personal gains and which behaviour to losses (Tyler, 2006b). Different legislative approaches have different outcomes and influence patterns of reporting.

3.6 Citizen Perspective & Victimisation

Some minority groups are less likely than others to report PMC, due to poor relations with police, inhibitions due to linguistic difficulties or because of a lack of voice in society (Gerstenfeld, 2011). Immigrant and Indigenous Australians are more likely to have an inherent distrust in the criminal justice system, such as the police (Willis, 2011). For immigrants, this distrust is due to oppressive regimes in their home countries; while for the Indigenous population, distrust is due to historical racism, mistreatment by police and other authorities, as well as unfair government policies, such as the removal of children (Stolen Generation) (Willis, 2011). Factors such as police, government and law legitimacy all have an impact on the decision to report PMC.

3.6.1 The Importance of Legitimacy

Citizen perceptions of the legitimacy of institutions play an important part in understanding PMC reporting behaviour. According to Jenness and Grattet (1996), it is uncertain if particular laws and policies will work and, therefore, effectiveness is less important than the matter of legitimacy. Murphy and Cherney (2010) have found “that people’s perceptions of the legitimacy of the law matters” (p. 19), in that groups questioning law legitimacy might not cooperate with police. Perceptions of law legitimacy, therefore, are likely to influence the decision to report PMC to the police. Different legislative approaches lead to different law enforcement strategies in translating such laws into action, influencing the process of identifying, policing and recording PMC. Differences in sentencing procedures, as well as using the criminal or civil code could make for variations in police response and, consequently, victim reporting.

Legitimacy is an important aspect for authorities, institutions and institutional arrangements to be successful, due to the inherent difficulty of coercing others by possession and power (Tyler, 2006a). According to Kääriäinen and Sirén (2011), “[l]egitimacy is the characteristic of an institution or authority that makes citizens feel that the actions of the institution or authority – in this case the police – are justified” (p. 67). The public needs to believe in the values upheld by the police to
consider their actions legitimate (Kääriäinen & Sirén, 2011). Legitimacy influences cooperation with police and fair procedures enhance police legitimacy even further (Tyler & Fagan, 2010).

Multiple studies have confirmed an association between trust in the police and the willingness to cooperate (Cherney & Chui, 2009; Murphy & Cherney, 2011; Tyler, 2005, 2011). Furthermore, related factors, such as public perceptions of procedural justice (or fairness of policies and practices) have also been linked to trust in the police (Tyler, 2005, 2011). Tyler (2005) has found that the public judges police officers and procedures not by the efficacy of crime control, but by their standards of justice focusing on the fairness of procedures. Procedures under evaluation are the “neutrality of decision making, respectful and polite interpersonal treatment and providing opportunities for input into decisions” (Tyler, 2005, p. 339). These results indicate that positive perceptions of police officers’ authority matter (Tyler, 2005). Abuse of authority by police officers results in decreased trust in police and, consequently, in less willingness to report crime (Tyler, 2005). Hinds and Murphy (2007) have found that perceptions of procedural justice influence perceptions of police legitimacy positively and in turn individuals are more satisfied with police services. A study conducted by Sargeant, Murphy, and Cherney (2014) suggests that different ethnic groups (i.e., Vietnamese and Indian) have different expectations and requirements regarding the service of police, differentiating between police performance and procedural justice. Sargeant et al. (2014) find that for Vietnamese and Indian respondents, procedural justice is less important for cooperation with the police, compared to the general population, while police performance is more effective in promoting trust in the police for Vietnamese respondents, with no significant differences for Indian participants. Sargeant et al. (2014) explain that this result might be due to historical experiences of conflict and culturally different experiences, as well as more recent experiences of biased policing in Australia.

In contrast, the literature has also pointed towards studies finding no link between trust in police and reporting behaviour (Goudriaan, Wittebrood, & Nieuwbeerta, 2006; Kääriäinen & Sirén, 2011). A study conducted by Goudriaan et al. (2006) indicated that trust in police had no effect on the reporting of crime; instead, the severity of the crime, social cohesion and socioeconomic welfare increase reporting behaviour. A study conducted by Kääriäinen and Sirén (2011) has also failed to confirm the assumption that trust in the police increases the willingness to report crime. Goldsmith (2005) names the factors influencing trust in police, which are their structural location and historical function, their commitment to uphold particular laws, their impunity, their suspicious nature and their performance. As seen above, research suggests inconclusive findings on trust in police influencing reporting behaviour (Kääriäinen & Sirén, 2011).
The matter of government legitimacy also influences the reporting behaviour of victims. The police are a government agency and, as such, represent the rules and regulations of the government. The state has the responsibility to maintain peace, protect individuals and achieve public legitimacy (Tyler, 2003). Goudriaan et al. (2004) add that opinions towards the government and its responsibility, as well as the obligation of individuals, lead to differences in reporting behaviour. Authorities, laws or institutions possess legitimacy, whereby individuals voluntarily feel obligated to follow decisions and directives dictated by those bodies (Tyler, 2003). Beetham (1991) suggests the importance of legitimacy in the majority of circumstances where an authority needs to maintain order, achieve cooperation and effectively govern. According to Tyler (2003), studies around government legitimacy inquire about the overall government, its institutions and authorities and individuals’ perceptions of responsibility and obligations in regards to the law and legal authorities (Tyler, 2003). Individuals who see the government as legitimate will be more likely to accept laws implemented by the government and take on the responsibility to abide by such laws and cooperate with government bodies.

The relationship between the public and police is important in battling PMC (Hall, 2012). According to Cherney and Chui (2009) the essential characteristics of effective policing are community engagement and cooperation; for example, reporting crime and making witness statements. It is vital for the improvement of PMC statistics to nurture a good and reciprocal community-police relationship (Balboni & McDevitt, 2001). An effective response to PMC builds trust and people who trust the police are more likely to report such crimes; it reduces the risk of community tension and leads to a positive public image of the police (Steer, 2011). Effective and successful responses to PMC by state agencies lead to increased trust and confidence in state agencies (Hall, 2012). Laws are likely to shape police processes and procedures and, consequently, perceptions of police and government legitimacy, which will influence the reporting behaviour of PMC victims. According to Tyler (2005, 2011), trust and confidence in police is low, but minority groups display even lower levels of trust in the police.

### 3.6.2 Minority Group Trust in Police and Confidence in Government

Australian and international research indicates that ethnic minorities display low levels of confidence and trust in the police, resulting in less voluntary cooperation (Cherney & Chui, 2009; Murphy & Cherney, 2011; Tyler, 2011). Perceptions of over-policing and under-protecting influence this view, as well as prior negative experiences with law enforcement in former countries of residency (Cherney & Chui, 2009; Murphy & Cherney, 2011). Sivasubramaniam and Goodman-
Delahunty (2008) have found that young minority group members perceive the police to be biased against their identity and have found an agreement between ethnic youth and Caucasians that the police have the tendency to target certain ethnic groups. Wickes et al. (2015) state that “PMC cannot be separated from recent events or historical relations between communities and the police” (p. 10). Police misconduct towards ethnic minorities from negligence to violence is ever present (Perry, 2010b). Such disparate police action marginalises minority groups even further and introduces feelings of second class citizenship (Perry, 2010b).

An Australian study conducted by Murphy and Cherney (2010, 2011) has found that police legitimacy is a mediating factor between procedural justice and the willingness to cooperate. Additionally, perceptions of law legitimacy have an effect on procedural justice views, which in turn influence reporting behaviour (Murphy & Cherney, 2010, 2011). Murphy and Cherney (2010, 2011) note, however, that procedural justice might be less influential for ethnic minorities due to questioning the legitimacy of Australian laws. Some groups will be less likely to cooperate with police if the legitimacy of the law is in question (Murphy & Cherney, 2010, 2011). Research conducted by Hall (2012) suggests that successful responses to PMC incidents influence the public’s desire to cooperate with police. The relationship between public and police is important in battling PMC (Hall, 2012). In addition, effective and successful responses to PMC by state agencies lead to increased trust and confidence in state agencies (Hall, 2012). A Canadian study by Cao (2011) finds that visible minorities have lower levels of confidence in the police than non-members of visible minorities. Such dissimilarities in the confidence in the police undermine social integration and create social differences (Cao, 2011). The Australian police organisations are developing strategies to create cultural awareness and conquer the above issues, ranging from recruitment and retention of ethnic police officers to opening up lines of communication with ethnic groups (Cherney & Chui, 2009).

The literature points out that people with perceptions of higher levels of police legitimacy are more likely to report crime. The literature also pointed out studies that have not confirmed this assumption and have referred to other factors influencing the reporting behaviour. My thesis hypotheses according to the literature supporting the argument that trust in the police and government will influence the decision to report prejudice motivated crime. My thesis will also include government legitimacy, because it is the body implementing federal, state and territory legislation. The police are the translators of such legislation and, therefore, perceptions of fair actions according to such laws are important regarding crime reporting behaviour. My thesis argues
that trust in the police and confidence in government is associated with different legislation implemented in each Australian jurisdiction.

3.7 Summary

The social, political and economic context of society shapes the legislation in different jurisdictions in Australia. While legislation is setting the scene for police processes and reporting mechanism, barriers exist which may influence a victims decision to report crime to police. The knowledge concerning prejudice motivated crime, however, is very limited due to a lack of adequate data (Zaykowski, 2010). As discussed above, this phenomenon also exist in Australia – and even more so because of non-existent official PMC recording systems. More studies are necessary to uncover reasons for not reporting PMC, to give law enforcement more information, to create strategies and effectively deal with such offences (Gerstenfeld, 2011). Research, including surveys that capture part of the data concerning the issue of prejudice motivated crime and the decision to report is, therefore, beneficial. Many victims of PMC refrain from reporting such incidents to police. If PMC is not reported, police are unaware of the crime, it fails to get included in official statistics and the offender goes unpunished (Gerstenfeld, 2011). It is important to further explore and consider the barriers to PMC reporting. My thesis will explore the perceived barriers of PMC reporting and the individual factors influencing the decision to report PMC to authorities. My thesis investigates the risk factors for victimisation and its links to different victim groups. I will explore different PMC legislation in each state or territory, as well as the importance of law, police, and government legitimacy in an attempt to explain PMC reporting behaviour. A detailed discussion of the methods used for this assessment is outlined in the next chapter.
Chapter 4: Research Methods and Data

4.1 Introduction

The present chapter outlines the methods and data used to answer the proposed research questions. My thesis employs a mixed-methods approach using qualitative as well as quantitative methods, which “provides a more complete understanding of a research problem than either approach alone” (Creswell, 2014, p. 4). According to Creswell (2014), a mixed methods approach not only draws on the strength but also minimises the limitations of both approaches. The mixed methods approach explores the following research questions:

RQ1: Do differences in PMC legislation influence patterns of reporting PMC?

- What are the different legislative approaches in each Australian state and territory?
- Are there differences in the definition, reporting and recording of prejudice motivated crime in each state and territory?
- Is there an association between the legal framework for dealing with PMC and the occurrence and patterns of reporting of PMC?

RQ2: How do perceptions of police and government legitimacy influence the decision to report crime and/or PMC?

- What are the differences between PMC victims, non-PMC victims and no-victims?
- What are the differences between reporting PMC and reporting crime?
- What individual characteristics and potential barriers influence the decision to report crime and/or PMC?

Below is a detailed outline of the methods, as well as the utilised qualitative and quantitative tools, to answer the above research questions.

4.2 Study 1 – Legislative Analysis

Study 1 includes a content analysis of the most recently implemented legislation addressing prejudice-related incidents in each Australian state and territory. My research will highlight the similarities and differences of Australian PMC legislation, will draw on concepts and answer preliminary questions. I will focus specifically on the most recent developments in Australian prejudice motivated crime legislation in each state and territory. I will use qualitative content analysis as the tool for this legislative analysis, as it “is a research method that uses a set of
procedures to make valid inferences from text.” (Weber, 1990, p. 9). The inferential process will point out “the sender(s) of the message, the message itself, or the audience of the message” (Weber, 1990, p. 9).

Krippendorff (2013) recognises content analysis as “potentially one of the most important research techniques in the social sciences” (p. xii). Content analysis is a powerful and unobtrusive instrument, in that it not only analyses content without affecting the authors of such documentation, but also infers meaning from available texts (Krippendorff, 2013). With this in mind, my thesis explores the varying legislative frameworks in Australian states and territories and the association between legislative frameworks and the reporting behaviour of hate crime victims. I will also display short snapshots of the social, cultural, political and situational context around the creation of PMC legislation in Australia. I will explore the association between the legal framework and the occurrence and patterns of reporting PMC further in each of the three results chapters in my thesis.

4.2.1 Australian Prejudice Motivated Crime Legislation

Prejudice motivated crime legislation varies throughout different states and territories. My thesis will explore the core elements of prejudice motivated crime legislation, which, according to Jenness (2001):

1) provides a new state policy action, by either creating a new criminal category, altering an existing law, or enhancing penalties for select extant crimes when they are committed for bias reasons;
2) contains an intent standard, which refers to the subjective intention of the perpetrator rather than relying solely on the basis of objective victimization; and
3) specifies a list of protected social statuses, such as race, religion, ethnicity, sexual orientation, gender, disabilities, etc. (Jenness, 2001, pp. 288-289)

I will compare and contrast different legislative approaches in jurisdictions across Australia and respond to the following questions:

- What are the similarities or differences in protected categories under PMC legislation in Australian jurisdictions?

As mentioned above, differences exist in the protection of categories under PMC legislation in each Australian state or territory. Jenness and Grattet (1996) argue that the later jurisdictions have implemented PMC legislation, the more likely such legislation is extensive rather than restrictive in
the inclusion of protected categories. I will discuss outlawing racial vilification and including religious vilification and the protection of further categories in some states and territories compared with other jurisdictions. I will consider further sub-questions, such as:

➢ How does PMC differ from non-PMC in each Australian state and territory?

Exploring the definitions for PMC used in each state and territory legislation, I will compare and contrast such defining characteristics and how PMC differs from non-PMC.

➢ Is PMC placed in the Civil or the Criminal Code in each Australian state or territory?

I will point out the differences between using the Civil Code and the Criminal Code, the implications for police procedures and practices and, consequently, for reporting behaviour of PMC victims.

➢ How do sentencing and punishment for PMC differ in each Australian state and territory?

I will explore the three sentencing and punishment models introduced by Mason (2009) – penalty enhancement model, sentence aggravation model and substantive offence model – in this part of the analysis. I will assign the three different models to each jurisdictional approach. I will assess the meaning of these three different models in regards to prosecution outcomes, highlighting the instrumental perspective of victim reporting behaviour. During the content analysis of the PMC legislation, I will carefully add further topics that are of interest for comparison and contrasting purposes.

In my thesis, I include all legislative frameworks in Australian states and territories that in some way address the issue of prejudiced violence. This includes jurisdictions that only have civil sanctions, such as Tasmania and the Commonwealth; jurisdictions that allow for civil sanctions and sentence aggravation provisions, such as the Northern Territory; jurisdictions that employ both civil and criminal sanctions by using the substantive offence model, such as the Australian Capital Territory, Queensland and South Australia (the only state also offering tort proceedings); jurisdictions that, next to civil and criminal sanctions (substantive offence model), additionally offer sentence aggravation provisions, such as New South Wales and Victoria; and jurisdictions that use a separate set of hate crime laws with criminal sanctions (penalty enhancement model), such as Western Australia. In my thesis, I will frame these different bodies of legislation under the umbrella of prejudice motivated crime legislation. Table 4.1 below displays the most recently implemented national, as well as state- and territory-based, PMC legislation, which I will use for the legislative analysis in my thesis.
<table>
<thead>
<tr>
<th>Jurisdictions</th>
<th>Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>• only civil sanctions</td>
<td></td>
</tr>
<tr>
<td><strong>The Australian Capital Territory (ACT)</strong></td>
<td><em>Discrimination Act 1991 (ACT) ss. 65, 66, 67 (Austl.)</em></td>
</tr>
<tr>
<td>• civil and criminal sanctions</td>
<td></td>
</tr>
<tr>
<td>• substantive offence model</td>
<td></td>
</tr>
<tr>
<td>• civil and criminal sanctions</td>
<td></td>
</tr>
<tr>
<td>• sentencing aggravation provisions</td>
<td></td>
</tr>
<tr>
<td>• substantive offence provisions</td>
<td></td>
</tr>
<tr>
<td><strong>The Northern Territory (NT)</strong></td>
<td><em>Sentencing Act 1995 (NT) s. 6A (Austl.) [amended with the Justice Legislation Amendment (Group Criminal Activities) Act 2006 (NT) (Austl.)</em></td>
</tr>
<tr>
<td>• civil sanctions</td>
<td></td>
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<tr>
<td>• sentencing aggravation provisions</td>
<td></td>
</tr>
<tr>
<td><strong>Queensland (Qld)</strong></td>
<td><em>Anti-Discrimination Act 1991 (Qld) ss. 124A, 131A (Austl.) [amended with the Anti-Discrimination Amendment Act 2001 (Qld) (Austl.); Aggravating circumstances under general sentencing laws</em></td>
</tr>
<tr>
<td>• civil and criminal sanctions</td>
<td></td>
</tr>
<tr>
<td>• substantive offence model</td>
<td></td>
</tr>
<tr>
<td><strong>South Australia (SA)</strong></td>
<td><em>Civil Liability Act 1936 (SA) s. 73 (Austl.) [formerly the Wrongs Act 1936 (SA) (Austl.); Racial Vilification Act 1996 (SA) (Austl.)</em></td>
</tr>
<tr>
<td>• civil and criminal sanctions</td>
<td></td>
</tr>
<tr>
<td>• substantive offence model</td>
<td></td>
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<tr>
<td>• tort provisions</td>
<td></td>
</tr>
<tr>
<td><strong>Tasmania (Tas)</strong></td>
<td><em>Anti-Discrimination Act 1998 (Tas) s. 19 (Austl.); Aggravating circumstances under general sentencing laws</em></td>
</tr>
<tr>
<td>• civil sanctions</td>
<td></td>
</tr>
<tr>
<td>• civil and criminal sanctions</td>
<td></td>
</tr>
<tr>
<td>• sentencing aggravation provisions</td>
<td></td>
</tr>
<tr>
<td>• substantive offence model</td>
<td></td>
</tr>
<tr>
<td>• only criminal sanctions</td>
<td></td>
</tr>
<tr>
<td>• penalty enhancement provisions</td>
<td></td>
</tr>
</tbody>
</table>

The first column in the table above displays the jurisdiction, as well as how each jurisdiction addresses issues around prejudiced violence. The second column includes the name of the PMC legislation in each Australian state and territory and displays the relevant sections in the legislation.

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41 Mason and Dyer (2013) mention that there are arguments for the inclusion of the Criminal Code Act 1995 (Cth) s 80.2(5) as PMC legislation, as it includes a “federal offence of urging inter-group violence [and] could be used to prosecute the encouragement of religious, racial or nationalist attacks” (p. 875, footnote). This would be a federal criminal offence. As this is a debatable argument, according to Mason and Dyer (2013), I will leave it out of my analysis.
necessary for my legislative analysis. I also reference the name of the amendment to the different Acts. Marsh and White (2006) suggest keeping the sample of the qualitative context analysis small due to the close and reiterative process; therefore, I will analyse only the content of the most recently implemented legislative approaches to deal with prejudice-motivated violence in each Australian state and territory. According to Marsh and White (2006), texts carry meanings, the composer of the text conveys purposeful messages and the recipients understand the message and accept it as useful or relevant. In the legislative analysis part of my thesis, I will explore the meanings of different legislative frameworks, linking the information contained in hate crime legislation to hate crime reporting behaviour. I set out to explore if different jurisdictional approaches to dealing with prejudiced violence have an influence on PMC reporting behaviour and an impact on PMC victimisation.

4.2.2 Content Analysis for PMC Legislation

Content analysis is a more flexible method when working with text data. Krippendorff (2013) defines content analysis as “a research technique for making replicable and valid inferences from texts (or other meaningful matter) to the contexts of their use” (p. 24, emphasis in original). To answer my research question surrounding the legislative analysis, I will use rules of inference to draw conclusions from text to context (Marsh & White, 2006). My literature review around PMC legislation provides analytical constructs for such inferences. These concepts will guide my approach to the content analysis.

Marsh and White (2006) explain the different steps a researcher undertakes in the qualitative coding process. Firstly, foreshadowing questions guide the qualitative coding in content analysis. Secondly, while exploring the material, the researcher tags key phrases and text segments, important or unexpected findings, as well as similarities, comparing categories and concepts with the paralleling documents. Thirdly, the researcher continually checks interpretations of answers to the research questions throughout the analysis process. Fourthly, the researcher records developing concepts, decisions and comments in two types of memos – concept memos and interpretative memos. The goal of the content analysis is to create a big picture “incorporat[ing] the context, including the population, the situation(s), and the theoretical construct” (Marsh & White, 2006, p. 39). Consistent with the Marsh-White approach, my content analysis will highlight the differences in legislative approaches in Australian states and territories. I will analyse emerging themes and concepts according to the policing of PMC and consequently the decision to report PMC. Understanding the differences in hate crime legislation will uncover the way in which jurisdictions frame their laws
and determine how law enforcement officers interpret and translate laws into action. This translation might have an effect on the occurrence of PMC and the reporting behaviour of PMC victims.

### 4.2.3 Leximancer – A Tool to Analyse Qualitative Data

After exploring the literature around PMC legislation, as well as the legislative documents, I will apply a summative content analysis utilising Leximancer. With a summative approach, documents are quantified exploring the usage of words and content, rather than infer meaning, which Hsieh and Shannon (2005) also refer to as manifest content analysis. Hsieh and Shannon (2005) note that a summative content analysis also includes latent content analysis, containing the exploration and interpretation of underlying meanings of words and content. Advantages of a summative content analysis are that this approach is an “unobtrusive and nonreactive way to study the phenomenon” (p. 1285) and includes basic insights into the usage of words in the analysed documents (Hsieh & Shannon, 2005).

According to Marsh and White (2006), the use of computer software can obviate much of the tedium of content analysis. Two major advantages exist using computer-aided content analysis, which include creating an explicit set of coding rules and a higher coder reliability (Weber, 1990). Leximancer is a text analytics tool for the content analysis of text documents (Leximancer Manual, 2011). A conceptual map displays the information obtained from the documents, which allows for a view of the conceptual structure of a body of text (Leximancer Manual, 2011). According to Stockwell, Colomb, Smith, and Wiles (2009), Leximancer is an effective tool to identify trends in documents. The software has the ability “to explore examples of concepts, their connections to each other, as well as links to the original text” (Leximancer Manual, 2011, p. 5). The strength of using Leximancer as a content analysis tool is that it can identify defined concepts as well as their interrelationships (Leximancer Manual, 2011). Scholars have evaluated this content analysis tool for stability and reproducibility (Rooney, 2005; Smith & Humphreys, 2006) and found that it is a more reliable tool than other qualitative software. As the software extracts the main themes and concepts from the uploaded documents, an independent investigation is possible removing researcher subjectivity and bias (Palmer, 2013).

My thesis will employ Leximancer to analyse the manifest content of PMC legislation and explore and interpret the latent symbolic meaning of these documents. Thomas and Hay (2012), as an example, have effectively used Leximancer while analysing policy documents reforming the senior years of secondary schooling, securing successful transition into the workforce in different
Australian states and territories, by extracting and analysing major themes in each document. Thomas and Hay (2012) state that “analysing the language of policy provides a way of seeing how policies work” (p. 149). Leximancer allows for a differential analysis (see also Palmer, 2013; Stockwell et al., 2009) and, accordingly, I will create folder tags utilising jurisdictional categories. I will remove any concepts unnecessary for my analysis and merge similar concepts depending on their location in the map (Palmer, 2013)\(^42\). I will use this legislative analysis to explore how PMC legislation influences police practices and procedures, and how jurisdictional differences in legislative frameworks might influence the occurrence of PMC victimisation and the decision to report such crimes.

4.3 Study 2 and Study 3 – Survey Analysis

The data for my survey analysis to answer research question two originates from the National Security and Preparedness Survey (2011-2012) collected under the auspices of the Australian Research Council Centre for Excellence in Policing and Security (CEPS). The study recruited a random sample of Australian residents via random digit dialling of 39,387 people and recorded data and undertook interviews using Computer Assisted Telephone Interviews (CATI) (Ramirez, Western, Mazerolle, & Wiedlitzka, 2013). The NSPS survey aims at benchmarking attitudes and perceptions of disaster preparedness, community resilience, vulnerability and heightened awareness after terrorist events (Ramirez et al., 2013). Next to addressing factors associated with national security, the survey also addresses factors associated with personal security, such as crime victimisation, confidence in and perceptions of legitimacy of government authorities, as well as personal opinions of respondents’ community and neighbours. 6590 individuals completed the short two-minute phone survey and of those, 6098 respondents agreed to complete the long survey. 3034 respondents opted to complete the survey online, while 3064 people opted to complete the survey via hard copy mail out. Of those recruited, 4258 respondents returned completed surveys\(^43\).

The NSPS inquires about respondents’ background, their experience and preparedness in the event of potential terrorist events and natural disasters, their attitudes towards government and national security policies and their experiences of crime and social participation (Ramirez et al., 2013). Although the survey primarily benchmarks attitudes and perceptions towards national security, it

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\(^{42}\) The amended stop-lists and concept seed edits are available upon request.

\(^{43}\) One of the respondents was underage; therefore, the NSPS sample for this analysis is N=4257.
also includes items designed to measure self-reported crime and victimisation, as well as accounting for self-reported hate crime occurrences. The survey also allows for a distinction between violent and property victimisation, as well as whether non-PMC victims or PMC victims reported the crime to police. The NSPS data offers survey items to explore the above research question addressing respondents’ perception of police and government legitimacy and sub-questions regarding victim characteristics and potential barriers to reporting hate crime and non-PMC. An exploration of the socio-demographics variables of the NSPS dataset (2011-2012) and a comparison with the 2011 ABS Census data suggests representativeness, as displayed in table 4.2 below.

Table 4.2 Comparison of NSPS and ABS Census Socio-Demographics

<table>
<thead>
<tr>
<th>Item</th>
<th>NSPS (2011-2012)</th>
<th>2011 ABS Census</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age</td>
<td>Median: 50-59 years</td>
<td>Median: 35-39 years</td>
</tr>
<tr>
<td>Gender</td>
<td>58.5% Female</td>
<td>49.4% Female</td>
</tr>
<tr>
<td>ATSI</td>
<td>1.0%</td>
<td>2.5%</td>
</tr>
<tr>
<td>Overseas born</td>
<td>24.3%</td>
<td>30.2%</td>
</tr>
<tr>
<td>Language spoken at home</td>
<td>94.4% English</td>
<td>76.8% English</td>
</tr>
<tr>
<td>Marital status</td>
<td>58.4% Married</td>
<td>48.7% Married</td>
</tr>
<tr>
<td>Education</td>
<td>19.1% University degree</td>
<td>14.3% University degree</td>
</tr>
<tr>
<td>Employment status</td>
<td>1.7% Unemployed</td>
<td>5.6% Unemployed</td>
</tr>
<tr>
<td>Annual income</td>
<td>Median: $60,000 – $79,999</td>
<td>Median: $64,168^44</td>
</tr>
<tr>
<td>Own residence</td>
<td>83.5%</td>
<td>67.0%</td>
</tr>
<tr>
<td>Dependent children at home</td>
<td>Mean: 0.6</td>
<td>Mean: 1.9</td>
</tr>
</tbody>
</table>

Source: ABS (2013a); Ramirez et al. (2013)

As table 4.2 shows, parts of the demographic distribution of the NSPS sample are similar to what we would find in the general population, as found in the 2011 ABS Census data. Similarities exist, for example, between the NSPS sample and the 2011 ABS Census data in items regarding overseas born respondents (24.3% overseas born in the sample vs. 30.2% overseas born in the population), education (19.1% university degree in the sample vs. 14.3% university degree in the population), as well as annual income (a median of $60,000 – $79,999 in the sample vs. $64,168 in the population). Females and married respondents were overrepresented in the NSPS sample (58.5% female in the sample vs. 49.4% in the population and 58.4% married in the sample vs. 48.7% married in the population). There are noticeable differences between age (median of 50-59 years in the sample vs. median of 35-39 years in the population), Aboriginal and Torres Strait Islander (ATSI) (1.0% ATSI in the sample vs. 2.5% ATSI in the population), language spoken at home (94.4% English spoken at home in the sample vs. 76.8% English spoken at home in the population), unemployment (1.7%

^44 I calculated this statistic using the median weekly household income of $1,234 from the 2011 ABS Census Data.
unemployed in the sample vs. 5.6% unemployed in the population), own residence components (83.5% own their residence in the sample vs. 67.0% own their residence in the population) and dependent children at home (a mean of 0.6 in the sample vs. 1.9 in the population)\textsuperscript{45}.

The above comparison demonstrates that the NSPS sample response led to somewhat of an over-representation of older Australian residents owning their own residence, as well as female and married respondents, and under-represents minority groups, such as the Indigenous population and residents who do not speak English at home, as well as under-representing the unemployed. The implications of such discrepancies are most likely the under-representation of hate crime victimisation rates, as minority groups have higher PMC rates, which consequently suppresses estimated victimisation rates (Shively et al., 2001). Because the under-representation of PMC victims is an issue in the NSPS data, as well as the issue of hate crime being a rare event, I will carefully check for any missing hate crime victims who could drop out of the statistical analysis and address these missing responses individually for each PMC victim. This will assure that all victims who have indicated having been victimised by a prejudice motivated crime will stay in the analysis. I will also consider this limitation in my interpretation of the data. In the next section, I will explain the constructs I created to answer research question two, followed by a discussion of the statistical analysis and modelling.

4.3.1 Constructs in the NSPS Survey Instrument

This section details the constructs for the statistical analysis of my thesis. Although the NSPS includes many questions around national security and disaster preparedness, my study focuses on the constructs around victimisation and reporting behaviour, as well as police, law and government legitimacy. I also include demographic variables in my study that I later describe in more detail.

Potential Barriers to Reporting (and Risk Factors for Victimisation)

One of my key variables to explain the victimisation and reporting behaviour of respondents is a measure that I call “potential barriers to reporting”, which includes citizenship status, immigrant status, linguistic difficulties, Indigenous status and perception of isolation from the community. The potential barriers that keep victims from reporting crime and/or hate crime to police are often also

\textsuperscript{45} Oversampling may increase the influence of the oversampled variables, while under-sampling may reduce the influence of the under-sampled variables in the results.
risk factors in their victimisation. Social-structural victimisation theory assumes a minority vs. majority relationship in society and implies that the state and governments are responsible for shaping patterns of victimisation and marginalisation. I expect to measure the potential barriers to reporting with the following items:

**Linguistic Difficulties:** Linguistic difficulties can influence victims’ reporting behaviour (Culotta, 2005; Gerstenfeld, 2011; Lockyer, 2001). This potential barrier/risk factor is measured by the question: “What language do you normally speak at home?” (Q34). Response categories include 1 for “English”, 2 for “Italian”, 3 for “Greek”, 4 for “Cantonese”, 5 for “Mandarin”, 6 for “Arabic”, 7 for “Vietnamese” or 8 for “Other (please specify)” (string). I have recoded this variable into a dummy variable of language other than English spoken at home (LOTE), indicating 1 for “Yes” and 0 for “No”.

**Indigenous Status:** Indigenous Australians face specific barriers when it comes to reporting a crime (Willis, 2011). They suffer from cultural and language barriers and lack victim support, as well as government and non-government services (Willis, 2011). The Indigenous status of an individual can have an impact on reporting behaviour, in regards to access to police services, as well as historically grounded issues of trust in the police. The item measuring Indigenous status asks “Do you identify yourself as an Aboriginal or Torres Strait Islander?” (Q36). Response categories ranged from 1 for “Yes – Aboriginal”, 2 for “Yes – Torres Strait Islander”, 3 for “Yes – Both”, to 4 for “No”. I have recoded this categorical variable into a dummy variable, indicating 1 for “Stated Indigenous” and 0 for “Did not state Indigenous”.

**Citizenship Status:** Citizenship status guarantees equal rights and services to individuals. Migrants, for example, need permanent residency for at least two years to apply for benefits and assistance (AHRC, 2012a). The item measuring citizenship status asks respondents “Are you an Australian citizen?” (Q35). Response categories include 1 for “Yes” and 2 for “No”. One PMC victim has refrained from responding to this question. To keep the missing PMC victim on this variable in the analysis, I recoded the variable citizenship status into a dummy variable, including 1 for “Stated Australian citizenship” and 0 for “Did not state Australian citizenship”.

**Immigrant Status:** Immigrants and ethnic minorities are more prone to victimisation and less likely to report crime to authorities (Culotta, 2005). Immigrant status, therefore, can prove a potential barrier to reporting regular crime and PMC. The item measuring immigrant status asks: “In which country where [sic] you born?” (Q32). This is a string variable. Three PMC victims were missing
on this variable. I recoded the original variable into a dummy variable with 1 for “Indicated foreign born” and 0 for “Did not indicate foreign born”.46

*Perception of Isolation in Community*: Cultural victimisation theory suggests that the cultural norms and stereotypes of a society shape the patterns of victimisation that are directed toward minority groups. Minority groups who feel unwelcome in the community they reside in, due to their neighbours preferring and accepting only Anglo-Saxons in their neighbourhood, may perceive themselves socially isolated from their residential community. The NSPS uses the following question to explore the marginalisation and perception of isolation from the community: “How much do you agree or disagree with the following statement?” (Q47).

- People in this community prefer that residents in the area are mostly Anglo Saxon. (Q47a)
- People in this community do not like having members of other ethnic groups as next door neighbours. (Q47b)

Response categories for these items in the survey are 1 for “Strongly disagree”, 2 for “Disagree”, 3 for “Neither agree nor disagree”, 4 for “Agree” and 5 for “Strongly agree”. I have turned these two items into a scale called *preference for Anglo-Saxons as neighbours*.47

*Religion*: The NSPS asks respondents “What is your religion?” (Q37). Response categories include 1 for “Catholic”, 2 for “Anglican”, 3 for “Uniting Church”, 4 for “Presbyterian”, 5 for “Greek Orthodox”, 6 for “Buddhist”, 7 for “Baptist”, 8 for “Islam”, 9 for “Lutheran”, 10 for “No religion” and 11 for “Other (specify)”, which is a string response. I have created a dummy-coded variable called *religion* with 1 for “Christian” and 0 for “Other”.

46 Although the NSPS includes additional items that can tap into the *social isolation* construct, such as the year of arrival in Australia, a factor analysis revealed that these items do not load convincingly onto the social isolation construct.

47 I opted to not call the final scale perceptions of isolation in the community for ease of interpretation in the models. The *perception of isolation in the community* items did not fit in with the factor analysis around the policing and legitimacy context. I, therefore, have undertaken a factor analysis of items around the following attitudes: “People in this community prefer that residents in the area are mostly Anglo Saxon” (Q47a); “People in this community do not like having members of other ethnic groups as next door neighbours” (Q47b); “People in this community are comfortable with the current levels of ethnic diversity here” (Q47c; reverse coded); “Some people in this community have been excluded from social events because of their skin colour, ethnicity, race or religion” (Q47d); “Within Australia, I see myself first and mainly as a member of my race/ethnic group” (Q47e); and “People from my race/ethnic group should try to keep a separate cultural identity” (Q47f). The factor analysis has indicated that only Q47a (0.7843) and Q47b (0.8198) are loading highly onto one factor with an Eigenvalue of 2.18712. The scale reliability coefficient of 0.8167 being over 0.7 indicates a good fit for a scale.
Victim Group

Some individuals, depending on gender, ethnicity or socio-economic status, tend to be more prone to victimisation than others (Burgess & Regehr, 2010). Immigrants and minorities, for example, suffer more victimisation due to their inequality in society (social-structural victimisation theory) (von Hentig, 1948). With this theory in mind, I expect to find predominant victimisation among minority groups rather than among the rest of the Australian sample in the NSPS. The dependent variable for study 2 is “victim group”, which consists of three categories – PMC victim (hate crime victimisation), non-PMC victim (other crime victimisation) and no-victim (no victimisation). I will use the NSPS to help identify the factors that distinguish between non-victims, crime victims and PMC victims. The following items distinguish between two types of crime victimisation, property crime and violent crime.

- In the last 12 months, has anyone ever used violence or the threat of violence, such as in a mugging, fight assault or sexual assault, against you or anyone in your household? (Q71)
- In the last 12 months, has anyone damaged your household or personal property, stolen something from your home or vehicle, or stolen your vehicle? (Q74)

The response categories for the above variables are 1 for “Yes” and 2 for “No”. Differences exist in reporting behaviour regarding property crime vs. personal crime (Goudriaan et al., 2004). I can distinguish between these two types of crime in my analysis. Immigrants and minorities are more prone not only to victimisation but also to hate crime victimisation (Culotta, 2005). I am, therefore, expecting to find more PMC victimisation among minority groups. I am able to distinguish between the victimisation of PMC and non-PMC using the following items:

- Do you feel that this incident occurred because of the skin colour, ethnicity, race or religion of anyone in the household? (Q73)
- Do you feel that this incident occurred to [sic] because of the skin colour, ethnicity, race or religion of anyone in the household? (Q76)
The response categories for the above variables are 1 for “Yes” and 2 for “No”. I created a categorical variable recoding these two items into 0 for “No-victim”, 1 for “Non-PMC victim” and 2 for “PMC victim”.

Crime Incident

People tend to report property crime more frequently than violent crime, due to certain outcomes, which could include financial compensation through insurance payouts (Schneider et al., 1976). I, therefore, expect that victims in the NSPS sample will indicate reporting higher rates of property crime compared with violent crime. The following NSPS items distinguish between personal crime and property crime:

- In the last 12 months, has anyone ever used violence or the threat of violence, such as in a mugging, fight assault or sexual assault, against you or anyone in your household? (Q71)
- In the last 12 months, has anyone damaged your household or personal property, stolen something from your home or vehicle, or stolen your vehicle? (Q74)

The response categories for the above variables are also 1 for “Yes” and 2 for “No”. I recoded the variable into a dummy variable called property crime with 0 for “No” and 1 for “Yes”.

Hate Crime

PMC victims are less likely to involve the police and file a police report than non-PMC victims (Perry, 2001). I will explore the individual characteristics and potential barriers that influence victims’ decisions to report hate crime to the police. I expect to measure “reporting PMC” by the following items:

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48 The NSPS asks questions on victimisation experiences at a household-level; therefore individual demographic information might not accurately represent characteristics of PMC and non-PMC victims. According to a study conducted by Hess, Moore, Pascale, Rothgeb, and Keeley (2001), survey designers prefer the household-level approach to try to reduce respondent burden, refusals and non-response, as well as to increase efficiency. Hess et al. (2001) have not found evidence for problems with household-level surveys regarding demographic characteristics and note that the household-level approach provided more reliable answers compared with the individual-level approach. There might be a risk of under-reporting on certain questionnaire items in household-level surveys (Hess et al., 2001); however, survey creators ask household-level questions to capture more people, as well as to make the question less personal for the respondent, especially in regards to experiences of victimisation. Victimisation surveys, such as the Crime Survey in England and Wales, also ask respondents at the household level, which means that although the respondent might not have been part of a minority group, the household member and actual victim could have the associated minority group characteristic (Home Office et al., 2013). I ran my models with and without individual characteristics of respondents (i.e., age and gender) and ran post-estimation tests. The AIC of the model including individual characteristics is smaller (AIC: 3878.493; BIC: 4127.61) than the model without individual characteristics (AIC: 4088.128; BIC: 4163.319), which indicates that the model with individual characteristics fits the data better.
Do you feel that this incident occurred because of the skin colour, ethnicity, race or religion of anyone in the household? (Q73)

Do you feel that this incident occurred to [sic] because of the skin colour, ethnicity, race or religion of anyone in the household? (Q76)

The response categories for the above variables are 1 for “Yes” and 2 for “No”. I have created a hate crime dummy variable accounting for both crime types with response categories 1 for “Yes” and 0 for “No”.

**Reporting Crime**

Another one of my key outcome variables is a measure called “reporting crime”. Zaykowski (2010) indicates that minority groups are less likely to report non-PMC compared with the majority group. I expect to find this relationship in the NSPS data. The item measuring if victims have reported the crime to police or not are the following:

- Was this incident reported to the police? (Q72)
- Did you report this incident to the police? (Q75)

The response categories for the above variables are 1 for “Yes” and 2 for “No”. I again have created a dummy variable from these two items (1 for “Yes” and 0 for “No”). Due to the NSPS including responses to different crime types, I have created a multilevel dataset doubling up the individual respondents to account for both property and violent crime responses. The newly created reporting variable included 871 incidents of crime, where the individual responses to the two separate crime types have been picked up, with response categories 1 for “Yes” (reported) and 0 for “No” (not reported).

**Perception of Police Legitimacy**

Another key explanatory variable in my study is a measure I call “perception of police legitimacy”. Distrust in the criminal justice system (Culotta, 2005) and poor police to victim relationships (Gerstenfeld, 2011) have been found to influence crime reporting. Legitimacy impacts on cooperation with the police and fair procedures enhance police legitimacy (Tyler & Fagan, 2010). I have reviewed multiple studies that have utilised police legitimacy scales for the selection of survey

49 The do-file with information on recoding of the multilevel variables is available upon request.
items from the NSPS (see, i.e., Bradford, 2014; Gau, 2011; Hinds & Murphy, 2007; Murphy & Cherney, 2012; Murphy, Murphy, & Mearns, 2010; Reisig, Bratton, & Gertz, 2007). Items available in the survey measuring perceptions of police legitimacy ask about how much respondents agree or disagree with the following statements about the police:

- Police try to be fair when making decisions. (Q78a)
- Police treat people fairly. (Q78b)
- Police treat people with dignity and respect. (Q78c)
- Police are always polite when dealing with people. (Q78d)
- Police listen to people before making decisions. (Q78e)
- Police make decisions based upon facts, not their personal biases or opinions. (Q78f)
- Police respect people’s rights when decisions are made. (Q78g)
- Overall, I think that police are doing a good job in my community. (Q78h)
- I trust the police in my community. (Q78i)
- I have confidence in the police in my community. (Q78j)
- Police are accessible to the people in this community. (Q78k)

The alpha level of 0.9496 indicates that the perceptions of police legitimacy scale is well explained by the items selected. Response categories for these items in the survey are 1 for “Strongly disagree”, 2 for “Disagree”, 3 for “Neither agree nor disagree”, 4 for “Agree” and 5 for “Strongly agree”. The above scale includes police legitimacy items (i.e., trust in the police, police performance), as well as procedural justice items (i.e., quality of treatment, quality of decision-making), because of high loadings onto the one factor during a factor analysis, which specified the items best fitted for the scales. Gau (2011) has tested the assumption that procedural justice and police legitimacy are distinct from each other using a confirmatory factor analysis and has found, to the contrary, that a tendency for trust to load with procedural justice items exists.

Cooperation with the police is essential in fighting crime (Gottfredson & Gottfredson, 1988; Hindelang & Gottfredson, 1976). I will inquire if respondents have noted that they will cooperate with police and, if they were victims, whether or not they have reported the crime to police. I have

50 The alpha coefficient is over the standard threshold of 0.7.
created a police cooperation scale with the items below in the survey asking, “If the situation arose, please indicate how likely you would be to do any of the following”:

- Call the police to report a crime. (Q77a)
- Help police find someone suspected of committing a crime by providing them with information. (Q77b)
- Report dangerous or suspicious activity to police. (Q77c)
- Willingly assist police if needed. (Q77d)

The above items explain the police cooperation scale well with a scale reliability coefficient of 0.8960\(^5\). Response categories for these items include “Very Unlikely” (1), “Unlikely” (2), “Undecided” (3), “Likely” (4) and “Very Likely” (5). Previous literature also includes some similar items in the creation of a cooperation with police scale (see, i.e., Bradford, 2014; Murphy & Cherney, 2012; Murphy et al., 2010; Sunshine & Tyler, 2003; Tankebe, 2013; Tyler & Fagan, 2010).

Bradford (2014) has examined the links between procedural justice, social identity and police cooperation and has tested if people are more cooperative with the police if they feel included in the social group that the police represents and identify with this group. Bradford (2014) has found significant evidence for police fairness, legitimacy and social identity influencing cooperation with police. In addition, Oliveira and Murphy (2015) have established that social identity is more important than ethnicity or race in predicting views of the police. The NSPS instrument includes a question asking if respondents identify with the Australian community: “How much do you agree or disagree with the following statements?”

- I see myself first and mainly as a member of the Australian community. (Q70a)
- It is important for me to be seen by others as a member of the Australian community. (Q70b)
- I am proud to be Australian. (Q70c)
- What Australia stands for is important for me. (Q70d)

\(^{51}\) The alpha coefficient is over the standard threshold of 0.7.
The scale created from the above items has an alpha of 0.8407\textsuperscript{52}, which explains the concept of identifying with Australia and its community well. Response categories are on a five point Likert scale and range from 1 for “Strongly disagree”, 2 for “Disagree”, 3 for “Neither agree nor disagree”, 4 for “Agree” to 5 for “Strongly agree”.

Perception of Government Legitimacy

Another key explanatory variable is a measure called “perception of government legitimacy”. As Goudriaan et al. (2004) point out, opinions toward the government and its responsibility can influence the reporting behaviour of victims. Nivette (2014) also argues that if citizens perceive the state as lacking fairness in the treatment of certain groups, as well as equality and justice, citizens might withdraw consent and compliance with the state. Support, allegiance, institutional trust or confidence all measure legitimacy (Tyler, 2003). I use the following items to establish federal government legitimacy:

- How much of the time can you trust the Australian government to do what is right? (Q49)

This item has response categories of 1 for “Just about always”, 2 for “Most of the time”, 3 for “Some of the time” and 4 for “Just about never”. I have reverse-coded this scale item to fit in with the direction of the other scale items below. Other questions tapping into government legitimacy are as follows:

- How much confidence do you have in the Prime Minister of Australia? (Q51a)
- How much confidence do you have in Federal Politicians? (Q51b)
- How much confidence do you have in Federal Parliament? (Q51e)

Response categories for these items are 1 for “Hardly any confidence”, 2 for “Only some confidence” and 3 for “A great deal of confidence”. The above items have a scale reliability coefficient of 0.8241\textsuperscript{53}, which makes the items selected a good fit for the scale.

Due to a factor analysis indicating loading onto two separate factors, I distinguish between federal and state government legitimacy and explored perceptions of state government legitimacy with the following questions:

\begin{center}
\underline{______________________}
\end{center}

\textsuperscript{52} The alpha coefficient is over the standard threshold of 0.7.
\textsuperscript{53} The alpha coefficient is over the standard threshold of 0.7.
• How much confidence do you have in your State Premier? (Q51c)
• How much confidence do you have in your State Politicians? (Q51d)

These items also have response categories ranging from 1 for “Hardly any confidence”, 2 for “Only some confidence” and 3 for “A great deal of confidence”. The created scale has a reliability coefficient of 0.8090. Prior research utilises similar items to tap into the legitimacy of authority figures and government agencies (see, e.g., Useem & Useem, 1979; van der Toorn, Tyler, & Jost, 2011; Weatherford, 1992).

Perception of Law Legitimacy

According to Tyler (2003), the legitimacy of local laws and legal authorities can be measured by an index of perceived obligation to obey, which the author refers to as “the most direct extension of the concept of legitimacy” (Tyler, 2003, p. 310). According to Murphy and Cherney (2012), some groups might be less willing to cooperate with police if they question the legitimacy of the law. The NSPS measures attitudes and obligations toward the law by asking respondents how much they agree or disagree with the following statements:

• You should always obey the law even if it goes against what you think is right. (Q79a)
• I feel a moral obligation to obey the law. (Q79b)
• People should do what our laws tell them to do even if they disagree with them. (Q79c)

Response categories for these items in the survey are 1 for “Strongly disagree”, 2 for “Disagree”, 3 for “Neither agree nor disagree”, 4 for “Agree” and 5 for “Strongly agree”. Prior research also uses similar items to create law legitimacy scales (i.e., obligation to obey the law) (see, e.g., Murphy et al., 2010; Murphy et al., 2009). The above items have a scale reliability coefficient of 0.8607, which indicates the items explain the concept of perceptions of law legitimacy well.

The above constructs offer a rounded picture to explore respondents’ experiences with crime and more specifically prejudice motivated crime, as well as their reporting behaviour concerning hate crime compared with non-PMC. In the next section, I will describe the socio-demographic factors that might have an impact on victimisation, as well as victims’ reporting behaviour.

54 The alpha coefficient is over the standard threshold of 0.7.
55 The alpha coefficient is over the standard threshold of 0.7.
Socio-Demographic Constructs

My thesis also seeks to identify the individual factors that might influence the decision to report prejudice motivated crime. I will use the following socio-demographic variables in my models:

**Age**: The NSPS asks respondents for their age by inquiring, “In what month and year were you born?” (Q40). This is a string variable, but also a continuous numerical variable. Two PMC victims are missing on variable age, so I have imputed the mean to be able to keep these respondents in the analysis. Janhevich (2001) has found that victims of hate crime incidents are more likely to be young males; therefore, I also control for age, as well as gender.

**Gender**: I include a gender variable into my analysis to control for a likelihood of PMC victimisation based on respondents’ gender (see also Chongatera, 2013). Respondents are asked for their gender by question “Are you male or female?” (Q39). Response categories include 1 for “Male” and 2 for “Female”. I have created a dummy-coded female variable, with 1 as a “Yes” and 0 as a “No” response.

**Number of Dependent Children**: The NSPS gathers responses on “How many dependent children under the age of 18 live at this current address?” (Q31). This is a string variable. I have created a dummy-coded variable with 1 for “Indicated dependent children” and 0 for “Did not indicate dependent children”.

**Annual Household Income**: The NSPS survey asks respondents to state their household income with the question, “What was the approximate household income, including pensions, income from investments and family allowances for the last 12 months before any tax was taken out (gross income)?” (Q85). Response categories range from 1 for “Less than $20,000”, 2 for “$20,000 to $39,999”, 3 for “$40,000 to $59,999”, 4 for “$60,000 to $79,999”, 5 for “$80,000 to $99,999”, 6 for “$100,000 to $119,999”, 7 for “$120,000 to $149,999” and 8 for $150,000 or more”. This variable has a large number of missing data (13.70%). I, therefore, have utilised data on gender and education and have imputed respondents’ income.

**Education**: The survey also asks respondents about their educational achievement with the question: “What is your highest level of educational achievement?” (Q81). Response categories include 1 for “Postgraduate qualifications”, 2 for “University or college degree”, 3 for “Trade, technical certificate or diploma”, 4 for “Completed high school”, 5 for “Some high school”, 6 for “Primary school”, 7 for “No schooling” and 8 for “Other (please specify)”, which is a string response. I have reverse-coded this variable to match higher numbers with higher educational attainment with 1 for
“No school”, 2 for “Primary School”, 3 for “Some high school”, 4 for “Completed high school”, 5 for “Trade”, 6 for “Undergrad” and 7 for “Postgrad”.

Renting/Owning: The survey also inquires, “Do you or a family member own or rent the current residence where you are living?” (Q29). Respondents can choose between 1 for “Own outright or buying”, 2 for “Rent” and 3 for “Other”, which is a string response. I have recoded this variable into a dummy with 1 for “Own” and 0 for “Other”.

Marital Status: The NSPS asks about respondents’ marital status with the question, “What is your current marital status?” (Q38). Response categories range from 1 for “Never married/single”, 2 for “De facto relationship”, 3 for “Married”, 4 for “Divorced”, 5 for “Separated but not divorced” to 6 for “Widowed”. I have recoded this variable into a dummy variable with 1 for “Married” and 0 for “Other”.

Employment: The NSPS also asks, “Which one of the following best describes your current main employment activity?” (Q82) with response categories of 1 for “Working for pay as an employee (including temporary absence work on holidays, on paid leave, on strike)”, 2 for “Self employed in own business”, 3 for “Retired from paid work”, 4 for “Unemployed – looking for work”, 5 for “Studying full time”, 6 for “Household duties”, 7 for “Caring for a family member”, 8 for “Living with a disability”, 9 for “Doing unpaid work in family business” and 10 for “Other (please specify)”, which is a string response. I have recoded this variable into a dummy variable called unemployed with 1 for “Yes” and 0 for “No”.

Dependent and Independent Variables

My thesis will comprise two quantitative studies (study 2 and study 3). Study 2 contains an analysis of how victim groups differ in terms of demographics, potential barriers or risk factors, and perceptions of legitimacy. In study 3, I will analyse the demographics, potential barriers or risk factors, and perceptions of legitimacy that influence the reporting of crime to police. My dependent variables in study 2 and study 3 are the following:

Table 4.3 Dependent Variables (y)

<table>
<thead>
<tr>
<th>Study</th>
<th>Dependent Variables</th>
</tr>
</thead>
<tbody>
<tr>
<td>Study 2 (Victimisation)</td>
<td>Victim Groups (no-victim, non-PMC victim, PMC victim)</td>
</tr>
<tr>
<td>Study 3 (Reporting behaviour)</td>
<td>Crime Report (Yes, No)</td>
</tr>
</tbody>
</table>

88
As Table 4.3 displays, I have created a variable for study 2 that captures which “group” respondents are in for each survey respondent. Three possible groups exist including (1) respondents who have not been a victim of a crime in the past 12 months (no-victims); (2) respondents who are general crime victims (non-PMC victims); and (3) respondents who are PMC victims (PMC victims). My hypothesis is that there are differences between these three comparisons based on a number of independent predictors. For study 3, I created a dependent dummy variable that indicates which respondents reported the crime to police and which respondents have not involved the police. I again hypothesise that certain independent predictors will serve as potential barriers to victims reporting crime to police. Table 4.4 below lays out the theoretically relevant independent variables for both quantitative studies in my thesis:

Table 4.4 Independent Variables (x)

<table>
<thead>
<tr>
<th>Study</th>
<th>Independent variables</th>
</tr>
</thead>
</table>

Table 4.4 displays the control and explanatory variables I will use for my statistical analysis in study 2 and study 3, which include all socio-demographics, as well as potential barriers/risk factors discussed in more detail in the NSPS construct section above. Next, I will discuss my proposed analytical method.

**4.3.2 Proposed Analytical Method**

My main goals are to identify the factors influencing PMC and non-PMC victimisation and the barriers of crime reporting. I also explore jurisdictional differences concerning the occurrence and reporting of PMC, as well as compare across PMC victims, crime victims and non-victims. My proposed analytical methods are the following:

1) In study 2, I will use a Multinomial Logit Regression (MNLR) with dependent (categorical) variables to examine whether or not there are differences in the three victimisation groups, controlling for a range of control and explanatory variables. Multinomial logistic regression is a
great fit for such an analysis, as MNLR “do[es] not require the predictors to be linearly related, normally distributed, or to have equal variations within each group”, unlike Ordinary Least Squares (OLS) regression, which calls for distributional requirements for predictors (Chongatera, 2013, p. 54; Tabachnick & Fidell, 2007). According to Long and Freese (2006), the formal MNLR model takes the following form:

\[
\ln \Omega_{m|b}(x) = \ln \frac{Pr(y = m|x)}{Pr(y = b|x)} = x\beta_{m|b} \quad \text{for } m = 1 \text{ to } J
\]

In this equation, \( b \) is the base category, which is compared with the other groups in the model. As the log odds of an outcome compared with itself are always 0 (\( \ln \Omega_{m|b}(x) = \ln 1 = 0 \)), the effects of the independent variables (or predictors) must also be 0 (\( \beta_{b|b} = 0 \)). I will transform the estimated coefficients into relative risk ratios (exp(\( b \)) rather than just \( b \)). The following predicted probabilities equation is computed by solving the \( J \) equation:

\[
Pr(y = m|x) = \frac{\exp(x\beta_{m|b})}{\sum_{j=1}^{J} \exp(x\beta_{j|b})}
\]

I will also use descriptive statistics to indicate state and territory differences, as well as further explore variables of interest. I propose the following conceptual model for study 2 in my thesis:

Figure 4.1 Conceptual Model for Study 2

My thesis explores the individual characteristics and risk factors of PMC victimisation compared with other victim groups and, as well, explores perceptions of police, law and government legitimacy in connection with being in one victim group over another. Differences in socio-
economic background and risk factors for victimisation background might have an influence on perceptions of police, law and government legitimacy, as well as which victim groups respondents most likely belong to. My model assumes that all of the above constructs have an impact on PMC and non-PMC victimisation.

2) In study 3, I will employ Generalised Linear Latent and Mixed Models (Gllamm) with the dependent variable indicating that the victim reported the crime incident to police or not, controlling for all control and explanatory variables. According to Rabe-Hesketh and Skrondal (2012), “[u]nits of observation often fall into groups or clusters” (p. 73). In this multilevel model units of observations are captured at two different levels. The level one units are crime incidents (property and violent crime) and level two units are individual respondents.

![Crime incidents nested in individuals](adapted from Rabe-Hesketh & Skrondal, 2012)

The NSPS multilevel dataset includes 816 crime incidents nested within 762 individuals, which will vary depending on the model and the missing data on certain variables. According to Pardoe (2004), a hierarchical model “can account for lack of independence across levels of nested data” (p. 298) (i.e., crime incident nested in individuals). The binary response for the multilevel model for the $i$th observation for the $j$th individual is the following:

$$Y_{ij} = 1 \text{ for crime reported}$$
$$Y_{ij} = 0 \text{ for crime not reported}$$

According to Grilli and Rampichini (2006, p. 10), the two-level model assumes the form below:

$$y_{ij} | x_{ij}, u_{0j} \sim B (1, \pi_{ij})$$

---

56 Table 7.2 in Chapter 7 displays this variation in N and indicates missing data only on certain variables.
\[ g(\pi_{ij}) = \beta_0 + \beta x_{ij} + u_{0j}, \quad u_{0j} \sim N(0, \sigma_u^2) \]

With \( g(.) \) indicating the link function. I first prepared the dataset to represent the clustered data (two measurements per subject) using the `xtset` command (Rabe-Hesketh & Skrondal, 2012). In addition, I will use descriptive statistics to check for state and territory differences concerning the reporting of crime and PMC. I propose the following conceptual model for study 3:

**Figure 4.2 Conceptual Model for Study 3**

In study 3, I will differentiate between people reporting a crime to police and people who have decided not to report the crime to police. I assume that socio-economic background might influence – and potential barriers might hinder – reporting crime without prejudice motive and hate crime to the police. My thesis probes into the influence of police, government and law legitimacy on victims’ reporting behaviour. I also include a *hate crime* variable, because I assume that people who experience a hate crime are less likely to report crime to police than people who experience a crime without a prejudice motive. I also include an indicator for experiencing a property crime incident and violent crime incident, as people experiencing property crime will be more likely to report the crime to police due to monetary incentives, than people experiencing a violent crime. My model assumes that all of the above constructs have an impact on the reporting behaviour of victims.

**Variable Preparation**

*Checking for outliers:* I have run box plots and scatter plots to check for potential outliers and have explored the minimum and maximum values of dummy-coded variables and scales. The variable
age is the only continuous numerical variable and no outlier has been detected. The variables income and education are discrete numerical variables. Although the variable education has one respondent on the extreme end of the whiskers in the box plot indicating no school education, I have left the respondent in the analysis. As the majority of my variables are dummy-coded variables (gender, dependent children, homeownership, marital status, employment status, LOTE, ATSI, Australian citizen, foreign born, religion, reporting crime, hate crime, property crime and violent crime), outliers are not a problem, but I have explored minimum and maximum values to detect any coding issues. As a large number of respondents are homeowners (3,555 compared with the remaining 701 respondents), the box plots indicated outliers; however, these dummy variables have been left in the analysis. I have also checked the scales (preference for Anglo-Saxons as neighbours, perceptions of police legitimacy, cooperation with police, identify with Australia and its community, perceptions of law legitimacy, perceptions of federal government legitimacy and perceptions of state government legitimacy) for potential outliers, as well as coding issues, double-checking minimum and maximum values, and have not detected any issues.

Assessing Normality: I will use Multinomial Logit Regression with the dependent categorical variable victim groups, including the categories non-PMC victims, PMC victims and no-victims. This model is partly comparable to running three binary logits (Long, 1997). A Multinomial Logit Regression is useful for nominal variables that cannot be ordered (Long, 1997) and do not fit the assumption of normality. Using MNLR over Logit Regression has three benefits. First, Logit Regression creates a separate model for each binary combination, which ultimately leads to different subsets of observations, making a comparison across models difficult. Second, in terms of statistical power, MNLR is helpful when some categories have few observations. Third, MNLR is a highly underused model in practice, as analysts prefer the use of ordinary linear regression for data analysis (Chatterjee & Simonoff, 2013), as well as being sparingly used in criminological research. In the multilevel models, I am able to double the observations of victims due to utilising crime incidents nested within individuals, which has increased the cell count of my victim sample.

Dealing with Missing Data: I have analysed frequency distributions to check for missing data on my dependent variables. All of my dependent variables are above acceptable limits (less than 10%). I have dropped one respondent who has identified with being a hate crime victim, as the respondent
has not provided enough ‘useable’\textsuperscript{57} information throughout the survey responses. As hate crime is a rare event, I want to make sure to leave as many PMC victims as possible in the analysis. I, therefore, have checked for missing PMC victims on all construct variables and have addressed missing PMC victims individually. As two PMC respondents are missing on variable age, I have imputed the mean. I have created dummy-coded variables for dependent children (four missing PMCs), home-ownership (one missing PMC), marital status (one missing PMC), Indigenous status (one missing PMC), citizenship status (one missing PMC), foreign born (three missing PMCs) and religion (one missing PMC). One PMC victim is missing on income, so I have imputed the median with a group means approach using the respondents’ education and gender. This has also helped deal with the overall missing score of the variable income, as 13.70\% of NSPS respondents have not answered this survey question (Ramirez et al., 2013). While creating the scales, I have used commands to impute the row mean so that only cases with all items missing are dropped from the analysis. I have checked the missing PMC victims on all scales and none is missing on all items, so respondents having been victimised by hate crime are left in the analysis.\textsuperscript{58} In addition, I have checked for any missing victims on the property crime and violent crime incident variables, as well as my newly created reporting crime variable for the multilevel models. The missing respondents are below 10\% and all 50 hate crime incidents are accounted for with an indication of victims either having reported the crime to police or not.

Factor analysis: I have run a factor analysis to inform the creation of my scales around the policing context and social identity context to create my scales around these constructs. I also have undertaken a separate factor analysis for the selection of the perception of isolation in the community context, as a combined factor analysis has been inconclusive\textsuperscript{59}. The items in the above construct section display the items best explaining each construct. Firstly, I have explored the data and literature to choose relevant variables for the creation of my scales from the NSPS. Secondly, I

\textsuperscript{57}Shively et al. (2001) describe the term ‘useable’ information as enough responses in the survey to answer at least one of the objectives of the study. The respondent, unfortunately, did not provide enough detail to keep the responses in the analysis.

\textsuperscript{58}No PMC victims are missing on variables, such as gender, Non-LOTE, education and employment status.

\textsuperscript{59}I have run a separate factor analysis of items around the following attitudes: “People in this community prefer that residents in the area are mostly Anglo Saxon” (Q47a); “People in this community do not like having members of other ethnic groups as next door neighbours” (Q47b); “People in this community are comfortable with the current levels of ethnic diversity here” (Q47c; reverse-coded); “Some people in this community have been excluded from social events because of their skin colour, ethnicity, race or religion” (Q47d); “Within Australia, I see myself first and mainly as a member of my race/ethnic group” (Q47e); and “People from my race/ethnic group should try to keep a separate cultural identity” (Q47f), with an indication that only Q47a (0.7843) and Q47b (0.8198) load highly onto one factor displaying an Eigenvalue of 2.18712. The alpha of 0.8167 also indicates a good fit for a scale being over 0.7.
have undertaken a factor analysis, which designates the variables for the creation of the different scales (see table 4.5).

Table 4.5 Factor Analysis for Policing Context Utilising Items to Construct Scales

<table>
<thead>
<tr>
<th>Item</th>
<th>Factor</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td>Perceptions of Police Legitimacy</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Police try to be fair when making decisions.</td>
<td></td>
<td>0.7635</td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>Police treat people fairly.</td>
<td></td>
<td>0.8220</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Police treat people with dignity and respect.</td>
<td></td>
<td>0.8336</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Police are always polite when dealing with people.</td>
<td></td>
<td>0.7488</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Police listen to people before making decisions.</td>
<td></td>
<td>0.7916</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Police make decisions based upon facts, not their personal biases</td>
<td></td>
<td>0.7985</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>or opinions.</td>
<td></td>
<td></td>
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<tr>
<td>Police respect people’s rights when decisions are made.</td>
<td></td>
<td>0.8274</td>
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<tr>
<td>Overall, I think that police are doing a good job in my community.</td>
<td></td>
<td>0.7999</td>
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<tr>
<td>I trust the police in my community.</td>
<td></td>
<td>0.8347</td>
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<tr>
<td>I have confidence in the police in my community.</td>
<td></td>
<td>0.8393</td>
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<tr>
<td>Police are accessible to the people in this community.</td>
<td></td>
<td>0.6875</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Cooperation with police</td>
<td></td>
<td>0.8348</td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Call the police to report a crime.</td>
<td></td>
<td>0.8731</td>
<td></td>
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<tr>
<td>Help police find someone suspected of committing a crime by providing them with information.</td>
<td></td>
<td>0.8330</td>
<td></td>
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<tr>
<td>Report dangerous or suspicious activity to police.</td>
<td></td>
<td>0.8480</td>
<td></td>
<td></td>
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<tr>
<td>Willingly assist police if needed.</td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Identifying with Australia and its community</td>
<td></td>
<td>0.8149</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>I see myself first and mainly as a member of the Australian community.</td>
<td></td>
<td>0.7472</td>
<td></td>
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<tr>
<td>It is important for me to be seen by others as a member of the Australian community.</td>
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<td></td>
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<tr>
<td>I am proud to be Australian.</td>
<td></td>
<td>0.8298</td>
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<tr>
<td>What Australia stands for is important for me.</td>
<td></td>
<td>0.8269</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Perceptions of Federal Government Legitimacy</td>
<td></td>
<td>0.7632</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>How much of the time can you trust the Australian government to do what is right?</td>
<td></td>
<td>0.8133</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>How much confidence do you have in the Prime Minister of Australia?</td>
<td></td>
<td>0.7111</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>How much confidence do you have in Federal Parliament?</td>
<td></td>
<td>0.7724</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Perceptions of Law Legitimacy</td>
<td></td>
<td>0.8595</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>You should always obey the law even if it goes against what you think is right.</td>
<td></td>
<td>0.7973</td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>I feel a moral obligation to obey the law.</td>
<td></td>
<td>0.8876</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>People should do what our laws tell them to do even if they disagree with them.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Perceptions of State Government Legitimacy</td>
<td></td>
<td>0.8013</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>How much confidence do you have in your State Premier?</td>
<td></td>
<td>0.8258</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Eigenvalues</td>
<td></td>
<td>7.32019</td>
<td>3.12270</td>
<td>2.76647</td>
<td>2.64274</td>
<td>2.39843</td>
<td>1.79408</td>
</tr>
</tbody>
</table>

60 The perceptions of police legitimacy scale include procedural justice items, because the items load highly onto one factor and the two separate scales are highly correlated.
The factors utilised in the creation of the scale have an Eigenvalue of higher than one, and only items with high loadings define the factors, as well as the items having a uniqueness score of lower than 0.6. After deciding on the factors, I have created the scales and only include scales with a high alpha level (above 0.7).

Model Diagnostics: I have undertaken model diagnostics to ensure that my models are sound. Multicollinearity is a statistical phenomenon in which independent variables in a model are highly correlated. I have run a Variance Inflation Factors (VIF) test to check for multicollinearity. I have run this VIF test for all variables in the MNLR and Gllamm models and all scores are under 7. The highest VIF score is 1.79 for variables creating the MNLR models, while the Gllamm models have the highest VIF score of 1.61, which indicates no multicollinearity. I have executed a Breusch-Pagan/Cook-Weisberg test for Heteroskedasticity for the MNLR data and have rejected the null hypothesis of homoskedasticity (p-value: 0.000; chi²: 242.83); however, this can occur as the categories to my dependent variable have different counts. I have also run the same test for the multilevel data and have found that heteroscedasticity is not a problem with a small chi² of 0.68. The p-value of 0.410 also indicates the failure of rejecting the null hypothesis of constant variance.

4.4 Summary

My thesis employs a mixed methods research approach in order to understand better the factors that influence people’s PMC experiences and their decisions to report their victimisations to police. Mixed methods are a sophisticated and complex approach, and a useful strategy to gain a well-rounded understanding of the research problems/questions (Creswell, 2014). In my thesis, I will firstly, qualitatively analyse the most recently implemented PMC legislation in each Australian state and territory. Secondly, I will quantitatively analyse the NSPS data around the above constructs employing Multinomial Logit Regression comparing no-PMC victims, PMC victims and no-victims. I will find out what factors are more likely associated with being a victim of non-PMC or a victim of PMC. Thirdly, I will use Generalised Linear Latent and Mixed Models to analyse the potential barriers to reporting crime to police, differentiating between hate crime and non-PMC and property and violent crime. I will explore state and territory differences concerning the occurrence.

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61 If the uniqueness score is high, then the variables do not explain the factor well.  
62 The variable immigrant status is highly correlated with the variable year of arrival; therefore, I have dropped the variable from the analysis.
of and decision to report PMC and non-PMC and draw out the link between varying legislative approaches and the occurrence of hate crime and the decision to report it to the police.
Australia has experienced two waves of hate crime legislation reform. The first wave started in the late 1980s, when, with the exception of Tasmania and the Northern Territory, all Australian states and territories introduced criminal offences of serious vilification, with the majority residing in anti-discrimination legislation (Mason & Dyer, 2013). These legislative approaches allow prosecutors to convert a civil wrong of vilification targeted against a specified group to a criminal offence, if the threat or incitement of harm is present (Mason & Dyer, 2013). A unique body of hate crime legislation exists in Western Australia. It is the first and only Australian jurisdiction to have introduced racial vilification offences directly into its criminal code (Criminal Code Act Compilation Act 1913 [WA] ss. 77-80D [Austl.]) and implemented penalty-enhancement provisions for racially aggravated offences in 2004 (Criminal Code Act Compilation Act 1913 [WA] ss. 313, 317-317A, 338B, 444 [Austl.]), adding an extra maximum sentence to offences with racial hostility (Mason & Dyer, 2013).

The second wave of hate crime legislation began in the early 2000s, when law makers amended existing sentencing laws with the introduction of a motive of prejudice or hatred against a certain group of people serving as an aggravating factor at sentencing (Mason & Dyer, 2013). In 2003, New South Wales was the first state to amend its Crimes (Sentencing Procedure) Act 1999 (NSW) s. 21A(2)(h) (Austl.); in 2006, the Northern Territory introduced such statutes in the Sentencing Act 1995 (NT) s. 6A (Austl.); and in 2009, Victoria also amended its Sentencing Act 1991 (VIC) s. 5(2)(daaa) (Austl.) (Mason & Dyer, 2013). Queensland, however, lacks sentencing aggravation provisions (Mason & Dyer, 2013). The justification for implementation and amendments to civil and criminal law is that hate crime oppresses and intimidates, and consequently denies harmless people and groups their right to respect (Mason & Dyer, 2013).

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64 Mason and Dyer (2013) also point out that “the federal offence of urging inter-group violence could be used to prosecute the encouragement of religious, racial or nationalist attacks: Criminal Code Act 1995 (Cth) sch ss 80.2A-80.2B” (p. 875).

65 See Sentencing Amendment Act 2009 (Vic) s. 3 (Austl.).
Mason (2014c) argues that “[h]ate crime law governs criminal conduct that involves an element of prejudice or bias on the part of the perpetrator towards a presumed attribute of the victim” (p. 77). Three reasons exist for why hate crime legislation is instrumental in tackling hate crimes. First, the criminalisation of hate crime by the state is an important mechanism in this endeavour (Walters, 2014a). Second, hate crime legislation is essential for the creation of norms and the control of social behaviours (Walters, 2014a). The implementation of hate crime legislation influences society’s evolving attitudes towards minority groups, assists in the condemnation of prejudice motivated crime, and sends a message of protection from hate crime to targeted groups (Walters, 2014a). Third, through the creation of hate crime laws, the state ensures that law enforcement and other criminal justice agencies focus their time and resources onto tackling hate crimes (Walters, 2014a).

This chapter explores the different legislative frameworks in Australian states and territories and focuses on the most important themes and concepts identified in the legislation. I will compare and contrast jurisdictional differences in hate crime legislation, create a visual map of state and territory legislative frameworks, and offer an interpretation of hate crime laws in Australia. Implementation of hate crime legislation creates public awareness of such provisions, puts the state responses to such crimes under public scrutiny, and improves police-minority group relations (Walters, 2014a).

5.2 Hate Crime Legislation in Australia

Hate crime legislation is very diverse in different Australian jurisdictions, but according to Mason (2014d), three common features of hate crime law exist. First, hate crime legislation targets offenders that display hostility, bias, prejudice or hatred towards a selected victim based on certain attributes; in short, a crime linked to prejudice needs to be present. Second, penalty-enhancement is one of the features of hate crime law, as enhanced penalties top up the original sentence, although laws already exist, which criminalise non-PMC. Third, only specified victim attributes or forms of social differentiation are protected under hate crime laws, often mirroring protected categories under anti-discrimination and human rights statutes. Most statutes will specify which categories hate crime laws protect (i.e., race and religion), while other statutes keep an open-ended list (i.e., ‘any other similar factor’) (Mason, 2014d). This broad approach leaves more discretion to the judiciary, often used in sentencing aggravation provisions (Mason, 2014d).

66 Although not all Australian states and territories utilize this penalty-enhancement feature in their legislative frameworks regarding hate incidents, and rather include the terms unlawful and serious vilification, I will still refer to these legislative frameworks as hate crime legislation.
Sentence aggravation provisions are a fairly new development in the Australian hate crime legislation realm (Mason & Dyer, 2013). New South Wales first introduced sentence aggravation provisions in 2003, after a series of sexual assaults with racial overtones occurred in Sydney (Mason & Dyer, 2013). In 2006, the Northern Territory introduced sentence aggravation provisions into its sentencing legislation, while in 2009, Victoria added similar provisions as a result of racial attacks against international students from India (Mason & Dyer, 2013). Although not yet implemented, the Tasmania Law Reform Institute recommended the implementation of sentence aggravation provisions in Tasmania (Racial Vilification and Racially Motivated Offences, Final Report No 14 (2011) 42). In their research around the application of sentence aggravation provisions, Mason and Dyer (2013) found three key features that need to be present to establish beyond reasonable doubt hatred prejudice or hate motive. These common denominators include:

1) evidence of group difference between offenders and victims where the latter are largely, although not exclusively, members of subjugated and harmless minority groups;
2) evidence of group hostility on the offender’s part, manifested either by derogatory and hostile statements about the victim’s group or, alternatively, by the offender’s violent conduct alone or accompanied by psychological evidence; and
3) the absence of evidence from which to infer another motive.

(Mason & Dyer, 2013, p. 913)

Over the last twenty-five years, Australia has implemented a complex set of legislative frameworks in different jurisdictions. Scholars have discussed hate crime legislation from different jurisdictions in Australia (see Jayasuriya, 2012; Mason, 2009; McNamara, 2002; Meagher, 2005, 2006); however, the hate crime literature lacks a complete visual picture combining and comparing different legislative frameworks in Australia. My thesis visualises Australian PMC legislation creating a Leximancer map of the content of the legislative frameworks of all states and territories and the Commonwealth.

To inform my interpretation of the Leximancer maps, I have compiled all legislative documents and information gathered from literature and websites, which informs my interpretation of the Leximancer maps. I have used the steps outlined in the Marsh-White approach, using

67 A comprehensive table of the content of all Australian PMC legislation is available upon request.
foreshadowing questions (the research sub-questions) to explore the text documents manually, tagging any key text segments, continually crosschecking my interpretations and answers to research questions and recording this information in a detailed legislation content table. I have used all legislative hate crime and vilification provisions available in Australia and systematically analysed them using summative content analysis methods (Hsieh & Shannon, 2005) to accurately display the definitions, protected categories and whether or not the law requires civil or criminal sanctions. I have also identified the penal models, sentencing and punishments if applicable, as well as the reporting mechanism. I am exploring whether or not the way in which hate crime victims are required to report PMC incidents will influence their decision to report hate crimes to the police. Leximancer, as a content analysis tool, provides visual aids for interpretation and has the advantage of reliably analysing text documents due to lack of concerns regarding coder reliability (Fisk, Cherney, Hornsey, & Smith, 2012; Smith & Humphreys, 2006). In the following sections, I will analyse the visual maps related to hate crime legislative frameworks, first conceptually and then relationally by jurisdictions.

5.3 The Legislative Responses to Prejudice Motivated Crime

For the legislative analysis, I cleaned all formatting and atypical paragraphing (often exhibited in legislative documents), as well as converting all documents into Microsoft Word format68, before uploading the legislative documents into Leximancer, so all documents display uniform formats. I uploaded the documents into Leximancer using folder identifiers (tags) titled after Australian states and territories, as well as the Commonwealth. These jurisdictional identifiers allowed me to display concepts drawn from the legislative texts in relation to each Australian jurisdiction. After creating a first map with all legislative documents (see Table 4.1), I increased the total number of concepts from the automatic setting to 100, so Leximancer would not under-code documents of smaller size (i.e. the Northern Territory and Tasmania). After exploring the original map, I edited concept seeds and changed text processing settings, removing irrelevant concepts and merging closely associated words (see also Fisk et al., 2012). After the editing stage, I included the jurisdictional identifiers onto the map to visualise the differences in hate crime legislation in different Australian jurisdictions.

68 Documents in PDF format have a tendency to be unreliable in the Leximancer software.
In the subsections below, I will first explore the conceptual structure of the legislative documents and identify the most important co-occurring themes (Fisk et al., 2012). Secondly, I will discuss the Leximancer map in more detail, including themes and relevant concepts in relation to jurisdictional identifiers.

5.3.1 Conceptual Analysis of Emerging Themes and Concepts

Fisk et al. (2012) call the identification of core concepts utilising Leximancer a conceptual analysis. According to Palmer (2013), “[t]hemes are the highest level of abstraction provide[d] by Leximancer and provide a quick high-level summary of the data” (p. 226). Concepts are co-occurring words in text documents (Fisk et al., 2012). Leximancer identifies relationships between words by their separate or co-occurrent frequency (Fisk et al., 2012). Concepts that co-occur more frequently or are similar will be clustered more closely to each other in the Leximancer map (Fisk et al., 2012). Themes, on the other hand, are clusters of concepts, and concepts not closely linked to a theme will appear as a separate theme in the map.

Figure 5.1 Leximancer Map Displaying Themes

Map 5.1 displays the overall themes that emerge prominently in the different jurisdictional hate crime laws in Australia. Through heat-mapping (based on the colour wheel, ranging from red being the most important theme to blue and then purple being of least importance), I can determine the
key areas that are predominantly appearing in my content analysis of various laws (see Leximancer Manual, 2011). Themes located in the centre with red shading emerge as frequent themes in the documents, while the documents mention the peripheral themes with blue shading less frequently than other concepts. The thematic summary on the right of the map above includes a ‘connectivity’ score linked to the relative importance of the themes (Leximancer Manual, 2011). The map and thematic summary demonstrate that the concept serious emerges as the most important theme and the most frequently utilised word throughout the document in the content analysis, followed by religious, imprisonment, court, criminal and complaint. The major theme serious emerges as overlapping with the themes criminal and religious, showing closer connectivity to this theme.

An exploration of the concept nodes, where the size of the grey circles indicates relevance, reveals that the concept hatred emerges as one of the most important concepts to the text creators, or in this analysis, to the legislators, followed by concepts, such as race, religious, vilification and unlawful. By comparison, as exploration of the concept ranking table in Leximancer indicates that the concept imprisonment surfaces as the key concept with 40 counts in the legislative analysis. This is not surprising, as Western Australia alone uses the word imprisonment 30 times in its legislation, as it places hate crimes in the criminal code and has harsh punishments for offenders convicted of a hate crime. Queensland, New South Wales, Victoria and South Australia also specify imprisonment penalties. The concept serious emerges 31 times; however, the Commonwealth and the Northern Territory legislation make no reference to serious vilification. The Commonwealth and the Northern Territory lack criminal sanctions so therefore the concept serious is not present. Often states and territories with substantive offence models distinguish between unlawful vilification and serious vilification offences. The analysis further indicates that the documents display the concept race 31 times, primarily in Victoria’s legislative framework (14 times); however, the protected category race is absent in the Northern Territory and the Australian Capital Territory legislative frameworks. Race including ethnicity, nationality, or colour, is the most prominently protected category in Australian hate crime legislation. Tasmania, Queensland, Victoria, New South Wales, and Western Australia make specific reference to the concept religious. This indicates that not all jurisdictions define religious affiliation as one of the protected categories under their hate crime provisions.

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69 The legislative documents often display the word serious in terms of serious vilification. I decided not to consolidate the two words so as not to undermine the vilification aspect when the legislative texts mention unlawful, religious or racial vilification.
Hatred is the next concept in the ranking table, utilised 29 times in the Commonwealth legislative texts and all states and territories, excluding the Northern Territory. New South Wales alone mentions the word hatred 13 times in its PMC legislation, followed by Victoria with five counts and Tasmania, Queensland, the Australian Capital Territory, South Australia and Western Australia, with two counts, and the Commonwealth legislation with one count. Vilification is another concept in the concept ranking table, which indicates a total count of 22 times, predominantly in New South Wales and Victoria, but also represented in Queensland, the Australian Capital Territory and South Australia. Tasmania and Victoria also use the concept vilify with a count of one for Tasmania and a count of three for Victoria. The concept unlawful is represented 19 times in the content of the legislation. With nine counts, this concept is most prominently represented in New South Wales, followed by the Commonwealth legislation with five counts, Queensland and the Australian Capital Territory with two counts, and Victoria with one count. The concept unlawful is missing in the South Australia, Western Australia, Victoria and the Northern Territory content. The documents use the concept complaint 17 times, primarily in the Victorian legislation with 16 counts, as well as in the Queensland legislation with one count. Tasmania and the Commonwealth also use the concept complaints; however, each legislative document only mentions this concept once.

The above analysis gives a brief overview of the relevant themes employed in the text documents of Australian PMC legislation. Legislators created these documents to address racism and hate violence in Australia. The map reflects the main themes most important to the text creators in the Australian context. Themes such as serious (often referring to serious vilification), criminal and imprisonment indicate the seriousness legislators attach to the issue of hate crime. The map displays themes, such as imprisonment, complaint and court, spatially apart from each other, which the relational exploration of the themes and concepts will explore further in the next subsection.

5.3.2 Relational Analysis of Themes and Concepts

A relational analysis explores the properties of concepts and how they are related to each other (Fisk et al., 2012). After exploring the basics of the themes and concepts, I will now analyse the themes and concepts emerging in the content analysis of the legislation more thoroughly, including an analysis of themes in relation to concepts and concepts in connection to other concepts. Map 5.2 displays the higher level themes, as well as the concepts, which visibly cluster around the themes. Each theme is the most prominent concept in this cluster of concepts. I will then move on to explore the different jurisdictional identifiers (or tags), which will give me an indication of differences and similarities (Leximancer Manual, 2011) between the jurisdictional frameworks. Jurisdiction
identifiers that are clustered more closely around each other and around other concepts will be similar, while tags that are further away from others clustered around different concepts will be less alike. The concepts more closely in relation to each other are the concepts that are most commonly found in the content of the legislative framework.

Figure 5.2 Themes and Concepts by Jurisdiction

Map 5.2 displays six major themes, as well as the most frequent concepts in these themes. This map displays a more rounded picture of PMC legislation in the Australian context and explains the spatial location of the main themes with the addition of state and territory identifiers. Australia has created a complex set of hate crime legislation. States and territories more closely surrounded by the same concepts, as well as in close proximity to other jurisdictional identifiers, have similar legislative frameworks, which are most likely modelled after each other.

The legislative documents most prominently use the theme serious in regards to mentioning serious vilification or serious contempt for a person or persons. The three most frequent concepts linked to this main theme emerging from the map are hatred, race, and vilification. The first concept, hatred, refers to inciting (also promoting or expressing) hatred towards a person or group of people, or in the South Australian legislation explains the word “animosity”. The second concept closely linked to the theme serious is the concept race. This concept primarily describes the protected category in the legislation. Race is the most common protected category in hate crime legislation in Australia. The third concept in the serious theme is vilification, which the documents utilise in conjunction with a protected category (i.e. racial, religious or gender identity vilification).
The second theme emerging from the map is religious. The legislative texts utilise this theme either in regards to a protected category, mentioning religious tolerance, or as an exception under public conduct. Concepts more closely linked to this theme are vilify, age and conciliation. The documents most commonly display the concept vilify in the context of vilifying others or vilifying conduct. The New South Wales legislation uses the concept age as a protected category, while other jurisdictions reference the concept in regards to a person’s age. The concept conciliation refers to promoting conciliation (in Victoria) and the conciliation of complaints (in Tasmania).

Theme number three is imprisonment. The documents utilise this concept when discussing punishment in the legislative documents. The only closely linked concept to punishment is the concept crime, in terms of being guilty of a crime. As Western Australia is the only state to criminalise hate crimes, only Western Australian legislation calls hate crime an actual crime. The fourth theme is the court. The documents refer to this concept in terms of what the court needs to take into account in sentencing. The most closely related concepts are damages, victimisation and tort. The documents make reference to damages in regards to courts awarding damages to the victim, but also in regards to damaging property (in Western Australia). The concept, victimisation, refers to either explaining victimisation or to racial victimisation. Only South Australia uses the concept tort in regards to the tort of racial victimisation.

Theme number five is the concept criminal. The Commonwealth legislation refers to “criminal” in terms of explaining that an unlawful act does not need to be a criminal offence, while Victoria refers to it in terms of civil and criminal liability, or South Australia makes reference to it in regards to courts taking into account prior criminal proceedings. This theme is mostly linked in context to the concept civil. The Victoria legislation mentions civil and criminal liability, while South Australia refers to prior civil proceedings. The sixth and last theme is complaint. The legislative documents mention the reporting mechanism of lodging a complaint. No other concepts are closely linked to this theme.

A broad view of Map 5.2 indicates that all the protected categories mentioned in the various bodies of legislation are represented in the main theme serious, ranging from race, ethnic, religion, sexuality, age, and HIV/AIDS status. Prejudice, hatred and vilification are also present in this theme. These concepts are prominent features in the theme serious and are the definitional core of hate crime legislation. The concept sentence also appears and is mostly linked to the courts (New South Wales and Victoria).
The grey connections between concepts are called a spanning tree and display the most likely connections between certain concepts. These connections between concepts help tell a story around this link. For example, New South Wales has a clear connection to the concept *imprisonment*, as the substantive offence model utilised in this jurisdiction can elevate a civil wrong to a criminal wrong, which includes imprisonment, next to fines, as a punishment. The Australian Capital Territory displays a connection to HIV/AIDS status because one of the protected categories under this legislation includes HIV/AIDS status. Victoria connects to the concept complaint because Victoria employs a complaint-based approach to reporting PMC to the police and makes note of this process in its legislative framework. South Australia has a link to the concept *tort* because this jurisdiction offers tort proceedings in the civil code, next to a complaint-based approach, relating to PMC.

The above analysis displays a complete picture of the legislative frameworks in Australia. The map reinforces the notion that there are substantial differences but also similarities between hate crime legislation in Australian states and territories. The map also displays how legislators in these jurisdictions decided to address socially perceived racism in Australia. While Western Australia legislation, for example, places an emphasis on crime and punishment, Victorian legislation accentuates a complaint-based approach to hate crime incidents and South Australia legislation highlights its unique position in utilising tort proceedings. The concepts emerging in the map emphasise words that appear more frequently in the legislative text in different Australian states and territories. The map displays the significance of protected categories in hate crime legislation. The Northern Territory, for example, has a very broad description of which victim is protected under its sentence aggravation provisions; therefore, there is a lack of connection to concepts mentioned in the other legislative frameworks. The above map is a great visual tool for understanding the differences and similarities between hate crime legislation in the Australian context. Next, I will manipulate the map to explore further, as well as to separately provide a detailed analysis of each legislative framework in Australian jurisdictions.

### 5.3.3 Exploration of Concepts in Comparing Jurisdictional Differences

The above description of the map gives a brief introduction of how to interpret different parts in the Leximancer map and describes the different themes and concepts and their association with each other. As my main focus is to point out similarities and differences in the content of legislation in different jurisdictions, I will now investigate the folder identifiers (also referred to as tags), named after Australian jurisdictions, more closely. I first created a map with a 60% theme size to explore
the major themes and theoretical tendencies that surface in each jurisdiction. Four major themes emerge from the content analysis of the legislative frameworks displayed in Map 5.3.

Figure 5.3 Leximancer Map Theme Size at 60%

Map 5.3 further demonstrates the spatial proximity of the legislative frameworks in different jurisdictions. When the theme size is increased to 60%, only four main themes remain. The main theme *serious* again emerges as the most prominent concept in the legislative documents. States and territories utilising the substantive offence model, such as New South Wales, the Australian Capital Territory, Queensland and South Australia, differentiate between unlawful vilification and serious vilification, being able to elevate a civil offence to a criminal offence if the offence is a serious vilification. Only South Australia prominently uses damages as punishment terms, as this jurisdiction allows for tort proceedings in the civil court system.

The apparent overlap of the concept *serious* and *damages* is due to legislators modelling PMC legislation in South Australia, although still different from other jurisdictions, after New South Wales legislation. The proximity of the states and territories to each other is due to other states and territories also sculpting their legislative frameworks after New South Wales’s PMC legislation. South Australia is the only state that employs tort proceedings, and Western Australia has its own unique set of hate crime laws and, therefore, stands spatially distant from all other jurisdictions. The Northern Territory does not have any connections to any of the other jurisdictions. This territory’s positioning in the map switches, has no connections to concepts and has no meaning in this map, as the legislative text has very little information, names no specific protected categories (‘hate against a group of people’) and only provides aggravating factors in its sentencing legislation. Victoria stands out as a state, making reference to the concept *complaint* 16 times in its legislative
framework. It stands more distant because other legislative texts do not necessarily make reference to the complaint-based system, other than Tasmania and the Commonwealth (i.e., complaints).

My analysis shows that hate crime legislation in Australia differs substantially across the various jurisdictions. Some legislative frameworks are modelled after other states and territories, while other jurisdictions have implemented their own set of hate crime legislation (i.e., Western Australia). What becomes apparent is that the perceived need in society to address the problem of hate crime and vilification leads to legal changes in the Australian context, often implemented in already existing legislative contexts, such as the anti-discrimination legislation or sentencing provisions. Jurisdictions such as the Australian Capital Territory, New South Wales, Queensland, and Tasmania, for example, place hate crime provisions in their existing anti-discrimination legislation. Only Western Australia has created a unique set of PMC legislation placed in the criminal code, spatially separating itself from other states and territories. Not having a unique set of hate crime legislation can make it difficult for police and prosecutors to apply additional charges, as state authorities have to reinterpret these laws, and criminal codes are not readily available for law enforcement officers. Depending on which legislation the PMC and vilification statutes are based in, the process of reporting such incidents will change. Only victims in jurisdictions with criminal sanctions have the opportunity to involve the police or prosecutors under hate crime legislation, while states with complaint-based approaches employ different procedures and processes.

The above maps explore how varying legislative frameworks in Australia relate or differ from other jurisdictions. Next, I will explore each jurisdictional framework individually to provide a detailed analysis for each state and territory in Australia. I have structured each individual jurisdictional analysis in two parts. Firstly, I briefly discuss background information gathered in the literature around the implementation of PMC legislation in each jurisdiction in Australia. This background information will explain the triggering factors in each jurisdiction for implementing legislation that addresses socially perceived racism and hate crime in Australia. Secondly, I will display snapshots of the above Leximancer maps for each Australian state and territory, including connections from the jurisdictional identifiers (or tags) linked to the most frequent concepts included in the legislative frameworks.

5.3.4 Exploration of Concepts in Terms of Jurisdictional Differences

The size of the legislative documents influences how many concepts Leximancer identifies in the content analysis. As Leximancer analyses documents upon their co-occurrence between concepts, shorter text segments relate to fewer concepts, while longer documents connect to more concepts
Due to the limited size of the PMC legislation in the Northern Territory, even with an increase in the number of concepts displayed, the map presents no relevant connections. I will first explore the Commonwealth legislative content to complete the portrayal of all legislative frameworks in Australia. I will, however, mainly concentrate on different state and territory legislation in my thesis.

**Commonwealth PMC Legislation**

In 1965, students of the University of Sydney organised a Freedom Ride through Western and Coastal New South Wales towns to draw attention to racism and raise awareness of issues around Indigenous health, education and housing (National Museum of Australia, n.d.). In 1975, the Race Discrimination Act was Australia’s first Human Rights legislation. The RDA, however, still faces lots of challenges, including difficulties around enforcement and the inability to prove the racial basis of the treatment (Gaze, 2015, February). The RDA 1975 makes humiliation and intimidation based on the race of a person or group of people unlawful, which is not an offence and, therefore, not punishable by criminal law (Walters, 2006).

Figure 5.4 Commonwealth PMC Legislation Map

Map 5.4 displays red rays connected from the Commonwealth identifier to different concepts. The concepts associated with the Commonwealth legislation are *criminal, unlawful, hatred, ethnic, race,* and *complaints.* The Commonwealth legislative text uses the concept *criminal* only as an explanation, indicating that an unlawful act differs from a criminal offence. The Commonwealth legislation employs only civil sanctions and works on a complaint-based approach, where victims will report offensive behaviour to the Australian Human Rights Commission. Enforcement relies solely on the victim taking action, while there is an apparent lack of agency involvement and public assistance for legal aid (Gaze, 2015, February). Gaze (2015, February) suggests that victims are not well-informed about the outcomes of this complaint-based process, which makes the practice of lodging a complaint stressful and unsatisfying. This legislative framework has only civil provisions and no criminal provisions. Complaint remedies include compensation orders, apology orders, cultural awareness training orders, as well as publishing a retraction order (Newitt, 2011).
According to Australia’s Race Discrimination Commissioner, the RDA is not about punishment; rather it is an Act protecting people against racism (Soutphommasane, 2015, February). The RDA works not through coercion but through conciliation, and it has an educative agenda setting a standard of how we live together in society (Soutphommasane, 2015, February). Race and ethnic origin are protected categories under these provisions, as well as colour and national origin. The concept hatred is the motivating factor present in targeting these vulnerable people. According to Gaze (2015, February), this legislative framework is highly underused, consequently offering no incentive for offenders to quit racist behaviour if they are aware that offensive behaviour is only rarely prosecuted.

The RDA, however, offers the chance to utilise Alternative Dispute Resolution (ADR) as part of its conciliation processes (Raymond, 2015, February). Raymond (2015, February) acknowledges that scholars have criticised ADR processes for lacking any systemic impact, as well as for hiding racism while privately resolving issues. According to Raymond (2015, February), however, there are multiple benefits of utilising ADR, including its timely (an average of 3.4 months), accessible, empowering, educative and confidential process (shaming someone through court proceedings can harden their views), as well as providing the opportunity to assists in maintaining relationships and dealing with less overt forms of discrimination. ADR processes successfully conciliate 70% of complaints, and systemic impact includes the educative outcome and the possibility of reducing racism through spending time with cultural groups (Raymond, 2015, February). According to Williams (2015, February), the RDA appears to be a powerful instrument that can overmatch state and territory legislation and seems to be more user-friendly than other jurisdictional PMC legislation around Australia.

**Australian Capital Territory PMC Legislation**

The Australian Capital Territory (like Queensland) has not implemented separate racial vilification legislation, but deals with such offenses under the existing anti-discrimination legislation (Jayasuriya, 2012). The *Discrimination Act 1991 (ACT) (Austl.*) includes acts of racial hatred and fines for such offenses (Jayasuriya, 2012). This Act utilises the same language and operates the same way as the New South Wales legislation. Victims lodge their complaints with the ACT Discrimination Commissioner, who will investigate and conciliate if possible or, if unavoidable, refer the case for a hearing with the Discrimination Tribunal.
Map 5.5 displays the concepts connected to the Australian Capital Territory legislation. The emerging concepts are vilification, unlawful, hatred, serious, and HIV/AIDS. As the map shows, HIV/AIDS status is a protected category under the legislation; however, the map did not identify a connection to any additional protected categories, such as race, sexuality, and gender identity. The Australian Capital Territory, next to New South Wales, is one of only two jurisdictions that protect HIV/AIDS status under its PMC legislation. The Australian Capital Territory legislation employs the substantive offence model, therefore, distinguishing between unlawful and serious vilification. This means that prosecutors can elevate a civil offence of unlawful vilification to a criminal offence of serious vilification. Inciting hatred is one of the prohibited acts in the legislation. Similarities exist between the Australian Capital Territory legislation and New South Wales legislation. Legislators in the former modelled their PMC legislation after the latter.

New South Wales PMC Legislation

During the mid until late 1980s, right-wing racist organisations, such as the National Action, as well as racist comments by the media, put racism and prejudice concerns on the political agenda (McNamara, 2002). In 1989, with the creation of the Anti-Discrimination (Racial Vilification) Amendment Act, New South Wales was the first state to publicly address and outlaw racial vilification (Jayasuriya, 2012; McNamara, 1997, 2002). According to Jayasuriya (2012), this Act was implemented with support from opposing political parties and displayed a unified commitment to ban hate-propaganda. Jayasuriya (2012) suggests that this Act had pioneering character, making incitement to racial hatred a civil offence, exercising a conciliatory approach with less severe acts of prejudice, allowing for criminal punishments for serious offenses, such as a prison term or fine, and, as well, having the ability to refer cases to the Equal Opportunity Tribunal (Jayasuriya, 2012).
Map 5.6 displays the New South Wales legislative framework, including concepts such as court, sentence, HIV/AIDS, unlawful, vilification, hatred, serious, ethnic, race, religion, sexuality, prejudice, age, religious and imprisonment. Unlike other legislative frameworks, the New South Wales PMC legislation defines protected categories separately and differentiates between unlawful and serious vilification for each protected category. Protected categories included under the legislation are race, transgender, homosexuality, as well as HIV/AIDS status. According to Eastman (2015, February), the NSW legislative framework also covers ethno-religious origin; for example, the legislation protects an Irish Catholic victim compared to the unprotected Catholic. Eastman (2015, February) explains that in Australia, ethnicity ties to origin, wherefore discrimination only arises if perpetrators target victims for shared characteristics.

Under the sentencing regulations, aggravating factors include hatred for or prejudice against victim attributes based on religion, language, sexual orientation, age, and disability. The above map displays many of these protected categories. New South Wales has one of the most inclusionary lists of protected categories in Australia. As New South Wales runs on the substantive offence model, imprisonment is one of the possible outcomes under its legislative framework, if it is established that the offender is guilty of serious vilification. In addition, courts can take prejudice into consideration as an aggravating factor at sentencing.

The Northern Territory PMC Legislation

The Northern Territory did not implement specific racial vilification legislation; however, it enacted an Anti-Discrimination 1992 (NT) (Austl.), making racial discrimination unlawful (Racism No Way, n.d.). The Northern Territory is a special case regarding the application of the Commonwealth Racial Discrimination Act 1975 (Cth) (Austl.) because the government implemented the Northern Territory National Emergency Response Act 2007 (NT) (Austl.) (NTER 2007), after issuing the Little Children are Sacred report, which suspended part of the RDA on the prohibition of racial
discrimination (AHRC, 2011). The *Little Children are Sacred* report highlighted the predominant problem of sexual abuse of Aboriginal children in the Northern Territory. The NTER legislation restricted the sale and consumption of alcohol and banned the possession and supply of pornographic material (AHRC, 2011). In addition, it laid out the suspension of Part II of the RDA, the prohibition on racial discrimination, in the Northern Territory (AHRC, 2011).

The NTER legislation targeted and discriminated against Indigenous people and denied them the protection of the RDA (AHRC, 2011). Although, through other legislative amendments, the RDA is no longer suspended, measures of racial targeting and discrimination still exist (AHRC, 2011). According to the AHRC (2011), the NTER legislation prevails in conflicting cases because the government implemented the NTER at a later point. A ‘notwithstanding clause’ is, therefore, necessary for a full reinstatement of the RDA (AHRC, 2011). In 2012, the NTER legislation expired and the *Stronger Futures in the Northern Territory Act* came into place (Australian Government, 2012). This legislation continues some of the provisions set out by the NTER, but complies with the provisions of the RDA and Australia’s human rights obligations (Australian Government, 2012).

As mentioned earlier, shorter documents return fewer concept connections in the Leximancer map compared to longer documents. The Northern Territory legislation is comparatively short, mentioning ‘hatred against a group of people’ as an aggravating factor in its sentencing provisions, resulting in no connections to any concepts on the Leximancer map. The Northern Territory legislative framework has neither civil nor criminal sanctions and operates only on sentencing aggravation provisions. If the prosecution establishes a hate motive, the judge can take this aggravating factor into consideration in sentencing proceedings. PMC victims, however, are able to lodge complaints with the Northern Territory Anti-Discrimination Commissioner.

Queensland PMC Legislation

After Victoria implemented legislation including religious vilification, Queensland followed with the *Anti-Discrimination Act 2001* (Qld) (Austl.) (Jayasuriya, 2012). Queensland (like the Australian Capital Territory) has no separate racial vilification legislation and addresses hate crime issues in its existing *Anti-Discrimination Act 1991* (Qld) (Austl.)\(^{70}\), considering racial and religious vilification

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\(^{70}\) In his book, Jayasuriya (2012: 71) mistakenly states the year 1992 as the implementation date for this legislation.
as unlawful discrimination (Jayasuriya, 2012), which is included in the most recent legislative framework.

Figure 5.7 Queensland PMC Legislation Map

Map 5.7 shows that the concepts with connections to the Queensland legislation are sexuality, religion, vilification, unlawful, religious, serious, race, hatred, complaint and imprisonment. The protected categories under Queensland PMC legislation are race, religion, sexuality and gender identity. Queensland also works with a substantive offence model and can elevate an unlawful vilification to a serious vilification, which calls for criminal sanctions, also including a six months prison term. Victims can file complaints with the Queensland Anti-Discrimination Commission. The legislation names inciting hatred, next to serious contempt for and severe ridicule of a person or group, as one of the acts of unlawful vilification or serious vilification.

South Australia PMC Legislation

In 1966, South Australia implemented the Prohibition of Discrimination Act, the first statute in Australia concerning discrimination based on race (Jayasuriya, 2012). In 1984, South Australia created the Equal Opportunity Act 1984 (SA) (Austl.). The activities of right-wing racist organisations also contributed to the discussion and later enactment of racial vilification legislation in South Australia (McNamara, 2002). In 1996 and based on the New South Wales model, South Australia enacted the Racial Vilification Act 1996 (SA) (Austl.) and additionally amended the Wrongs Act 1936 (SA) (Austl.) (McNamara, 2002), now known as the Civil Liability Act 1936 (SA) (Austl.). This Act made (aggravated) racial vilification a criminal offense and (unaggravated) racial vilification a statutory tort, and granted civil damages as remedies to the victims (McNamara, 2002). Amendments to the Wrongs Act 1936 (SA) (Austl.) led to civil statutory tort provisions in the South Australian Magistrate Court (McNamara, 2002). According to McNamara (2002), this legislative approach allows for the victim to decide between launching a civil human rights
complaint to HREOC or tort proceedings in the civil court system. According to McNamara (2002), prosecutors have not utilised criminal provisions, nor have victims commenced civil cases under tort provision. McNamara (2002) claims that victims are more likely to utilise the complaint-based system of HREOC because the incitement requirement is absent and a complaint is lodged more easily.

Figure 5.8 South Australia PMC Legislation Map

Map 5.8 displays South Australia PMC legislation and connections to concepts in the legislative content. The concepts connected to this legislation are tort, damages, victimisation, court, civil, criminal, ethnic, race, vilification, hatred, serious and imprisonment. South Australia also runs on the substantive offence model, which can elevate civil sanctions to criminal sanctions (including imprisonment for 3 years) if a victim experiences serious racial vilification. The protected category under this legislation is race; however, the legislation specifies that race can also mean a person’s nationality, country of origin, as well as colour or ethnic origin. The victim has the choice to either lodge a civil human rights complaint to HREOC or to utilise tort proceedings. South Australia is unique from other jurisdictions, as it utilises tort proceedings, whereby the plaintiff can recover damages from the defendant. According to Berard (2010) tort proceedings are “civil legal actions, possibly against individuals but often against hate groups, which can lead to financial compensation for harms suffered and potentially punitive damages as well, which can be high enough to effectively destroy the organizational base of hate groups” (p. 32). Koenig and Rustad (2007) argue that such “hate torts” are more successful, issuing a “financial death penalty” (p. 313) for hate groups and hateful individuals, rather than utilising the criminal law, as law enforcement is less effective when dealing with hate groups. Inciting hatred is one of the acts that can receive civil or criminal punishments.
Tasmania PMC Legislation

Tasmania implemented the *Anti-Discrimination Act 1998* (Tas) (Austl.), which includes religion but does not define this protected category (Jayasuriya, 2012). This act prohibits incitement to hatred, serious contempt for, or ridicule of an individual based on certain victim attributes (Racism No Way, n.d.). The Tasmania Law Reform Institute explored several options to amend the existing legislation and found that an introduction of serious racial vilification, criminal provisions, and penalty-enhancement provisions were not necessary, as no other Australian jurisdiction has successfully used its criminal provisions (Newitt, 2011). The Tasmania Law Reform Institute, however, did make recommendations to include sentence aggravation provisions (after the Victoria model), giving discretion to the judge handling the case (Newitt, 2011). Victoria has not yet applied this recommendation in its sentencing provisions.

Figure 5.9 Tasmania PMC Legislation Map

Map 5.9 displays Tasmania PMC legislation and its connection to concepts, which include complaints, conciliation, vilify, sexuality, religion, hatred, religious, serious and race. Tasmania’s PMC legislation grants civil proceedings only through complaints to the Anti-Discrimination Commissioner. This legislation sets out to provide an investigation and inquiry into the matter, as well as aiming for conciliation in regards to inciting hatred. Victims are able to lodge a complaint through an incident reporting form online, which was launched in 2010 (Newitt, 2011). The goal of this new tool was to encourage victims to report incidents, as well as to gather information for implementing targeted strategies (i.e., community education) (Newitt, 2011). Protected categories under this legislation are race, disability, sexual orientation or lawful sexual activity, religious belief or affiliation, or religious activity.

Victoria PMC Legislation

Although the Victorian government drafted a bill in 1992 (Draft Bill 1992 [Vic] [Austl.]) discussing not to implement any new criminal offenses and adding that offenses would fall under the civil code, the government did not implement this bill due to the fall of the state Labor government.

Victoria PMC legislation utilises a whole span of concepts displayed in Map 5.10. Concepts connected to the Victorian legislation are complaint, vilify, religious, civil, age, criminal, prejudice, conciliation, race, victimisation, sentence, vilification, ethnic, serious, hatred, religion, court, imprisonment and unlawful. Victoria also utilises the substantive offence model, which can elevate civil proceedings to criminal proceedings, distinguishing between unlawful and serious vilification, including imprisonment as punishment. The protected categories are race (which includes colour, decent or ancestry, nationality or national origin, ethnicity) and religious belief or activity. Victims can lodge complaints with the VEOHRC. Victoria promotes conciliation and resolving tension between the involved parties. Victoria also has sentence aggravation provisions, introduced in 2009, to address PMC impacts (Mason, McCulloch, & Maher, 2014), which include hatred for or prejudice against a person or group of people based on common characteristics.

**Western Australia PMC Legislation**

In 1983, due to concerns over the Australian Nationalist Movement, a white supremacist group displaying racist propaganda and demonstrating vandalism and violence, Western Australia began...
discussing the need for racial vilification legislation (McNamara, 2002). In 1989 and after the released report of the Law Reform Commission of Western Australia, the government introduced the Criminal Code Amendment (Incitement to Racial Hatred) Bill 1989 (WA) (Austl.) (McNamara, 2002). After much debate in Parliament, Western Australia passed the Criminal Code Amendment (Racist Harassment and Incitement to Racial Hatred) Bill 1990 (WA) (Austl.) (McNamara, 2002). This amendment made racial hatred a criminal offence restricting this statute “to the possession, publication and display of racially threatening or abusive material” (Jayasuriya, 2012: 70). In 2004, Western Australia introduced two-tiered offences with the Criminal Code Amendment (Racial Vilification) Act 2004 (WA) (Austl.) allowing for both the existence of and the intent to incite hatred (Gelber, 2007).

Figure 5.11 Western Australia PMC Legislation Map

Map 5.11 displays Western Australian PMC legislation and its connection to certain concepts. These concepts include crime, imprisonment, damages, ethnic, hatred, religious, court, serious and race. Western Australian PMC legislation is spatially separated from the other legislative frameworks. Western Australia has a unique set of hate crime laws criminalising hatred and including hefty penalties, such as imprisonment terms that can range from two to 14 years. So far, Western Australia has successfully prosecuted only three cases utilising the criminal law, while no other states have applied their criminal provisions to hate crime incidents (i.e., ACT, NSW, Qld, SA, and Vic) (Gelber, 2007; McNamara & Gelber, 2015, February). Western Australia includes racial groups as a protected category, which contains race, colour, ethnic or national origin. Religion is not a protected category under Western Australian legislation and is only used in terms of a good faith defence (i.e., any genuine academic, artistic, religious or scientific purpose). The legislative document refers only to the concept damages in terms of property hate crimes.
The above analysis and jurisdictional snapshots display the most frequent concepts appearing in the different legislative documents. In the next section, I will first combine the above differences and similarities to draw a comparison across different jurisdictions in Australia, in terms of comparing definitional contexts of the legislative frameworks, the inclusion of certain protected categories and the application of penal models and punishment. Subsequently, I will draw out what these differences in legislative contexts mean in terms of victims’ reporting behaviour.

5.3.5 Comparing and Contrasting Different Legislative Frameworks

After the detailed exploration into each legislative framework in Australian states and territories, I will now create an overall comparison between the PMC legislation in different jurisdictions. The following tables display jurisdictional comparisons between definitions, protected categories and penal models. Table 5.1 indicates the definitional differences in each jurisdiction, utilising concepts such as unlawful, serious, incite hatred, vilification and crime.

Table 5.1 Differences in Definitions of PMC

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Unlawful</th>
<th>Serious</th>
<th>Incite hatred</th>
<th>Vilification</th>
<th>Crime</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cth</td>
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<td>✓</td>
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<tr>
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<tr>
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<td>✓</td>
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</table>

Table 5.1 demonstrates that Western Australian legislation criminalises hate crimes and is unique in utilising only the criminal code. The Australian Capital Territory, Queensland and Victoria legislation are all modelled after the New South Wales legislative framework and, therefore, display similar concepts including elevating an unlawful vilification (civil sanctions) to a serious vilification (criminal sanctions). South Australia, although similar to the New South Wales model, also includes the opportunity for tort provisions. The Commonwealth utilises only civil sanctions against offensive behaviour. The Northern Territory legislation mentions none of the above concepts and only sentence aggravation within the sentencing provisions exist.

There is a definitional and procedural difference between unlawful and serious vilification. Although the law prohibits unlawful vilification, only the victim can pursue complaint-based proceedings for compensation. Serious vilification, however, is a criminal offence and most likely
includes threats of physical and property harm, which requires the involvement of police/prosecutor in the process with punishment or fines as outcome possibilities (Anti Discrimination Commission Queensland [ADCQ], 2015). According to Victoria Legal Aid (n.d.), “[v]ilification is behaviour that incites or encourages hatred, serious contempt, revulsion or severe ridicule against another person or group of people because of their race and/or religion”. This definition of vilification is utilised not only in Victoria, but also in similar wording in the legislative documents of the Australian Capital Territory, New South Wales, Queensland, South Australia and Tasmania. Western Australia also refers to harassment and inciting hatred but also includes punishment for an intent to and likelihood of inciting hatred. Western Australia is the only state that employs a separate set of hate crime laws. The Australian Capital Territory, New South Wales, Queensland, South Australia and Victoria have all implemented substantive offense provisions, which allow prosecutors to elevate a civil offense to a criminal offense for serious vilification. Under the Commonwealth legislation, “it is unlawful to publicly behave in a way that is racially offensive or abusive to a person or group of people based on their race, colour, nationality or ethnic origin” (Victoria Legal Aid, n.d.).

Studies in Australia have found that utilising sentence aggravation provisions depends on victims’ attributes. Courts are more reluctant to utilise sentence aggravation provisions in cases that involve homophobia, compared to cases that involve racist or religious prejudice (Mason, 2014c; Mason & Dyer, 2013). Table 5.2 below displays a comparison between the categories that are protected under each jurisdictional framework.

Table 5.2 Differences in Protected Categories

<table>
<thead>
<tr>
<th>Protected category</th>
<th>Cth</th>
<th>ACT</th>
<th>NSW</th>
<th>NT</th>
<th>Qld</th>
<th>SA</th>
<th>Tas</th>
<th>Vic</th>
<th>WA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Race</td>
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<td>✓</td>
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The Northern Territory stands out as the only legislative framework protecting hate against a group of people, which is a very broad definition. The advantage of broad definitions in PMC legislation
is that the law can apply to multiple victim groups, as well as categories that still lack protection under other legislative frameworks (i.e., homelessness). The disadvantage of broad definitions is the lack of a unified understanding of vulnerable groups and misconceptions of which groups need protection under hate crime legislation (i.e., paedophiles as victims). The Northern Territory legislation does not specify any explicit categories. Victims, therefore, might be unclear about the potential for lodging a complaint.

The above table indicates that race is the most protected category under Australian PMC legislation with also referencing colour, nationality and ethnicity. The category race is also the most protected category globally (Mason, 2014b). South Australia is the only jurisdiction specifically naming country of origin as a protected category, while Victoria71 is the only jurisdiction including decent or ancestry. New South Wales also addresses prejudice against language as an aggravating factor under its sentencing provisions. Race and ethnicity remain the core categories protected under Australian, as well as global PMC legislation (Mason, 2014d). According to Mason (2014d), due to an increasing institutionalisation of PMC legislation during the 1980s and 1990s and due to local and global influences (i.e. the events of 9/11), law makers have encouraged the adoption of other protected categories into hate crime legislation, such as sexual orientation.

Only the Australian Capital Territory, New South Wales, Queensland, and Tasmania include sexual orientation as a protected category under their legislative frameworks, as well as gender identity (with the exception of Tasmania). Only the Australian Capital Territory and New South Wales protect HIV/AIDS status under their PMC provisions. Interestingly, the Commonwealth, the Australian Capital Territory, South Australia and Western Australia lack the protected category religion. New South Wales includes religion only in its sentence aggravation provisions, but not in its civil or criminal PMC proceedings. According to Veiszadeh (2015, February), New South Wales has the largest Muslim population in Australia (followed by Victoria); however, the PMC legislation does not protect religion as a category. Muslims in New South Wales are, therefore, unable to lodge PMC claims based on religion with the Anti-Discrimination Board, nor can they expect to press hate crime charges under criminal provisions for offenders.

71 According to Victoria Police (2011), prejudice or hatred towards homeless people is also a characteristic considered as a prejudice motivated crime.
Only the New South Wales and Tasmania PMC legislative frameworks include disability as a protected category. New South Wales also protects a category of “age” under its sentencing aggravation provisions. Mason (2014c) points out that some categories are more difficult to include under hate crime law (i.e., disability), as they lack a long history of human rights concerns, as well as a convincing sizeable data (see also Sherry, 2010). Other less dominating minority groups, such as homeless people or ‘goths’ are often excluded from the protective umbrella of hate crime legislation (Chakrabarti & Garland, 2009; Mason, 2014c). High profile cases can facilitate the inclusion of such groups into hate crime law (Garland, 2010; Mason, 2014c). Mason (2014c) argues that some groups will struggle with support for inclusion as a protected category, because of a lack of sufficient empirical evidence of their claim to vulnerability, due to either their blameworthiness of the crimes committed against them, or their strangeness or distance from the general population. According to Mason (2014b), categories rarely protected under hate crime legislation include marital status, birth, wealth, class and political affiliation (see also Organization for Security and Co-operation in Europe [OSCE], 2009).

The above table shows that there is a lack of consistency in PMC legislation regarding protected categories (Spieldenner & Glenn, 2014). If a category (such as religion, sexual orientation and gender identity) is not protected under these bodies of legislation, people in need of such protection might feel “less worthy” (Mason-Bish, 2012, p. 2). Mason (2014b) argues that this inconsistency and politically charged approach in protecting different groups leaves out other vulnerable groups who also need protection, such as the homeless, sex workers and asylum seekers. In addition, victims with categories not protected under hate crime legislation might be less likely to report the crime or lodge a complaint, with no possibility for a trial under PMC legislation. These differences in protected categories will, therefore, influence which victim will decide to report which occurrences\(^72\). Next, I will discuss different Australian state and territory legislation in terms of existing penal models and punishments available for hate crime offenders displayed in the table below.

\(^72\) The NSPS item referring to the protected category of the victim includes skin colour, ethnicity, race or religion; therefore, I am unable to explore any of the other protected categories listed in the table above in the quantitative part of my thesis.
Table 5.3 Differences in Penal Models and Punishment

<table>
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<tr>
<th>Jurisdiction</th>
<th>Substantive offence provisions</th>
<th>Sentencing aggravation provisions</th>
<th>Penalty-enhancement Provisions</th>
<th>Civil sanctions</th>
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Table 5.3 displays differences in punishment models, as well as penalties that apply to these provisions. Western Australia is the only jurisdiction utilising penalty-enhancement provisions, which is a minimum or maximum sentence on top of the original offence. The penalties in such cases can range from $12,000 to $24,000, as well as prison sentences from two to 14 years. Western Australia is unique in this regard and I hypothesise that jurisdictions that treat hate crime as a serious offence will have more people reporting such crimes. Not only jurisdictions utilising penalty enhancement provisions, but also jurisdictions with substantive offence provisions have the option for harsher punishment for already penalised criminal behaviour (Gillis, 2013). The Australian Capital Territory utilises only civil provisions that can be elevated to criminal provisions for serious offences, granting a penalty of up to 50 penalty units. According to the Legislation (Penalty Unity) Amendment Bill 2013 s 133(2)\(^{73}\), a penalty unit is AU $140 for an individual and AU $700 for a corporation. New South Wales (AU $110 per penalty unit\(^ {74}\)), Queensland (AU $110 per penalty unit\(^ {75}\)) and Victoria (AU $100 per penalty unit\(^ {76}\)) also operate under substantive offence provisions; however, when establishing a serious offence, courts can send offenders to jail for six months. According to McNamara and Gelber (2015, February), prosecutors have not utilised these provisions at this point. Byers et al. (2012) suggest that civil provisions have a lower burden of proof than criminal provisions and their presence may deter the use of criminal provisions. South

\(^{73}\) According to section 133(2A), the amount of a penalty unit will be reviewed at least once every 4 years (Legislation (Penalty Unity) Amendment Bill 2013 [ACT] [Austl.]).

\(^{74}\) Section 17 of the Crimes (Sentencing Procedure) Act 1999 (NSW) (Austl.) sets one penalty unit at AU $110.

\(^{75}\) According to the Penalties and Sentences Act 1993 (Qld) s. 5(1) (Austl.) a penalty unit equals AU $110.

\(^{76}\) According to the Sentencing Act 1991 (Vic) s. 110(2) (Austl.) a penalty unit equals AU $100.
Australia offers additional tort proceeding with damages of up to AU $40,000, as well as a three
year prison sentence, if prosecutors elevate the matter to a criminal offence. According to Walters
(2006), the criminal law can facilitate changes in community attitudes toward incidents of racism.

In order to access civil provisions, complainants have to lodge complaints with their jurisdictional
(or federal) anti-discrimination commission (Gelber, 2007). The anti-discrimination authority then
asseses the claim, and if substantiated, mediates the case, resulting either in an apology, a
commitment to workplace education, the publication of a retraction or the promise not to reoffend
(Gelber, 2007). Complaint-based approaches, often utilised in anti-discrimination legislation,
require different reporting and investigative processes, and, as well, result in different outcomes.
Civil statutes have no police/prosecutor involvement and are profoundly reliant on victims taking
legal action. In states with only civil sanctions (i.e., Tasmania), victims have to contact the anti-
discrimination commissioner rather than filing police reports. This process might be unsatisfying
with victims feeling as if the police are not taking their claims seriously. The above complaint-
based outcomes might not sufficiently address the victim’s expectations for police involvement in
the process. This could lead to a decrease in victims’ perceptions of police legitimacy, which in turn
will result in less cooperation and less reporting of hate crimes to the police.

5.3.6 Different PMC Legislation and the Link to Reporting Behaviour

Returning to the theoretical implications of the above legislative comparison, the Instrumental
Perspective has an influence on victims to report hate crime to the police. When victims report a
crime, they want to see an outcome (either monetary or punishment). Although recovery of money
is possible with the complaint-based approach, this approach is based on mediation and apologies,
and victims might not be satisfied with such an outcome. According to McNamara and Gelber
(2015, February), the number of complaints recorded by the Commonwealth legislation is very
modest with nationally between 165 and 342 complaints per year (up to 2010). Since the
introduction of the RDA, the numbers have tended to increase, as communities wanted to test out
these new provisions (McNamara & Gelber, 2015, February). Procedural barriers, however, will
differ by jurisdictions, the burden lies heavily on complainants, and there is a lack of even
distribution of benefits (McNamara & Gelber, 2015, February). Victims are hoping to receive
certain desired results, ranging from the conviction of an offender to damages paid to the victim.
These different outcomes might influence a victim’s decision to report a hate crime to the police.

Victims also expect from the police to take hate victimisation claims seriously. When reporting a
crime to the police, victims hope that the police will rigorously investigate and effectively solve the
crime. Police performance is, therefore, part of the Instrumental Perspective. According to Lyons and Roberts (2014), clearance rates are a measure of law enforcement effectiveness. Victims expect the police to arrest and charge the offender, which is called clearance (Lyons & Roberts, 2014). If clearance rates are poor, the deterrent effect is reduced and the trust in the police diminished (Lyons & Roberts, 2014). Lyons and Roberts (2014, p. 277) found that police less likely clear PMCs than non-PMCs (31.6% compared to 41.4%), and the lack of perceptions of seriousness by police and witnesses will influence these clearance outcomes. Stacey’s (2015) U.S. study utilises the UCR data to explore the influence of state-based legislation on PMC victimization and PMC police recording and finds a complex relationship between the law on the books set out by PMC legislation and recording practices by police. The results indicate that in U.S. states which criminalise civil rights violations, police record more anti-Black incidents, while in states with broader PMC definitions, police record more anti-Hispanic hate crime. Hate crime incidents also often involve downward deviance (majority group offender targeting minority group victim), which may disadvantage PMC victims compared to non-PMC victims, as incidents with non-White victims and White offenders attract less police attention and effort resulting in poorer clearance rates (Lyons & Roberts, 2014).

Variations in reporting behaviour also depend on victims’ perceptions of the state and law (Normative Perspective). If people agree that the criminal justice system is fair, legitimate and morally correct (procedural justice), they are more likely to report crimes to the police. Vulnerable people receiving the desired protection from the government might be more likely to report the crime because opinions towards the government and individual obligations influence differences in reporting behaviour (Goudriaan et al., 2004). According to Ben-Porat and Yuval (2012), “[t]he perceptions of minorities that they have been neglected or abused has led to declining trust in the police, a reluctance to cooperate with […] and, in some cases, direct clashes that further erode trust” (p. 249). According to Tyler (2005, 2011), perceptions of the procedural fairness of policies and practices by the public relate to trust in police. Successful responses to PMC will influence the public’s willingness to report hate crimes to the police (Hall, 2012). If jurisdictions with a complaint-based approach lack police involvement, victims might be disappointed or feel not taken seriously, if the police refer them to the Human Rights Commission, instead of investigating the incident. Weak PMC legislation might, therefore, discourage victims to report crime to the police, which I will further explore in Chapter 7.

While ranking the different legislative frameworks from weak legislation to strong legislation (excluding the federal legislation), the data suggests that the jurisdictions with the weakest legislative frameworks are the Northern Territory and Tasmania, followed by the Australian Capital
Territory. Moderate PMC legislation exists in Queensland, Victoria, and New South Wales, followed by South Australia, while Western Australia displayed the strongest PMC legislation in Australia. Only jurisdictions with criminal sanctions have immediate police involvement of the reporting of hate crimes. At the moment, this pertains only to Western Australia. As hate crime is considered a crime, police are directly involved in the investigative process. In states and territories with substantive offence provisions, the prosecutor can elevate civil charges to criminal charges for serious vilification. In any other cases, the police will refer victims to file complaints with their respective Anti-Discrimination Official. Jurisdictions with only a complaint-based approach will lack any form of police involvement. These legislative frameworks, therefore, will influence the way police do their job (i.e., to investigate the matter or refer to a complaint-based approach), in turn impacting the reporting behaviour of victims. The above theoretical implications link the procedures and processes of different legislative frameworks to the reporting behaviour of hate crime victims. In the next section, I will explore this complex set of hate crime legislation in Australia further.

5.4 A Complex Set of PMC Legislation and Reporting Behaviour in Australia

Legislators in Australia have implemented PMC legislation to address socially perceived racism and hate-based violence. In most jurisdictions, different and often random high profile cases (i.e., attacks on international students in Sydney and Melbourne) as well as social movement and lobbying groups (i.e., LGBTI community) are responsible for changes in legislation. Harmonising PMC legislation across different jurisdictions is a major issue for Australia. This is not only apparent in legislation related to hate crimes but also in other legislative areas, such as anti-bikie legislation and child safety notifications. With legislation in multiple jurisdictions, the question of which legislative framework works best persists. A thorough analysis around the potential barriers of victims reporting hate crimes to the police, as well as in which jurisdiction victims are more likely to report hate crimes, is necessary for a potential streamlining of PMC legislation across Australia.

Jurisdictions often battle hate violence and vilification by implementing statutes into already existing legislative contexts, such as the anti-discrimination legislation, as well as into sentencing provisions. When jurisdictions create their own set of hate crime laws, rather than adding to existing legislation, they send a strong message to the public that hate crime is unacceptable and intolerable (Walters, 2006). Western Australia is the only state addressing hate crime with a separate set of laws. There is, however, a big divide between the law on the books and the law in action. Although
Western Australia has a strong legislative framework, according to McNamara and Gelber (2015, February), it has so far tried only three successful cases utilising the criminal law, while no other states have used their criminal provisions (i.e., ACT, NSW, Qld, SA, and Vic), which I consider medium strength provisions. While states with weaker legislation, implementing hate crime as an aggravating factor in sentencing provisions, use these statutes more predominantly, challenges remain regarding the application and interpretation of these statutes (Mason & Dyer, 2013). An extensive search of sentence PMC aggravation provision cases in New South Wales, Victoria, and the Northern Territory revealed 24 court cases, where courts considered hate or prejudice as an aggravating factor (Mason, 2014a). Existing criminal provisions are only rarely used in the Australian context. State authorities reinterpret laws with prosecutors and judges deciding to apply or refrain from applying additional charges. I acknowledge that concepts around strong vs. weak legislation are, therefore, fluid and can shift depending on the utilisation of such provisions. In my thesis, however, I will mainly explore state and territory legislation with a link to reporting behaviour. Police and prosecutors follow set guidelines regarding reporting processes and either investigate or refer the incident to anti-discrimination authorities. The police do not investigate offences of incitement to physical harm in prejudice motivated incidents, and the burden of proof is often too high for prosecutors to take these cases to court (Walters, 2006). The anti-discrimination authorities lack the resources for extensive investigations resulting in fewer investigated cases (Walters, 2006). These reporting processes and procedures persist throughout the reporting process.

Western Australia stands out with a tough on crime approach by adopting more punitive and retributive provisions for hate crime incidents in the criminal code. Stobbs (2008) argues that criminal provisions work only on a case by case basis, fail to address racism in society and lack application in prosecutions. Lieberman (2010), however, argues that laws can shape attitudes and in turn influence behaviour. PMC legislation has an expressive character, carrying a message condemning prejudiced behaviour (Berard, 2010). In addition, this type of legislation promotes the recognition of and support to the most vulnerable groups in society (Walters, 2005). Hate crime victims, as well as perpetrators, however, need some awareness of existing PMC legislation. The utilisation of hate crime legislation has the power to create hate crime awareness (Walters, 2006). The public’s awareness of and familiarity with hate victimisation is at this point unclear. At the time of reporting, however, victims are confronted with police processes, either failing to complete the investigative process or not addressing the problem and referring the case to their respective anti-discrimination commissions, depending on the jurisdiction the incident has occurred in.
5.5 Limitations of Leximancer

The Leximancer software has many advantages. It has not only the ability to analyse large amounts of information but also the capacity to remove researcher bias (Palmer, 2013). It is, however, possible that Leximancer is unable to pick up important concepts, as text creators might not mention central concepts as frequently as other concepts (Palmer, 2013). The automated process of Leximancer depends on the frequency of central concepts (Palmer, 2013). When text creators omit the frequent use of important concepts, Leximancer is unable to pick these up and include them in the map. In addition, when text documents differ substantially in length, Leximancer might under-code smaller size documents. For example, although the Northern Territory does have a very brief legislative framework (sentencing aggravation provisions) addressing prejudice related incidents, the Leximancer map has not displayed any concepts related to the Northern Territory. To address these limitations, I manually explored the legislative documents without utilising this automated process, to augment the Leximancer process and to gain a more complete picture of important concepts. I also increased the number of concepts to 100 to avoid under-coding of smaller documents. Increasing the number of concepts allows Leximancer to display more concepts in the visual map.

5.6 Discussion and Summary

Reviewing text through content analysis “can help researchers systematically grasp an understanding of a certain research field” (Fisk et al., 2012, p. 12). This chapter has explored the different legislative frameworks in Australian states and territories and focused on themes and concepts identified in PMC legislation in different jurisdictions. I have explored the definitional differences and similarities between legislative contexts, the protection of certain categories under PMC legislation, as well as penal models and punishment in relation to victim reporting behaviour. A number of key issues emerge from this study.

First, the Leximancer analysis shows that some states and territories are located spatially at a distance from each other in the Leximancer map, such as Western Australia, South Australia and Victoria, while others are located in close proximity to each other, such as Tasmania, Queensland, and New South Wales. These spatial separations or connections are associated with differences and similarities in legislative frameworks in the different jurisdictions. Western Australia is the only jurisdiction utilising only criminal provisions, South Australia the only jurisdiction using tort proceedings and Victoria refers consistently to complaint-based provisions.
Second, Western Australia has a very unique body of hate crime legislation compared to all other states and territories (as well as the Commonwealth). The focus is on the concepts crime and punishment, which sends a strong message to the public that hate crime is unacceptable and receives no tolerance in Western Australia, characterising this state as having a very strong legislative framework against hate crime. South Australia stands out in that, next to a complaint-based approach, it also allows for tort proceedings in the civil courts. Victoria PMC legislation emerges as heavily reliant on the complaint concept. Without recourse to criminal provisions, victims reporting hate crimes have to file a written complaint with human rights and anti-discrimination boards, this warranting no police involvement in this process. Queensland, Tasmania, New South Wales and the Australian Capital Territory all employ similar PMC legislative frameworks utilising substantive offence models. The Northern Territory employs the weakest legislative framework with only a brief reference to aggravating circumstances in its sentencing guidelines. I, therefore, hypothesise that reporting behaviour will be higher in Western Australia while being lower in states and territories with weaker legislative frameworks.

Third, there are definitional and procedural differences between unlawful and serious vilification. Unlawful vilification is prohibited by law; however, only the victim can pursue complaint-based proceedings for compensation. In cases of serious vilification in states with substantive offence provisions, prosecutors can elevate a civil offence to a criminal offence. The Australian Capital Territory, New South Wales, Queensland, South Australia and Victoria adapted these provisions. Victims might perceive complaint-based processes to be less effective, lacking fair, legitimate and morally correct procedures. These perceptions of the state and law might influence the reporting of crimes to the police (normative perspectives).

Fourth, punishment and fines applied to criminal convictions vary in Australian jurisdictions. Western Australia applies penalties as an enhancement to the already existing offence, ranging from $12,000 to $24,000, as well as prison sentences ranging from two to 14 years. The Australian Capital Territory, New South Wales, Queensland, South Australia and Victoria penalties utilise substantive offence provisions that also allow for penalties if the prosecutor establishes that the hate incident was a crime. According to McNamara and Gelber (2015, February), however, prosecutors so far have not utilised substantive offense provisions. According to the Instrumental Perspective, the outcome of PMC legislation processes (i.e., monetary or punishment) has an influence on victims’ reporting behaviour. When jurisdictions offer monetary compensation for victims experiencing hate crimes or punishment for the offender, victims might be more likely to report hate crime incidents to the police.
Fifth, different legislative frameworks involve different processes and procedures regarding reporting hate incidents. Jurisdictions that mainly apply or only provide civil provisions lack any form of police involvement. The police will direct victims to file complaints with the Anti-Discrimination Commission. Prosecutors in states and territories with substantive offence provisions can elevate civil charges to criminal charges for serious vilification. Jurisdictions with criminal sanctions have immediate police involvement, when victims report the hate crime to the police. These legislative frameworks, therefore, influence the way police do their job (i.e., to investigate the matter or refer to a complaint-based approach), in turn influencing victims’ reporting behaviour.

Overall, my results indicate that there are significant differences in legislative frameworks in varying state and territory jurisdictions around Australia. Some states and territories have stronger legislative frameworks than other jurisdictions. My analysis set out to explore these differences in hate crime laws around Australia. My results indicate that Western Australia has the strongest PMC legislative framework, while the Northern Territory employs the weakest legislative framework, with all other jurisdictions ranging in between. These results inform my results chapter on PMC reporting behaviour, with differences in PMC legislation influencing victims’ willingness to report hate crime incidents to the police. In the next chapter, I will draw out factors that likely influence PMC and non-PMC victimisation, examine differences in police, government and law legitimacy, and explore victimisation patterns in different Australian jurisdictions.
Chapter 6: Study 2 – Results of Quantitative Analysis of PMC Victimation

6.1 Introduction

Social-Structural Victimisation Theory (SSVT) posits that responsibility for shaping patterns of victimisation and marginalisation lies within the State and Government. The theory argues that victims are marginalised and powerless minorities and that it is social discrimination created by states and governments that causes personal violence (Schneider, 2001). Victims include, for example, asylum seekers and the Indigenous population, who suffer from a minority/majority relationship as well as from their social-structural positions in society (Griffiths et al., 1987; Pedersen et al., 2012; Schneider, 2001). Other victimisation theories, such as Cultural Victimisation Theory (CVT), suggest that the cultural norms and stereotypes present in a society can shape the patterns of victimisation that are directed towards minority groups.

Schneider (2001) identifies prejudice motivated crime as an example of cultural victimisation due to the symbolic status of the victims. Victims of cultural victimisation include, for example, immigrants, the LGBTI (lesbian, gay, bisexual, trans/transgender and intersex) community, Indigenous people and Arab and Muslim Australians. In my thesis, I use various theories of victimisation to explore how minority group status (i.e. Indigenous status, religion), as well as immigrant status (i.e. being an Australian citizen, being foreign born) influence patterns of victimisation. According to Espiritu (2004), tackling the hate crime problem requires an understanding of the nature of and identifying factors leading to hate crime.

This chapter analyses the National Security and Preparedness Survey (NSPS) to explore the victimisation patterns of hate crime victims in Australia. I begin by showing that PMC is a rare event and I report descriptive statistics for variables used in my study, interpreting the output of the MNLR comparing non-PMC victims with no-victims, no-victims with PMC victims and non-PMC victims with PMC victims separately. Secondly, I display descriptive statistics of risk factors for victimisation by victim groups and follow up by exploring the state and territory differences of victimisation groups. In this section, I particularly examine differences of police, government and law legitimacy by state and territory and victim groups. Lastly, I discuss differences in property and personal crimes between PMC victims and non-PMC victims.
6.2 The Distribution of Different Victimisation Groups in the NSPS

Our understanding of the prevalence of PMC in Australian jurisdictions is difficult due to the lack of data recording by the police, the issue of under-reporting, as well as variations in PMC legislation (VEOHRC, 2010; Wickes et al., 2013). What we do know, however, is that prejudice-motivated crime is a rare event (i.e. Home Office et al., 2013; Johnson, 2005b, 2005c). Data from the National Security and Preparedness Survey also show that PMC is a rare event. The pie chart below illustrates the breakdown of victim groups in the NSPS and demonstrates that 1.081% of the 4256 survey respondents had been victims of a PMC, while 16.73% had been victims of a non-PMC, compared to 82.19% who claimed that they had not been victimised in the previous twelve months. These percentages are very close to Chongatera’s (2013) findings in his study about hate crime victimisation in Canada. 82.7% of people have indicated not having been victims of a crime, while 15.8% have indicated victimisation by a crime with no prejudice motive and 1.6% have indicated hate crime victimisation (Chongatera, 2013).

Figure 6.1 Pie Chart of Victim Groups in NSPS

Surveys are the better means to explore PMCs, as PMC incidents are rarely reported to and recorded by police and, therefore, underestimate the problem (Home Office et al., 2013). Limitations arise with the use of surveys, including respondents misunderstanding questions, respondents over- or under-representing the issue, and respondents lacking the knowledge to distinguish between a hate crime and a non-PMC (Home Office et al., 2013; Shively et al., 2001).
According to Shively et al. (2001), victimisation surveys “at this point… are probably the most reliable source of hate crime rate data” (p. 9). The NSPS did not specifically set out to measure victimisation in Australia; however, the survey offers an opportunity to explore victimisation with and without a prejudice motive. In the next part, I will analyse, compare and contrast these variations between different victimisation groups.

6.3 Multinomial Logit Regression Models Comparing Different Victimisation Groups

Comparing hate crime victims with non-PMC victims is informative, when analysing data regarding the nature of hate crimes and its reporting patterns (Shively et al., 2001). Consistent with the 2004 International Crime Victimisation Survey (ICVS) findings, people who are single, separated, divorced or living in a de-facto relationship have higher odds of personal crime victimisation in Australia (Johnson, 2005b). The unemployed and people under 25 years of age, as well as Indigenous people and those living in English-only speaking households are also more likely to be victims of a personal crime (Johnson, 2005b). The 2004 ICVS found that people in lower income categories are less likely to be victimised, which is contrary to prior findings (Johnson, 2005b).

Consistent with the ICVS findings, I hypothesise that marital status, employment status and age is associated with victimisation status. I assume, however, that a decrease in income is associated with being in a victim group rather than the no-victim group. Research also suggests that certain attributes, such as ethnicity, minority group status and immigrant status increase the likelihood of being victimised (Burgess & Regehr, 2010; Culotta, 2005; von Hentig, 1948). Consistent with prior literature, I hypothesise that speaking a language other than English at home, being of Indigenous decent, not being an Australian citizen, being foreign born, as well as experiencing an intensified feeling of social isolation increase the likelihood of being a victim of a crime, as well as influences victim reporting behaviour.  

The tables below illustrate the descriptive statistics of the control and explanatory variables in the MNLR models. I use multinomial logit regression to examine the likelihood of belonging to one victim group over the other. The tables below display a measure of central tendency, the standard deviation, the minimum and maximum value, the sample size, as well as an alpha score for the scales of the different variables. Table 6.1 displays the demographic variables used for the MNLR models.

---

I did not control for contact with police in the MNLR models, as the NSPS did not include items on, e.g., the number of police contacts in the past twelve months (as seen in Murphy & Cherney, 2011, 2012), nor regarding the type of police contact.
as control variables in Model 1. The demographic variables are age, gender, dependent children, income, education, home ownership, marital status and employment status.

Table 6.1 All Demographic Variables Used in Model 1

<table>
<thead>
<tr>
<th>Variables</th>
<th>M, Md, Mo</th>
<th>SD</th>
<th>Min</th>
<th>Max</th>
<th>N</th>
<th>Alpha</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age</td>
<td>55.862 (M)</td>
<td>15.385</td>
<td>18</td>
<td>95</td>
<td>4,256</td>
<td>---</td>
</tr>
<tr>
<td>Gender (female)</td>
<td>1 (Mo: Yes)</td>
<td>0.493</td>
<td>0</td>
<td>1</td>
<td>4,256</td>
<td>---</td>
</tr>
<tr>
<td>Dependent children</td>
<td>0 (Mo: did not indicate dependent children)</td>
<td>0.449</td>
<td>0</td>
<td>1</td>
<td>4,256</td>
<td>---</td>
</tr>
<tr>
<td>Income</td>
<td>3 (Md: 40K-59,999)</td>
<td>2.175</td>
<td>1</td>
<td>8</td>
<td>4,256</td>
<td>---</td>
</tr>
<tr>
<td>Education</td>
<td>5 (Md: Trade)</td>
<td>1.307</td>
<td>1</td>
<td>7</td>
<td>3,929</td>
<td>---</td>
</tr>
<tr>
<td>Home ownership</td>
<td>1 (Mo: Own)</td>
<td>0.371</td>
<td>0</td>
<td>1</td>
<td>4,256</td>
<td>---</td>
</tr>
<tr>
<td>Marital status</td>
<td>1 (Mo: Married)</td>
<td>0.488</td>
<td>0</td>
<td>1</td>
<td>4,074</td>
<td>---</td>
</tr>
<tr>
<td>Unemployed</td>
<td>0 (Mo: No)</td>
<td>0.136</td>
<td>0</td>
<td>1</td>
<td>3,945</td>
<td>---</td>
</tr>
</tbody>
</table>

Table 6.2 demonstrates the risk factors for victimisation that I added to Model 1 to create Model 2. The risk factors for victimisation are speaking a language other than English at home, being of Indigenous decent, not being an Australian citizen, being foreign born, experiencing an intensified feeling of social isolation, as well as espousing a religious affiliation.

Table 6.2 All Risk Factors for Victimisation Variables Used in Model 2

<table>
<thead>
<tr>
<th>Variables</th>
<th>M, Md, Mo</th>
<th>SD</th>
<th>Min</th>
<th>Max</th>
<th>N</th>
<th>Alpha</th>
</tr>
</thead>
<tbody>
<tr>
<td>LOTE</td>
<td>0 (Mo: No)</td>
<td>0.229</td>
<td>0</td>
<td>1</td>
<td>4,256</td>
<td>---</td>
</tr>
<tr>
<td>ATSI</td>
<td>0 (Mo: No/did not indicate)</td>
<td>0.098</td>
<td>0</td>
<td>1</td>
<td>4,256</td>
<td>---</td>
</tr>
<tr>
<td>Australian citizen</td>
<td>1 (Mo: Yes)</td>
<td>0.281</td>
<td>0</td>
<td>1</td>
<td>4,256</td>
<td>---</td>
</tr>
<tr>
<td>Foreign born</td>
<td>0 (Mo: No/did not indicate)</td>
<td>0.429</td>
<td>0</td>
<td>1</td>
<td>4,256</td>
<td>---</td>
</tr>
<tr>
<td>Preference for Anglo-Saxons as neighbours</td>
<td>2.729 (M)</td>
<td>0.841</td>
<td>1</td>
<td>5</td>
<td>4,043</td>
<td>0.817</td>
</tr>
<tr>
<td>Religion (Christian)</td>
<td>1 (Mo: Christian)</td>
<td>0.482</td>
<td>0</td>
<td>1</td>
<td>4256</td>
<td>---</td>
</tr>
</tbody>
</table>

Research also shows that trust and confidence in the police is low, but it decreases even further for minority group members (Cherney & Chui, 2009; Murphy & Cherney, 2011; Tyler, 2005, 2011). Laws are likely to shape police processes and procedures and, consequently, perceptions of police, government and law legitimacy. I hypothesise, therefore, that PMC victims and non-PMC victims will have lower perceptions of police, government and law legitimacy. Table 6.3 indicates the explanatory variables for Model 3, which include variables such as police legitimacy, cooperation with police, law legitimacy, identifying with Australia and its community, federal government legitimacy and state government legitimacy.
Table 6.3 All Policing Variables Used in Model 3

<table>
<thead>
<tr>
<th>Variables</th>
<th>M</th>
<th>SD</th>
<th>Min</th>
<th>Max</th>
<th>N</th>
<th>Alpha</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police legitimacy</td>
<td>3.744</td>
<td>0.642</td>
<td>1</td>
<td>5</td>
<td>3,960</td>
<td>0.950</td>
</tr>
<tr>
<td>Cooperation with police</td>
<td>4.531</td>
<td>0.596</td>
<td>1</td>
<td>5</td>
<td>3,968</td>
<td>0.896</td>
</tr>
<tr>
<td>Identifying with Australia and its community</td>
<td>4.191</td>
<td>0.694</td>
<td>1</td>
<td>5</td>
<td>3,971</td>
<td>0.841</td>
</tr>
<tr>
<td>Law legitimacy</td>
<td>3.958</td>
<td>0.700</td>
<td>1</td>
<td>5</td>
<td>3,960</td>
<td>0.861</td>
</tr>
<tr>
<td>Federal government legitimacy</td>
<td>1.853</td>
<td>0.527</td>
<td>1</td>
<td>3.25</td>
<td>4,091</td>
<td>0.824</td>
</tr>
<tr>
<td>State government legitimacy</td>
<td>1.770</td>
<td>0.567</td>
<td>1</td>
<td>3</td>
<td>4,040</td>
<td>0.809</td>
</tr>
</tbody>
</table>

As table 6.3 demonstrates, the average response for perceptions of police legitimacy is 3.744, which indicates that respondents lean toward more favourable views of the police. Cooperation with the police is high with a mean of 4.531. Perceptions of law legitimacy (mean: 3.958) are above perceptions of police legitimacy (mean: 3.744). Respondents register a high mean score of 4.191 for identifying with Australia and its community, while perceptions of federal government legitimacy are above neutral, leaning towards more favourable attitudes with a mean score of 1.853. The average response for perceptions of state government legitimacy is 1.770, which is above a neutral response, leaning towards more favourable views towards state government.

The next sections below compare non-PMC victims with no-victims, PMC victims with no-victims and PMC victims with non-PMC victims. I examine the influence of control and explanatory variables, the relative risk ratios (RRR) for the multinomial logit models, the related confidence intervals (Cis), as well as an indication for the significance of the p-value (*). I will interpret the RRR scores instead of interpreting the coefficient, as the RRR interpretation is easier to comprehend. The RRR score “indicates how the risk of the outcome falling in the comparison group compared to the risk of the outcome falling in the referent group changes with the variable in question” (UCLA Statistical Consulting Group, n.d.-b). An RRR score bigger than one indicates that the risk of falling into the comparison group, compared with the risk of falling into the base group, increases as the control or explanatory variable increases, holding everything else constant. Similarly, an RRR score lower than one indicates that the risk of falling into the comparison group compared to the risk of falling into the base group decreases as the control or explanatory variable increases, holding everything else constant (UCLA Statistical Consulting Group, n.d.-b). The tables below demonstrate associations between the independent variables and the different victimisation groups, as well as how these variables differ when comparing non-PMC victims with no-victims,
no-victims with PMC victims and non-PMC victims with PMC victims. Although MNLR is appropriate for rare event data, the analysis below requires a more explorative and cautious approach and interpretation of the output. However, the significant variables (especially of under-represented variables and categories) and consistencies across the three models and intuitive results suggest some confidence in the data output.

6.3.1 Non-PMC Victims Compared with No-Victims

Table 6.4 displays the results of the multinomial logit models comparing the non-PMC victim group, which are the respondents who have indicated that they had experienced a crime (but not a PMC), with the no-victim group, who are the respondents who had not experienced any form of victimisation in the previous 12 months. In the table below, the no-victim group is the base group. The table displays the RRR, the 95% confidence interval and the standard error, including an indicator of significance.

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78 Although I explore certain variables indicating a likelihood of being in one group over another, this does not indicate causality.
Table 6.4 Comparing Non-PMC Victims vs. No-Victims (base)

<table>
<thead>
<tr>
<th>Control &amp; explanatory variables</th>
<th>Control Variables: Demographics</th>
<th>Control Variables: Risk Factors for Victimisation</th>
<th>Explanatory Variables:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Model 1</td>
<td>Model 2</td>
<td>Model 3</td>
</tr>
<tr>
<td></td>
<td>RRR [95%CI]</td>
<td>RRR [95%CI]</td>
<td>RRR [95%CI]</td>
</tr>
<tr>
<td></td>
<td>SE</td>
<td>SE</td>
<td>SE</td>
</tr>
<tr>
<td><strong>Age (18-95)</strong></td>
<td>0.979***[0.973, 0.986]</td>
<td>0.979***[0.972, 0.986]</td>
<td>0.981***[0.974, 0.988]</td>
</tr>
<tr>
<td></td>
<td>0.003</td>
<td>0.003</td>
<td>0.004</td>
</tr>
<tr>
<td><strong>Gender (female)</strong></td>
<td>0.880 [0.740, 1.046]</td>
<td>0.881 [0.739, 1.051]</td>
<td>0.928 [0.775, 1.111]</td>
</tr>
<tr>
<td></td>
<td>0.078</td>
<td>0.079</td>
<td>0.085</td>
</tr>
<tr>
<td><strong>Dependent children</strong></td>
<td>1.126 [0.909, 1.394]</td>
<td>1.124 [0.905, 1.394]</td>
<td>1.125 [0.904, 1.400]</td>
</tr>
<tr>
<td></td>
<td>0.123</td>
<td>0.124</td>
<td>0.126</td>
</tr>
<tr>
<td><strong>Income</strong></td>
<td>1.025 [0.978, 1.073]</td>
<td>1.021 [0.974, 1.070]</td>
<td>1.025 [0.978, 1.075]</td>
</tr>
<tr>
<td></td>
<td>0.024</td>
<td>0.024</td>
<td>0.025</td>
</tr>
<tr>
<td><strong>Education</strong></td>
<td>1.099**[1.023, 1.179]</td>
<td>1.113**[1.035, 1.196]</td>
<td>1.138***[1.056, 1.227]</td>
</tr>
<tr>
<td></td>
<td>0.040</td>
<td>0.041</td>
<td>0.044</td>
</tr>
<tr>
<td><strong>Home ownership</strong></td>
<td>0.896 [0.702, 1.143]</td>
<td>0.870 [0.680, 1.112]</td>
<td>0.896 [0.698, 1.150]</td>
</tr>
<tr>
<td></td>
<td>0.111</td>
<td>0.109</td>
<td>0.114</td>
</tr>
<tr>
<td><strong>Married</strong></td>
<td>0.657***[0.545, 0.793]</td>
<td>0.652***[0.539, 0.788]</td>
<td>0.676***[0.558, 0.820]</td>
</tr>
<tr>
<td></td>
<td>0.063</td>
<td>0.063</td>
<td>0.067</td>
</tr>
<tr>
<td><strong>Unemployed</strong></td>
<td>1.370 [0.785, 2.393]</td>
<td>1.278 [0.721, 2.265]</td>
<td>1.365 [0.768, 2.428]</td>
</tr>
<tr>
<td></td>
<td>0.390</td>
<td>0.373</td>
<td>0.401</td>
</tr>
<tr>
<td><strong>LOTE</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>0.781 [0.443, 1.377]</td>
<td>0.831 [0.467, 1.479]</td>
<td></td>
</tr>
<tr>
<td></td>
<td>0.226</td>
<td>0.245</td>
<td></td>
</tr>
<tr>
<td><strong>ATSI</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>0.777 [0.314, 1.921]</td>
<td>0.739 [0.297, 1.837]</td>
<td></td>
</tr>
<tr>
<td></td>
<td>0.359</td>
<td>0.343</td>
<td></td>
</tr>
<tr>
<td><strong>Australian citizen</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>0.791 [0.534, 1.171]</td>
<td>0.817 [0.546, 1.223]</td>
<td></td>
</tr>
<tr>
<td></td>
<td>0.158</td>
<td>0.168</td>
<td></td>
</tr>
<tr>
<td><strong>Foreign born</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>0.928 [0.733, 1.175]</td>
<td>0.912 [0.717, 1.159]</td>
<td></td>
</tr>
<tr>
<td></td>
<td>0.112</td>
<td>0.112</td>
<td></td>
</tr>
<tr>
<td><strong>Preference for Anglo-Saxons as neighbours</strong></td>
<td>1.052 [0.951, 1.163]</td>
<td>1.027 [0.926, 1.138]</td>
<td></td>
</tr>
<tr>
<td><strong>Religion (Christian)</strong></td>
<td>1.107 [0.923, 1.328]</td>
<td>1.090 [0.903, 1.315]</td>
<td></td>
</tr>
<tr>
<td></td>
<td>0.103</td>
<td>0.104</td>
<td></td>
</tr>
<tr>
<td><strong>Police legitimacy</strong></td>
<td></td>
<td></td>
<td>0.838*[0.719, 0.976]</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>0.065</td>
</tr>
<tr>
<td><strong>Cooperation with police</strong></td>
<td></td>
<td></td>
<td>0.863 [0.742, 1.002]</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>0.066</td>
</tr>
<tr>
<td><strong>Identifying with Australia and its community</strong></td>
<td>1.076 [0.940, 1.233]</td>
<td>1.076 [0.940, 1.233]</td>
<td></td>
</tr>
<tr>
<td><strong>Law legitimacy</strong></td>
<td></td>
<td></td>
<td>0.990 [0.865, 1.134]</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>0.068</td>
</tr>
<tr>
<td><strong>Federal government legitimacy</strong></td>
<td></td>
<td></td>
<td>0.673***[0.552, 0.820]</td>
</tr>
<tr>
<td><strong>State government legitimacy</strong></td>
<td></td>
<td></td>
<td>0.068</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>0.983 [0.822, 1.174]</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>0.089</td>
</tr>
</tbody>
</table>

Note: *p-value < 0.05; **p-value < 0.01; ***p-value < 0.001
(Statistical significance of difference from the reference category)
RRR: relative risk ratio; SE: standard error; CI: confidence intervals
Model 1 interpretation comparing non-PMC Victims to no-victims adding demographics:

In table 6.4, three of the demographic variables suggest a significantly association with the likelihood of being in either the non-PMC group or the reference group (no-victims). These variables include age, education and marital status. With a one unit (year) increase in age, the relative risk for being in the non-PMC group compared with the no-victim group decreases by a factor of 0.979 (p-value: 0.000) given all the other variables are held constant. More generally, the older people are, the less likely they will be in the non-PMC group relative to the no-victims group. The control variable age is significantly associated with being in the no-victim group throughout Model 1.

Given a one unit increase in education and holding all other variables constant in the model, the relative risk of being in the non-PMC group compared with the no-victim group increases by a factor of 1.099 (p-value: 0.009). With a one unit increase in education, respondents are more likely to be in the non-PMC group compared with the no-victim group. More generally, the higher the educational attainment, the more likely people will be in a non-PMC victim group and the less likely they will be in the no-victim group. In a Canadian study, Gabor also found that an increase in education increased the likelihood of single and repeat victimisation. The NSPS had a slightly higher percentage of respondents with a university degree (19.1%) compared with the 2011 ABS Census (14.3%), which could attribute to this result. There might also be a difference between the types of crime (property vs. violent crime). According to Gabor and Mata (2004), property crimes are more opportunistic, and perpetrators are likely to target more educated and affluent victims. The control variable education is significantly associated with being in the non-PMC group, as soon as the variable is introduced to Model 1.

For married respondents, compared with respondents who have indicated being never married or single, in a de-facto relationship, divorced, separated but not divorced or widowed, the relative risk for being in the non-PMC group relative to the no-victim group would be expected to decrease by a factor of 0.657 (p-value: 0.000), given that the other variables in the model are held constant. In other words, married people are less likely to be in the non-PMC group. The control variable married is also significantly associated with being in the no-victim group with the addition of the final variable unemployment status into Model 1.

After the introduction of the variable income (p-value: 0.001), the relative risk ratio is significantly associated with the no-victim group; however, income becomes insignificant (p-value: 0.610) after introducing the variable education to the model. Gender, dependent children, home ownership and
unemployment did not indicate any significance throughout the creation of the model, but were left in the model as control variables. Next, I will discuss Model 2 in the table comparing non-PMC victims with no-victims.

*Model 2 interpretation comparing non-PMC victims with no-victims adding risk factors for victimisation:*

Model 2 in table 6.4 replicates the results of Model 1, in that the control variables *age, education* and *marital status* are significantly associated with being either in the no-victim group or the non-PMC group. Again, a one year increase in age (RRR: 0.979; p-value: 0.000) or being married (RRR: 0.652; p-value: 0.000) decrease the likelihood of being in the non-PMC group and increases the likelihood of being in the no-victim group. In contrast, a one unit increase in education (RRR: 1.113; p-value: 0.004) increases the likelihood of being in the non-PMC group and decreases the likelihood of being in the no-victims group. The risk factors for victimisation control variables are not significantly associated with being in one group over another.

*Model 3 interpretation comparing non-PMC victims with no-victims adding policing scales:*

Model 3 again demonstrates the significant association with variables *age, education* and *marital status* and the likelihood of being in one group over the other. A one year increase in age (RRR: 0.981; p-value: 0.000) or being married (RRR: 0.676; p-value: 0.000) decrease the likelihood of being in the non-PMC group, while a one unit increase in education (RRR: 1.138; p-value: 0.001⁷⁹) increases the likelihood of being in the non-PMC group. All other control variables (*demographic and risk factors for victimisation*) are not significantly related to non-PMC victim or no-victim status.

Throughout the addition of the explanatory variables in Model 3, the variable *police legitimacy* is significantly associated with the no-victim group. For a one unit increase in perception of police legitimacy (where higher scores indicate more favourable views), the relative risk of being in the non-PMC group relative to the no-victim group decreases by 0.838 (p-value: 0.023). More generally, the higher the perception of police legitimacy, the less likely respondents are in the non-PMC group and the more likely they are in the no-victim group.

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⁷⁹ This is a rounded p-value. Stata indicates that it is below the alpha of 0.001.
None of the variables cooperation with police, identifying with Australia and its community or law legitimacy suggests a significant association with belonging to one group over the other. With the introduction of the federal government legitimacy into Model 3, the variable is significantly associated with the no-victim group. A one unit increase in federal government legitimacy decreases the relative risk ratio of being in the non-PMC group relative to the no-victim group by a factor of 0.673 (p-value: 0.000). In other words, the higher the perception of federal government legitimacy (the more favourably the views towards the federal government), the less likely people will be in the non-PMC group and the more likely they will be in the no-victim group. The variable state government legitimacy never indicates any significant association with being in one group over the other.

*Comparing and interpreting non-PMC victims and no-victims in all three models:*

All three models suggest that age and marital status are significantly associated with being in the no-victim group relative to the non-PMC group, while education is significantly associated with a likelihood of being in the non-PMC group. Respondents with demographics, such as increased age, as well as being married, are more likely to be in the group that has not been victimised when compared with the non-PMC victim group. Hindelang, Gottfredson, and Garofalo (1978) found that young people are more likely victims of personal crime compared to older people, and that single people are more likely victimised compared to married people. Hindelang et al. (1978) explain this phenomenon through lifestyle exposure hypothesis, whereas differences in personal lifestyles may be linked to situations with higher probabilities for victimisation. For example, young and single people are less likely to have home responsibilities and commitments and more opportunity to be in places where they are exposed to victimisation (Hindelang et al., 1978).

Results from the Crime Survey in England and Wales (CSEW) have also shown that younger people (i.e., 16-24 years old) are more likely victimised, with Black and other ethnic minority groups displaying a lower age profile than the general population (Home Office et al., 2013). Adamczyk et al. (2014), who studied the relationship between hate group presence and hate crime incidents in different American counties, point out that social cohesion is frequently measured by marital status and found that jurisdictions with higher divorce rates are more likely to experience hate homicides. People with higher educational attainment, however, are more likely to be in a non-PMC group, compared with the no-victim group. In contrast to the existing literature that informed the decision to add risk factors for victimisation in Model 2, certain attributes, such as ethnicity and minority group status (Burgess & Regehr, 2010; Culotta, 2005; von Hentig, 1948), are not
significantly associated with being in one group over another. An explanation for this result might be that visible minority group status is less likely linked to non-PMC victimisation and rather linked to hate crime victimisation (Chongatera, 2013).

With the addition of explanatory variables, Model 3 indicates that police legitimacy is significantly associated with the no-victim group. The higher the perception of police legitimacy, the more likely people will be in the no-victim group. In other words, higher perceptions of police legitimacy are associated with those people who have not experienced a crime. People who have not experienced a crime in the past twelve months are less likely to have recent police contact. Research indicates that fair procedures enhance police legitimacy (Tyler & Fagan, 2010). If people experience undesired outcomes or police ineffectiveness, perceptions of police legitimacy can decrease. A victim’s contact with the police, therefore, can influence perceptions of police legitimacy. Higher perceptions of federal government legitimacy are associated with being in the no-victim group compared with the non-PMC group. As the police is a government agency, a lack of fair contact with the police could influence perceptions towards the government, as the state has responsibility for the peace and protection of individuals (Tyler, 2003). I have found this association only with respondents’ perceptions of federal, but not state government legitimacy.

### 6.3.2 No-Victims compared with PMC Victims

Table 6.5 displays the results of the multinomial logit regression models comparing respondents indicating hate crime victimisation with respondents indicating no victimisation in the past 12 months. Again, the table comprises the RRR, 95% confidence intervals and standard errors, as well as an indicator of significance of the results. In the table below, PMC victims are the base group.
### Table 6.5 Comparing No-Victims vs. PMC Victims (base)

<table>
<thead>
<tr>
<th>Control &amp; explanatory variables</th>
<th>Model 1</th>
<th>Model 2</th>
<th>Model 3</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>RRR [95%CI]</td>
<td>RRR [95%CI]</td>
<td>RRR [95%CI]</td>
</tr>
<tr>
<td></td>
<td>SE</td>
<td>SE</td>
<td>SE</td>
</tr>
<tr>
<td><strong>Control Variables: Demographics</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Age (18-95 years)</td>
<td>1.024*[1.002, 1.046</td>
<td>1.026*[1.003, 1.049</td>
<td>1.025*[1.001, 1.049</td>
</tr>
<tr>
<td></td>
<td>0.011</td>
<td>0.012</td>
<td>0.012</td>
</tr>
<tr>
<td>Gender (female)</td>
<td>1.095 [0.597, 2.009</td>
<td>1.074 [0.583, 1.981</td>
<td>1.057 [0.562, 1.988</td>
</tr>
<tr>
<td></td>
<td>0.339</td>
<td>0.335</td>
<td>0.341</td>
</tr>
<tr>
<td>Dependent children</td>
<td>1.126 [0.520, 2.436</td>
<td>1.111 [0.513, 2.403</td>
<td>1.082 [0.499, 2.346</td>
</tr>
<tr>
<td></td>
<td>0.443</td>
<td>0.437</td>
<td>0.427</td>
</tr>
<tr>
<td>Income</td>
<td>1.166 [0.973, 1.397</td>
<td>1.159 [0.967, 1.391</td>
<td>1.164 [0.969, 1.397</td>
</tr>
<tr>
<td></td>
<td>0.108</td>
<td>0.108</td>
<td>0.109</td>
</tr>
<tr>
<td>Education</td>
<td>1.017 [0.799, 1.294</td>
<td>1.038 [0.810, 1.330</td>
<td>1.026 [0.796, 1.322</td>
</tr>
<tr>
<td></td>
<td>0.125</td>
<td>0.131</td>
<td>0.133</td>
</tr>
<tr>
<td>Home ownership</td>
<td>1.939 [0.983, 3.826</td>
<td>1.953 [0.986, 3.869</td>
<td>1.702 [0.844, 3.430</td>
</tr>
<tr>
<td></td>
<td>0.672</td>
<td>0.681</td>
<td>0.609</td>
</tr>
<tr>
<td>Married</td>
<td>1.803 [0.931, 3.493</td>
<td>1.846 [0.950, 3.585</td>
<td>1.790 [0.918, 3.491</td>
</tr>
<tr>
<td></td>
<td>0.608</td>
<td>0.625</td>
<td>0.610</td>
</tr>
<tr>
<td>Unemployed</td>
<td>0.300*[0.098, 0.919</td>
<td>0.283*[0.091, 0.876</td>
<td>0.292*[0.092, 0.929</td>
</tr>
<tr>
<td></td>
<td>0.171</td>
<td>0.163</td>
<td>0.172</td>
</tr>
</tbody>
</table>

**Control Variables: Risk Factors for Victimisation**

<table>
<thead>
<tr>
<th></th>
<th>Model 1</th>
<th>Model 2</th>
<th>Model 3</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>RRR [95%CI]</td>
<td>RRR [95%CI]</td>
<td>RRR [95%CI]</td>
</tr>
<tr>
<td></td>
<td>SE</td>
<td>SE</td>
<td>SE</td>
</tr>
<tr>
<td>LOTE</td>
<td>1.903 [0.237, 15.265</td>
<td>1.892 [0.231, 15.468</td>
<td>2.021</td>
</tr>
<tr>
<td>ATSI</td>
<td>0.633 [0.080, 5.010</td>
<td>0.653 [0.082, 5.175</td>
<td>0.668</td>
</tr>
<tr>
<td>Australian citizen</td>
<td>0.223 [0.029, 1.728</td>
<td>0.243 [0.031, 1.911</td>
<td>0.233</td>
</tr>
<tr>
<td>Foreign born</td>
<td>0.466*[0.232, 0.936</td>
<td>0.491*[0.242, 0.998</td>
<td>0.166</td>
</tr>
<tr>
<td>Preference for Anglo-Saxons as neighbours</td>
<td>0.755 [0.534, 1.065</td>
<td>0.834 [0.589, 1.181</td>
<td>0.133</td>
</tr>
<tr>
<td>Religion (Christian)</td>
<td>1.112 [0.600, 2.059</td>
<td>1.133 [0.604, 2.127</td>
<td>0.350</td>
</tr>
</tbody>
</table>

**Explanatory Variables**

|                                  | Model 1         |          |          |
|                                  | RRR [95%CI]     | SE       |          |
|                                  |                 |          |          |
| Police legitimacy                | 2.269***[1.446, 3.560| 0.521|          |
| Cooperation with police          | 1.043 [0.502, 1.282| 0.192|          |
| Identifying with Australia and its community | 0.802 [0.452, 1.101| 0.160|          |
| Law legitimacy                   | 0.705 [0.463, 1.118| 0.162|          |
| Federal government legitimacy    | 1.325 [0.660, 2.663| 0.472|          |
| State government legitimacy      | 1.167 [0.615, 2.216| 0.382|          |

**Note:** *p-value < 0.05; **p-value < 0.01; ***p-value < 0.001
(Statistical significance of difference from the reference category)
RRR: relative risk ratio; SE: standard error; CI: confidence intervals
Model 1 interpretation comparing no-victims with PMC victims adding demographics:

Model 1 in table 6.5 suggests that two of the demographic variables are significantly associated with being in the no-victim group compared with the reference group (PMC victims). These variables include age and employment status. A one year increase in respondent’s age increases the relative risk ratio of being in the no-victim group compared with the PMC victim group by a factor of 1.024 (p-value: 0.031), holding all other variables constant. In other words, the older the respondent is, the more likely he or she will be in the no-victim group and the less likely the respondent will be in the PMC victim group. With increased age, people are more likely to be in the no-victim group relative to the PMC group.

For unemployed respondents, the relative risk ratio for being in the no-victim group compared with the PMC victim group is expected to decrease by a factor of 0.300 (p-value: 0.035), holding all other variables constant. More generally, unemployed people are less likely to be in the group that has not been victimised and more likely to be in the hate crime victim group. The variable income (RRR: 1.180; p-value: 0.038) is significantly associated with the likelihood of being in the no-victim group compared with the PMC victim group until I added the variable married to Model 1. Income (RRR: 1.166; p-value: 0.097) also stayed insignificant with the addition of the last variable, unemployment, to the model. The variable home ownership (RRR: 2.093; p-value: 0.030) initially was significantly associated with being in the no-victim group, compared with the PMC victim group, until I added marital status to the model. The variables gender, dependent children, education and marital status were never significantly associated with being in one group over another.

Model 2 interpretation comparing no-victims with PMC victims adding risk factors for victimisation:

Model 2 in table 6.5 also suggests that the demographic variables age and employment status are significantly associated with a likelihood of being in one group over the other. Again, a one year increase in age (RRR: 1.026; p-value: 0.024) increases the likelihood of being in the no-victim group, while being unemployed (RRR: 0.283; p-value: 0.029) decreases the likelihood of being in the no-victim group, compared with the PMC victim group.

As soon as the variable foreign born is added into the model, it stays significantly associated with a likelihood of respondents being in the PMC victim group. For respondents who are foreign born, the relative risk ratio for being in the no-victim group compared to the PMC victim group is
expected to decrease by a factor of 0.466 (p-value: 0.032), holding all other variables constant. More generally, people who have been born overseas are less likely to be in the group that has not been victimised and more likely to be in the hate crime victim group. All other risk factors for victimisation variables, such as speaking a language other than English at home, being of Indigenous decent, not being an Australian citizen, experiencing an intensified feeling of social isolation, as well as espousing a religious affiliation are again not significantly associated with being in one group over the other.

After adding citizenship to Model 2, the variable home ownership indicates a significant association (RRR: 1.994; p-value: 0.047) with being in the no-victim group over the PMC victim group. This significant association changes to insignificant (p-value: 0.052) after I add the variable foreign born to Model 2 and stays insignificant throughout the remainder of the model.

**Model 3 interpretation comparing no-victims to PMC victims adding explanatory variables:**

Model 3 again illustrates that the demographic variable age (RRR: 1.025; p-value: 0.041) is significantly associated with being in the no-victim group, while employment status (RRR: 0.292; p-value: 0.037) and being foreign born (RRR: 0.491; p-value: 0.049) is significantly associated with being in the hate crime victim group. Additionally, the explanatory variable police legitimacy is significantly associated with being in the no-victim group compared with the PMC victim group. For one unit increase in perception of police legitimacy (higher scores indicate more favourable views), the relative risk ratio of being in the no-victim group relative to the PMC victim group increases by a factor of 2.269 (p-value: 0.000), holding all other variables constant. In other words, the higher the perception of police legitimacy, the more likely it is that respondents are in the no-victim group and the less likely they are in the PMC victim group.

With the addition of police legitimacy into the model, the variable age becomes insignificant (RRR: 1.022; p-value: 0.064), until I add the variable identifying with Australia and its community to Model 3, with the variable age again showing a significant association (RRR: 1.025; p-value: 0.041) and staying significant throughout the remainder of the model. The addition of police legitimacy also affects the variable unemployment with a non-significant association (RRR: 0.318; p-value: 0.050) until the variable is significant (RRR: 0.317; p-value: 0.049) again with the addition of cooperation with police to the model. After the addition of the variable law legitimacy to Model 3, the variable foreign born indicates a non-significant association (RRR: 0.495; p-value: 0.051), indicating that the variable explains less of the variance in the model, and back to significance (RRR: 0.489; p-value: 0.048) with the addition of federal government legitimacy. The demographic
variables gender, dependent children, income, education, home ownership and marital status are not significantly associated with being in one group over the other throughout Model 3. Only the risk factor variable foreign born indicates a significant association in the final model. The explanatory variables cooperation with the police, identifying with Australia and its community, law legitimacy, federal government legitimacy and state government legitimacy are not significantly associated with belonging to one group over the other throughout Model 3.

Comparing and interpreting no-victims to PMC victims in all three models:

Model 1 suggests that two demographic variables are significantly associated with the likelihood of being in one group over the other. These demographic variables include age and employment status. With increased age, people are more likely to be in the no-victim group compared to the PMC victim group, which is consistent with findings by Chongatera (2013), while being unemployed decreases the likelihood of people being in the no-victim group and increases the likelihood of respondents being in the PMC victim group. According to Chongatera (2013), proponents of high unemployment rates as a factor of hate crime victimisation propose that competition for resources, such as jobs and housing space, leads to more hate crime occurrences amongst visible minority groups. A study conducted by Medoff (1999), exploring the relationship between socioeconomic factors and hate crime in 1995, found that the factor unemployment is positively related to PMC.

Model 2 replicates the above significant demographic variables, as well as demonstrating a significant association of being foreign born with PMC victim group status. I have added the risk factors for victimisation into the model, as literature shows that ethnicity, immigrant status and being a minority group member play a part not only in non-PMC victimisation (Burgess & Regehr, 2010; von Hentig, 1948; Zur, 1995), but also in PMC victimisation (Culotta, 2005). Of these factors, however, only foreign born is significantly associated with a likelihood of being in the hate crime victim group throughout Model 2. CALD communities that were born overseas experience higher rates of racist incidents (AHRC, 2012b). According to Chongatera (2013), a person’s visible minority group status is more likely to be linked to hate crime victimisation (see also Bania, Janhevich, & Hastings, 2008). Research from Sweden indicates that immigrants tend to experience higher crime rates, compared with non-immigrants, with a greater likelihood that second-generation immigrants will be exposed to violent crime (Martens, 1997). This result, however, also relates to age, with second-generation immigrants being younger (between sixteen and 24 years of age), accounting for some of the difference in Martens’s (1997) analysis. Bania et al. (2008) argue that economic and social disadvantage play a part in the vulnerability of minority groups, and minority
and newcomer groups’ issues of crime and safety are linked to individual, family, community and societal factors.

Model 3 again indicates that with increased age, people are more likely to be in the no-victim group, while people who are unemployed are more likely to be in the PMC victim group. Only the risk factor being foreign born indicates a significant association with being in the hate crime group. People with higher perceptions of police legitimacy are more likely to be in the no-victim group and less likely to be in the PMC victim group. Research suggests that fair procedures enhance police legitimacy (Tyler & Fagan, 2010). People with police contact or crime experience have lower perceptions of police legitimacy compared with people who have not been victimised. Fair procedures and police effectiveness could have influenced this lower perception of police legitimacy. Hall (2012) suggests that successful responses to PMC incidents influence the victims’ desire to cooperate with police. The NSPS, unfortunately, does not question respondents on the outcome of police contact.

6.3.3 Non-PMC Victims compared to PMC Victims

Table 6.6 shows the results of the multinomial logit regression models comparing respondents indicating non-PMC victimisation with respondents indicating PMC victimisation in the past 12 months. The table again consists of the RRR, 95% confidence intervals, standard errors and, as well, an indicator of significance of the results. In the table below, PMC victims are the base group.
Table 6.6 Comparing Non-PMC Victims vs. PMC Victims (base)

<table>
<thead>
<tr>
<th>Control &amp; explanatory variables</th>
<th>Control Variables: Demographics</th>
<th>Explanatory Variables</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Model 1 RRR [95%CI] SE</td>
<td>Model 2 RRR [95%CI] SE</td>
</tr>
<tr>
<td><strong>Age (18-95 years)</strong></td>
<td>1.002 [0.981, 1.025] 0.011</td>
<td>1.004 [0.982, 1.027] 0.012</td>
</tr>
<tr>
<td><strong>Gender (female)</strong></td>
<td>0.964 [0.518, 1.793] 0.305</td>
<td>0.947 [0.506, 1.772] 0.303</td>
</tr>
<tr>
<td><strong>Dependent children</strong></td>
<td>1.268 [0.577, 2.783] 0.508</td>
<td>1.248 [0.568, 2.741] 0.501</td>
</tr>
<tr>
<td><strong>Income</strong></td>
<td>1.194 [0.994, 1.436] 0.112</td>
<td>1.184 [0.984, 1.425] 0.112</td>
</tr>
<tr>
<td><strong>Education</strong></td>
<td>1.117 [0.872, 1.430] 0.141</td>
<td>1.155 [0.896, 1.489] 0.150</td>
</tr>
<tr>
<td><strong>Home ownership</strong></td>
<td>1.737 [0.860, 3.507] 0.623</td>
<td>1.698 [0.837, 3.445] 0.613</td>
</tr>
<tr>
<td><strong>Married</strong></td>
<td>1.186 [0.602, 2.334] 0.410</td>
<td>1.203 [0.609, 2.375] 0.418</td>
</tr>
<tr>
<td><strong>Unemployed</strong></td>
<td>0.411 [0.127, 1.330] 0.246</td>
<td>0.362 [0.110, 1.190] 0.220</td>
</tr>
<tr>
<td><strong>LOTE</strong></td>
<td>1.486 [0.178, 12.425] 1.610</td>
<td>1.572 [0.185, 13.343] 1.715</td>
</tr>
<tr>
<td><strong>ATSI</strong></td>
<td>0.491 [0.055, 4.354] 0.547</td>
<td>0.482 [0.054, 4.281] 0.537</td>
</tr>
<tr>
<td><strong>Australian citizen</strong></td>
<td>0.177 [0.022, 1.394] 0.186</td>
<td>0.198 [0.025, 1.594] 0.211</td>
</tr>
<tr>
<td><strong>Foreign born</strong></td>
<td>0.433* [0.210, 0.890] 0.159</td>
<td>0.448*[0.215, 0.932] 0.167</td>
</tr>
<tr>
<td><strong>Preference for Anglo-Saxons as neighbours</strong></td>
<td>0.793 [0.557, 1.130] 0.143</td>
<td>0.856 [0.600, 1.222] 0.155</td>
</tr>
<tr>
<td><strong>Religion (Christian)</strong></td>
<td>1.231 [0.654, 2.314] 0.397</td>
<td>1.235 [0.648, 2.353] 0.406</td>
</tr>
<tr>
<td><strong>Police legitimacy</strong></td>
<td>1.901** [1.197, 3.018] 0.449</td>
<td>1.920** [1.205, 3.060] 0.454</td>
</tr>
<tr>
<td><strong>Cooperation with police</strong></td>
<td>0.900 [0.563, 1.439] 0.216</td>
<td>0.900 [0.563, 1.439] 0.216</td>
</tr>
<tr>
<td><strong>Identifying with Australia and its community</strong></td>
<td>0.863 [0.535, 1.393] 0.211</td>
<td>0.863 [0.535, 1.393] 0.211</td>
</tr>
<tr>
<td><strong>Law legitimacy</strong></td>
<td>0.698 [0.443, 1.101] 0.162</td>
<td>0.698 [0.443, 1.101] 0.162</td>
</tr>
<tr>
<td><strong>Federal government legitimacy</strong></td>
<td>0.892 [0.437, 1.821] 0.325</td>
<td>0.892 [0.437, 1.821] 0.325</td>
</tr>
<tr>
<td><strong>State government legitimacy</strong></td>
<td>1.147 [0.595, 2.209] 0.384</td>
<td>1.147 [0.595, 2.209] 0.384</td>
</tr>
</tbody>
</table>

Note: *p-value < 0.05; **p-value < 0.01; ***p-value < 0.001
(Statistical significance of difference from the reference category)
RRR: relative risk ratio; SE: standard error; CI: confidence intervals
Model 1 interpretation comparing non-PMC with PMC victims adding demographics:

Model 1 in table 6.6 above suggests that none of the demographic variables is significantly associated with being in either the non-PMC victim group or the PMC victim group (reference group). This indicates that there are no noticeable differences in demographic attributes between these two types of victims. Once the variable income is added to Model 1, a significant association with the non-PMC group is evident (RRR: 1.258; p-value: 0.005); however, after the addition of the last variable, employment status, the variable income indicates a non-significant association (RRR: 1.194; p-value: 0.059).

Model 2 interpretation comparing non-PMC with PMC victims adding risk factors for victimisation:

Model 2 replicates the results in Model 1. Throughout the addition of the risk factors for victimisation, none of the demographic variables is significantly associated with being in either the non-PMC victim group or the PMC victim group. Of the risk factors added to Model 2, only the variable foreign born is significantly associated with being in the hate crime victim group. For foreign born respondents, the relative risk ratio for being in the non-PMC victim group compared to the PMC victim group is expected to decrease by a factor of 0.433 (p-value: 0.023), holding all other variables constant. This suggests that people who have been born outside of Australia are less likely to be in the group that has been victimised without a prejudice motive and more likely to be in the hate crime victim group. This result is consistent with findings by Kääriäinen and Ellonen (2007) in Finland, where the majority of racist crimes were committed against foreigners. None of the other risk factors, such as speaking a language other than English at home, being of Indigenous decent, not being an Australian citizen, experiencing an intensified feeling of social isolation, as well as espousing a religious affiliation are significantly associated with being in one group over the other.

Model 3 interpretation comparing non-PMC with PMC victims adding explanatory variables:

Model 3 again illustrates that the risk factor variable foreign born is significantly associated with being in the PMC victim group compared with the non-PMC victim group. For respondents who are foreign born, the relative risk ratio for being in the non-PMC victim group compared with the PMC victim group is expected to decrease by a factor of 0.448 (p-value: 0.032), holding all other variables constant. More generally, people who have been born overseas are less likely to be in the
group that has been victimised without a prejudice motive and more likely to be in the hate crime victim group.

With the addition of the explanatory variable *police legitimacy* to Model 3, the relative risk ratio for police legitimacy indicates a significant association with being in the non-PMC victim group. The relative risk ratio of belonging to the non-PMC victim group compared with the PMC victim group increases by a factor of 1.901 (p-value: 0.007), given a one unit increase in perception of police legitimacy, holding all other variables constant. In other words, people with higher perceptions of police legitimacy will be more likely part of the victimised group without prejudice motive and less likely to be in the hate crime victim group. None of the other explanatory variables, such as cooperation with the police, identifying with Australia and its community, law legitimacy, federal government legitimacy and state government legitimacy were significantly associated with belonging to one group over the other in Model 3.

*Comparing and interpreting non-PMC with PMC victims in all three models:*

Model 1, 2 and 3 suggest that none of the demographic variables are significantly associated with being in either the non-PMC victim group or the PMC victim group. This finding indicates that hate crime victims are not distinguishable from non-PMC victims, where no prejudice motive has been present, on demographic variables. I expected to at least find income disparity between the two groups, as research indicates that “income to some extent minimizes the likelihood of exposure to hate-crime victimization” (Chongatera, 2013, p. 58). This assumption is, however, inconsistent with findings by Johnson (2005b), who found that people in lower income households are less likely to be victims of a personal crime. Other research into socio-economic factors found that neighbourhood poverty and disadvantage can lead to an increase in crime rates (Chongatera, 2013; Krivo & Peterson, 1996; Wilson, 1987). Chongatera (2013) found, however, that the ethnic background of visible minorities is a factor in hate crime victimisation, as well as in fear of hate crime, more than any other factor or characteristic, while socioeconomic status is at best a mediating factor. My risk factor variables, therefore, seem to be more important in distinguishing between victim groups.

Models 2 and 3 are consistent in finding that people born outside of Australia are more likely to be in the hate crime victim group compared with the group that has experienced victimisation without prejudice motives. Literature shows that ethnicity, immigrant status and being a minority group member plays a part in mainstream victimisation (Burgess & Regehr, 2010; von Hentig, 1948; Zur, 1995) and in hate crime victimisation (Culotta, 2005). My results indicate that only the variable
foreign born distinguishes hate crime victims from non-PMC victims, as none of the other risk factor variables are significantly associated with being in one group over the other. This result specifies the importance of not only minority group status for any type of victimisation, but also the importance of immigrant status when differentiating between hate crime victims and other crime victims.

Additionally, Model 3 suggests that the explanatory variable police legitimacy is significantly associated with being in the non-PMC victim group relative to the PMC victim group. The higher the perceptions of police legitimacy (the more favourable the views towards the police), the more likely people will be in a non-PMC group compared with the hate crime group. This is a significant result, as both groups have experienced victimisation, but higher perceptions of police legitimacy increase the likelihood of a person being in the non-PMC victim group, and lower perceptions of police legitimacy increase the likelihood of people being in the hate crime victim group. Research suggests that people with higher perceptions of police legitimacy are more likely to report a crime to the police (Murphy & Cherney, 2010, 2011; Tyler, 2005, 2011). As the NSPS dataset is cross-sectional data, I am unable to identify if PMC victims’ perceptions of police legitimacy were already less favourable prior to the hate crime incident, or if the subsequent police contact resulted in hate crime victims’ lower perceptions of police legitimacy. In the next subchapter, I will explore the descriptive statistics of the risk factors for victimisation, especially the variable foreign born, regarding different victimisation groups.

6.4 Descriptive Statistics of Risk Factors for Victimisation by Victim Groups

Research suggests that some characteristics, such as immigrant and ethnic minority status, increase the chance of victimisation with or without prejudice motive (Burgess & Regehr, 2010; Culotta, 2005; von Hentig, 1948). The risk factors I set out to explore in regards to victimisation – and later reporting behaviour – were speaking a language other than English at home, being of Indigenous decent, not being an Australian citizen, being foreign born, experiencing an intensified feeling of social isolation, as well as espousing a religious affiliation. Only the risk factor being born outside of Australia indicates significant associations in the above models. The likelihood of being in the PMC victim group increases for foreign born respondents, when compared with non-PMC victims, as well as no-victims. After the addition of law legitimacy in Model 3, foreign born was no longer significantly associated with being in the PMC victim group over the no-victim group. I will explore this lack of association later in this chapter (see 6.5.2). All the other risk factors have not indicated a significant association with being in one group over the other. Table 6.7 displays the
descriptive statistics of the risk factors. Although the majority of the risk factors have not indicated a significant association throughout my models, I will further explore these variables in the descriptive analysis below.

Table 6.7 Descriptive Statistics of Risk Factors for Victimisation in NSPS

<table>
<thead>
<tr>
<th>Risk factors for victimisation</th>
<th>No-victim (%, M, Md)</th>
<th>Non-PMC victim (%, M, Md)</th>
<th>PMC victims (%, M, Md)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>LOTE</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>6.23%</td>
<td>2.53%</td>
<td>2.17%</td>
</tr>
<tr>
<td>No</td>
<td>93.77%</td>
<td>97.47%</td>
<td>97.83%</td>
</tr>
<tr>
<td><strong>ATSI</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>0.97%</td>
<td>0.84%</td>
<td>2.17%</td>
</tr>
<tr>
<td>No</td>
<td>99.03%</td>
<td>99.16%</td>
<td>97.83%</td>
</tr>
<tr>
<td><strong>Australian citizen</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>90.74%</td>
<td>93.82%</td>
<td>97.83%</td>
</tr>
<tr>
<td>No</td>
<td>9.26%</td>
<td>6.18%</td>
<td>2.17%</td>
</tr>
<tr>
<td><strong>Foreign born</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>25.10%</td>
<td>19.94%</td>
<td>28.26%</td>
</tr>
<tr>
<td>No</td>
<td>74.90%</td>
<td>80.06%</td>
<td>71.74%</td>
</tr>
<tr>
<td>Preference for Anglo-Saxons as neighbours</td>
<td>M: 2.721 (1,5)</td>
<td>M: 2.751 (1,5)</td>
<td>M: 2.946 (1,5)</td>
</tr>
<tr>
<td></td>
<td>Md: 3</td>
<td>Md: 3</td>
<td>Md: 3</td>
</tr>
<tr>
<td><strong>Religion</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Christian</td>
<td>63.44%</td>
<td>63.48%</td>
<td>58.70%</td>
</tr>
<tr>
<td>Other</td>
<td>36.56%</td>
<td>36.52%</td>
<td>41.30%</td>
</tr>
</tbody>
</table>

Table 6.7 illustrates that the majority of people in the NSPS speak English at home. The no-victim group displays the highest percentage of non-English speakers with 6.23%, while non-PMC victims and PMC victims include 2.53% and 2.17% non-English speakers, respectively. People who have not been victimised, therefore, have a higher percentage of speaking a language other than English at home compared with victimised respondents. A study of high school students by Shively, McDevitt, Cronin, and Balboni (2001) has indicated that students who have English as their second language are more likely victimised by hate crimes compared with students with English as their first language. My study does not support this finding. The majority of people in the different victim groups are non-Indigenous. Only 0.97% of no-victims and 0.84% of non-PMC victims are of Indigenous decent. The PMC victim group has the majority of Indigenous people with 2.17% indicating Indigenous decent.

The majority of people in the NSPS and in the different victim groups were Australian citizens. 2.17% of the PMC victims did not indicate Australian citizenship status; 6.18% of non-PMC Victims have indicated that they were not Australian citizens, while 9.26% of no-victims have indicated no Australian citizenship. No-victims had a higher percentage than the other victim group of having foreign citizenship status, with 90.74% indicating Australian citizenship. The majority of
people in the different victim groups did not indicate having been born outside of Australia (74.90% of no-victims; 80.06% of non-PMC victims; 71.74% of PMC victims). 25.10% of no-victims, 19.94% of non-PMC victims and 28.26% of PMC victims have indicated being born outside of Australia. PMC victims, however, had a higher percentage of being foreign born, compared to the other victim groups. In regards to the social isolation scale (the community prefers Anglo-Saxons in their area), PMC victims were slightly more neutral on the feeling that people in their community preferred Anglo-Saxons in their area with an average score of 2.946, compared with non-PMC victims (M=2.751) and no-victims (M=2.721), who had lower mean scores and tended to lean more towards the disagree side.

Exploring the descriptive statistics of religion, the majority of people were of Christian faith, with PMC victims indicating the least percentage of Christians (58.70%), compared to no-victims (63.44%) and non-PMC victims (63.48%). 2.17% of PMC victims were Buddhist, compared with 0.91% of no-victims and 0.84% of non-PMC victims. 2.17% of PMC victims were of Islam faith, compared with 0.42% of non-PMC victims and 0.34% of no-victims. 8.70% of PMC victims claimed other religions, while 5.90% of non-PMC victims and 4.43% of no-victims have indicated other religion as their response. 28.23% of non-PMC victims declared not having a religion, compared to 26.09% of PMC victims and 25.61% of no-victims. Of all no-victims 5.26% refrained from stating a religion, compared with 2.17% of PMC victims and 1.12% of non-PMC victims. The above table and the non-significance of the risk factors in the MNLR suggest that there are no clear indicators of what a PMC victim, a non-PMC victim or a no-victim looks like in Australia as, for example, no-victims displayed the highest percentage of speaking another language than English at home.

As foreign born was the only significant variable of the risk factor set, I want to explore this control variable further in the table below indicating differences between when a respondent entered Australia as an immigrant. As the item on year of arrival questioned only respondents who have previously indicated having been born in a country other than Australia, table 6.8 illustrates the cross-tabulation of foreign born respondents, indicating their year of arrival by victimisation group.

Table 6.8 Descriptive Statistics of Year of Arrival by Victimisation Group

<table>
<thead>
<tr>
<th>Year of arrival</th>
<th>No-victim N (%)</th>
<th>Non-PMC victim N (%)</th>
<th>PMC victim N (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not foreign born</td>
<td>2,793 (79.85%)</td>
<td>577 (81.04%)</td>
<td>36 (78.26%)</td>
</tr>
<tr>
<td>More than 5 years ago</td>
<td>677 (19.35%)</td>
<td>126 (17.70%)</td>
<td>10 (21.74%)</td>
</tr>
<tr>
<td>In the past 5 years</td>
<td>28 (0.80%)</td>
<td>9 (1.26%)</td>
<td>0 (0.00%)</td>
</tr>
<tr>
<td>Total</td>
<td>3,498 (100%)</td>
<td>712 (100%)</td>
<td>46 (100%)</td>
</tr>
</tbody>
</table>
Table 6.8 indicates that of the 46 PMC victims, 10 (or 21.74%) were foreign born, but have lived in Australia for more than 5 years, compared to 126 (17.70%) of non-PMC victims, and 9 (or 1.26%) of non-PMC victims who have lived in Australia for less than 5 years. As demographic shifts in population can fuel social tension, prejudiced thinking and discrimination, PMC incidents are likely to follow (Stacey et al., 2011). More recent immigrants are likely to lack assimilation into the Australian mainstream culture, to wear traditional attire and to live by cultural traditions, making them more likely targets of hate crime.

6.5 State Differences in Victimisation Groups

Given the importance of state or territory differences in legislation (see chapter 2), I explored the descriptive statistics around state and territory differences in the NSPS. In this section, I begin by examining the percentages of the three victimisation groups – no-victim, non-PMC victim and PMC victim – to understand the prominence of the groups in one state or territory over another jurisdiction. Secondly, I explore the descriptive statistics of the explanatory variables regarding police, government and law legitimacy to differentiate between higher and lower degrees of legitimacy by state and territory.

6.5.1 Victimisation Groups by Australian State and Territory

Australia is a country of colonisation and immigration. Immigration patterns and the blending of different cultures and ethnicities coincide with occurrences of racist victimisation (Stobbs, 2008). In a study conducted in the United States, Espiritu (2004) found that there were multiple significant predictors of PMC incidents across states, including prior PMC incidents and the proportion of Asians and Pacific Islanders in the state. The more prominent victims in Australia are the Indigenous population and CALD communities, such as Arab and Muslim Australians, as well as African Australians (AHRC, 2012b). The ABS 2011 Census data below indicates that Australia’s population now consists of 3.0% Aboriginal and Torres Strait Islander people, as well as 26.1% of overseas-born people. According to the ABS Census 2011 data presented in Table 6.9, the majority of the Aboriginal and Torres Strait Islander population inhabit the Northern Territory with almost 30%. Percentages are substantially lower in the remaining states and territories, with 4.7% in Tasmania, 4.2% in Queensland, 3.8% in Western Australia, 2.9% in New South Wales, 2.3% in South Australia, 1.7% in the Australian Capital Territory and, lastly, 0.9% in Victoria.
Additionally, Table 6.9 displays the distribution of overseas-born people by state and territory. Western Australia has the highest percentage of overseas-born inhabitants (32.8%), followed by Victoria (27.7%), New South Wales (27.3%), the Australian Capital Territory (25.3%), South Australia (23.2%) and Queensland (21.8%). The lowest percentages of overseas-born are located in the Northern Territory (18.2%) and Tasmania (12.2%). Graph 6.2 below illustrates hate crime victimisation picked up by the NSPS in different Australian states and territories.

An exploration of hate crime victimisation in the NSPS reveals that New South Wales depicts the highest number of hate crime incidents with 13 respondents or 28.26% of respondents indicating being victimised by a hate crime. Victoria and Queensland respondents each have indicated eight hate crime incidents or 17.39% of all hate crimes recorded in the NSPS. South Australian, Western Australian and Tasmanian respondents stated five hate crime incidents
(or 10.87% of all Australian PMC incidents), while the Northern Territory and the Australian Capital Territory display only one hate crime incident (or 2.17% of all Australian PMC incidents).\textsuperscript{80}

In a study conducted in the United States, Espiritu (2004) found that racial diversity was significantly associated with hate crime incidents. According to Chongatera (2013), as the numbers of different minority groups increases, hate crime victimisation can also increase. For example, in Canada and the United States, people are threatened by an increase in Asian minority groups (Chongatera, 2013). In more diverse jurisdictions, with higher ethnic concentration or spaces (Samers, 2010), more opportunities for racial conflicts emerge (Chongatera, 2013). With an increase in numbers of minority groups, feelings of social and economic threats also increase, consequently resulting in hate crime incidents (Adamczyk et al., 2014). This is also called the power-threat hypothesis (Blalock, 1967). New immigrants are more likely to settle in states such as New South Wales and Victoria, especially as Sydney and Melbourne are traditional ports of entry for recent migrants (ABS, 2014; Markus, Jupp, & McDonald, 2009). Sydney more prominently shows a high number of recent entries from Middle Eastern countries (Markus et al., 2009). Negativity towards people with Middle Eastern background is more common especially, as pointed out earlier, after national or international terrorist events. Recently-arrived immigrants are less likely to be assimilated and more likely to wear traditional attire from the countries they emigrated from and could be easy targets for hate crime offences. In addition, with immigrants entering these major ports of entry, ethnic enclaves are likely to form, which could lead to social unrest amongst the Australia-born population (Markus et al., 2009). Table 6.10 displays the range of countries PMC victims were born in\textsuperscript{81}.

\textsuperscript{80} I also ran an ANOVA to check for state and territory differences by victims groups and found that there were significant differences among states and territories regarding victim groups (PMC victims, non-PMC victims, and no-victims) with a p-value of 0.047. In addition, I ran an ANOVA for jurisdictional differences by just victims, which indicates no significant difference among state and territories regarding victims. This result demonstrates that respondents who have indicated no victimisation differ from victim groups by state and territory, but that the victims (PMC and non-PMC) in the NSPS are not different from each other regarding state and territory.

\textsuperscript{81} Three PMC victims did not indicate their country of birth.
Table 6.10 NSPS PMC Victimisation by Country of Birth

<table>
<thead>
<tr>
<th>Country of birth</th>
<th>PMC victimisation N (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>33 (76.75%)</td>
</tr>
<tr>
<td>England</td>
<td>4 (9.31%)</td>
</tr>
<tr>
<td>France</td>
<td>1 (2.33%)</td>
</tr>
<tr>
<td>India</td>
<td>1 (2.33%)</td>
</tr>
<tr>
<td>New Zealand</td>
<td>1 (2.33%)</td>
</tr>
<tr>
<td>Peru</td>
<td>1 (2.33%)</td>
</tr>
<tr>
<td>Poland</td>
<td>1 (2.33%)</td>
</tr>
<tr>
<td>Sweden</td>
<td>1 (2.33%)</td>
</tr>
</tbody>
</table>

Table 6.10 reveals that the majority of PMC victims are born in Australia. Four victims have indicated that they were born in England (one PMC victim each in Western Australia, New South Wales, Queensland and Tasmania). The largest overseas-born group of immigrants to Australia is from the United Kingdom (ABS, 2014), followed by New Zealand (one PMC victim in New South Wales). Other countries of origin include France (New South Wales), India (Queensland), Peru (Queensland), Poland (Victoria) and Sweden (Australian Capital Territory).

After exploring Table 6.10, as well as the not-so recent arrival of PMC victims (table 6.8), I cannot find a clear picture of why New South Wales, Victoria and Queensland have experienced the most hate crime victimisation compared to the other states and territories. This figure might be due to people being able to identify hate crimes more easily due to more diligent police strategies used in this jurisdiction. The states with the most PMC victimisation are New South Wales, followed by Victoria and Queensland, which all utilise substantive offence penal models, elevating a civil offence to a criminal offence in regards to hate crime, punishing offenders with prison terms. New South Wales and Victoria also have unique police strategies in tackling hate crime, which could lead to more public awareness.

6.5.2 Police, Government and Law Legitimacy by Australian State and Territory

Research suggests that fair procedures influence police legitimacy (Tyler & Fagan, 2010) and that there is an association between perception of trust in police and the willingness to cooperate (Tyler, 2005, 2011). Ethnic minorities display lower levels of confidence in the police than the general public (Cherney & Chui, 2009; Murphy & Cherney, 2011; Tyler, 2011). Effective responses to PMC by state agencies increase the public’s trust and confidence in these agencies (Hall, 2012). Police legitimacy is highly significant in all MNLR models above, while federal government legitimacy is only a factor when comparing no-victims to non-PMC victims, while state government legitimacy is never significant, and law legitimacy has not indicated significance
throughout the models. Law legitimacy, however, does have an influence on the variable foreign born in Model 3, whereas foreign born is no longer significantly associated with being in the PMC victim group over the no-victim group. Table 6.11 displays the mean scores in the NSPS of police, government and law legitimacy scales by Australian state and territory, as well as an overall mean for Australia.

Table 6.11 NSPS Mean Differences of Legitimacy by Jurisdiction

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Police legitimacy M (min, max)</th>
<th>Federal government legitimacy M (min, max)</th>
<th>State government legitimacy M (min, max)</th>
<th>Law legitimacy M (min, max)</th>
</tr>
</thead>
<tbody>
<tr>
<td>NSW</td>
<td>3.742 (1, 5)</td>
<td>1.841 (1, 3.25)</td>
<td>1.788 (1, 3)</td>
<td>4.022 (1, 5)</td>
</tr>
<tr>
<td>VIC</td>
<td>3.758 (1, 5)</td>
<td>1.851 (1, 3.25)</td>
<td>1.771 (1, 3)</td>
<td>3.922 (1, 5)</td>
</tr>
<tr>
<td>QLD</td>
<td>3.726 (1, 5)</td>
<td>1.803 (1, 3.25)</td>
<td>1.726 (1.3)</td>
<td>3.987 (1.5)</td>
</tr>
<tr>
<td>SA</td>
<td>3.768 (1, 5)</td>
<td>1.862 (1, 3)</td>
<td>1.762 (1, 3)</td>
<td>3.924 (1.33, 5)</td>
</tr>
<tr>
<td>WA</td>
<td>3.710 (1.273, 5)</td>
<td>1.893 (1, 3.25)</td>
<td>1.913 (1, 3)</td>
<td>3.917 (1, 5)</td>
</tr>
<tr>
<td>TAS</td>
<td>3.799 (1.455, 5)</td>
<td>1.772 (1, 3)</td>
<td>1.437 (1, 3)</td>
<td>3.951 (1, 5)</td>
</tr>
<tr>
<td>NT</td>
<td>3.700 (1.455, 5)</td>
<td>1.808 (1, 2.5)</td>
<td>1.663 (1, 2.5)</td>
<td>3.859 (2.667, 5)</td>
</tr>
<tr>
<td>ACT</td>
<td>3.748 (1.545, 5)</td>
<td>2.008 (1, 3.25)</td>
<td>1.816 (1, 3)</td>
<td>3.890 (1.33, 5)</td>
</tr>
<tr>
<td>Australia</td>
<td>3.744 (1, 5)</td>
<td>1.853 (1, 3.25)</td>
<td>1.770 (1, 3)</td>
<td>3.958 (1, 5)</td>
</tr>
</tbody>
</table>

The higher the mean scores, the higher is the perception of legitimacy and the more favourable are the views towards the police, government and law. The average attitudes towards the police in Australia have a mean of 3.744. The Northern Territory (3.700) and Western Australia (3.710) display the lowest perceptions of police legitimacy. Queensland (3.726) and News South Wales (3.742) also lie below the Australian average. The Australian Capital Territory (3.748), Victoria (3.758) and South Australia (3.768) are above average, with Tasmania displaying the highest perception of police legitimacy (3.799).

Overall, the mean federal government legitimacy score in Australia is 1.853. Tasmania displays the lowest mean score (1.772), followed by Queensland (1.803) and the Northern Territory (1.808; with a maximum score of 2.5), New South Wales (1.841) and Victoria (1.851). South Australia (1.862) and Western Australia (1.893) are above the Australian average, with the Australian Capital Territory (2.008) indicating the highest mean score regarding federal government legitimacy.

The mean Australian state government legitimacy score is 1.770. Tasmania again displays the lowest mean score (1.437). The Northern Territory (1.663; with a maximum score of 2.5), Queensland (1.726) and South Australia (1.762) are all below the Australian average score. Victoria (1.771), New South Wales (1.788) and the Australian Capital Territory (1.816) are above the Australian average, with Western Australia (1.913) displaying the highest mean score of state government legitimacy. The sample indicates overall higher mean perceptions of federal
government legitimacy compared with state government legitimacy in Australia, as well as in the different states and territories, with the exception of Western Australia, which indicates higher perceptions of state government legitimacy, compared with federal government legitimacy.

Law legitimacy has an Australian mean of 3.958. The Northern Territory displays the lowest average score of law legitimacy (3.859), followed by the Australian Capital Territory (3.890), Western Australia (3.917), Victoria (3.922), South Australia (3.924) and Tasmania (3.951). Queensland (3.987) and New South Wales (4.022) are above the Australian average in regards to law legitimacy. Table 6.12 below displays the differences of mean scores of police, government and law legitimacy broken down by Victim Groups. The table displays the mean scores and minimum maximum values regarding the legitimacy scales.

Table 6.12 NSPS Mean Differences of Legitimacy by Victim Groups

<table>
<thead>
<tr>
<th>Victim groups</th>
<th>Police legitimacy M (min, max)</th>
<th>Federal government legitimacy M (min, max)</th>
<th>State government legitimacy</th>
<th>Law legitimacy M (min, max)</th>
</tr>
</thead>
<tbody>
<tr>
<td>No-victims</td>
<td>3.775 (1, 5)</td>
<td>1.872 (1, 3.25)</td>
<td>1.786 (1, 3)</td>
<td>3.973 (1, 5)</td>
</tr>
<tr>
<td>Non-PMC Victims</td>
<td>3.628 (1, 5)</td>
<td>1.775 (1, 3.25)</td>
<td>1.705 (1, 3)</td>
<td>3.887 (1, 5)</td>
</tr>
<tr>
<td>PMC Victims</td>
<td>3.313 (1, 5)</td>
<td>1.707 (1, 3.25)</td>
<td>1.609 (1, 3)</td>
<td>3.957 (1.333, 5)</td>
</tr>
</tbody>
</table>

PMC victims on average seem to have the lowest level of police legitimacy (3.313), followed by non-PMC victims (3.628) and no-victims (3.775). Additionally, PMC victims display lower perceptions of federal government legitimacy (1.707) and state government legitimacy (1.609). Non-PMC victims also have lower average scores of federal government legitimacy (1.775) and state government legitimacy (1.705), while no-victims display the highest federal government legitimacy (1.872) and state government legitimacy mean scores (1.786). This trend, however, is different in regards to law legitimacy. The no-victim group still has higher perceptions of law legitimacy (3.973), but is closely followed by the mean score of PMC victims (3.957). Non-PMC victims display the lowest average score of law legitimacy with a mean of 3.887.

6.6 Descriptive Statistics of Property and Personal Crime by Victim Groups

Research literature throughout the world shows that the type of crime victims experience can influence a person’s decision to go to the police and report the crime (Schneider et al., 1976; Suchman, 1997; Tyler, 2006b). There are incentives to report property crimes, as insurances might cover the loss, while the reporting of personal crimes has fewer incentives, as there is less of a chance to recover physical or psychological losses (Schneider et al., 1976). Sandholtz et al. (2013) indicate that there is a much larger percentage of violent PMC and less property PMC. The NSPS
data shows a similar picture regarding PMC. Graph 6.3 distinguishes between property and violent crime. Out of 4256 respondents in the NSPS and of the people who have responded to the questions, 294 people (7.33%) indicate being a victim of a violent crime, of those, 30 people (10.45%) indicate being a PMC victim, compared with 257 people (89.55%) who indicate no prejudice motive. 593 people (14.94%) disclose having been victims of property crimes in the previous twelve months of the survey. Of those, 20 respondents (3.45%) identified the incident as a PMC, while 559 people (96.55%) did not link the crime to a prejudice motive.

Figure 6.3 Distribution of Violent and Property Crime by PMC and Non-PMC Victims

Graph 6.3 demonstrates that NSPS respondents experienced 67% (593) of property crime compared to 33% (294) of violent crime. These percentages closely resemble the proportions for non-PMC victims, where 69% (559) have indicated being the victim of a property crime, compared to 31% (257), who have indicated experiencing a violent crime. When it comes to identifying the crime as a PMC, however, this figure is almost reversed. PMC victims have indicated 60% (30) of violent crime compared with 40% (20) of property crime. These results align with the findings of Sandholtz et al. (2013) that PMC victims suffer more from violent than property victimisation. Harlow (2005) finds that 84% of hate crime victims experience a violent crime (i.e., rape or sexual assault, robbery

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82 244 people (or 5.73%) did not answer if they were a victim of a violent crime, compared to 286 (or 6.72%) who refused to indicate if they were victims of property crimes. 7 people (0.16%) did not indicate if the violent crime was due to prejudice, while 14 people (0.33%) did not indicate if the property crime was due to prejudice.

83 Coding note: Four respondents indicate experiencing both types of crime. When creating my PMC victim variable, these individuals were counted only once, reducing the number of PMC victims to a total of 46.
or assault), while 16% included property crimes (i.e., burglary or theft)^84, compared with 23% of violent non-PMC and 77% of property non-PMC. As established above, hate crime victims experience more violent crime than non-PMC victims, which impacts the victim, the minority group the victim belongs to as well as the wider society (Walters, 2006).

6.7 Limitations of Study 2

The low prevalence of hate crime in the NSPS survey is one limitation of my thesis. PMC victimisation is a rare event, with few respondents identifying as a victim experiencing a crime, where prejudice towards the person’s skin colour, ethnicity, race or religion is a factor. Other surveys including hate crime items also experience a low prevalence of victimisation resulting in large margins of error around the estimates for hate crime (Home Office et al., 2013). The low prevalence of hate crime limited my analysis in regards to the reporting of hate crime incidents by Australian state or territory, because the low hate crime numbers are divided by eight jurisdictions, which further reduces the cell count of the NSPS hate crime data. I have reverted to utilising descriptive statistics in regards to jurisdictional differences of hate crime victimisation and reporting patterns. I also have addressed the issue of low PMC numbers in the survey by using appropriate statistical techniques, which can adequately deal with rare event data, such as MNLR for the victimisation patterns and MLM for the reporting behaviour barriers (in study 3) (see, for example, Chongatera, 2013; Sullivan, 2002).

An additional limitation of my thesis research is that the NSPS is based on respondents’ self-reported experiences and perceptions of victimisation. According to Shively et al. (2001), this limitation could lead to either an overestimation of hate crime, where victims identify the crime as a hate crime although no prejudice motive is present, or the underestimation of hate crime, with victims unable to distinguish a hate crime from a non-PMC. Such self-reported victimisation estimation discrepancies might only be rectified by further research asking PMC victims the facts around their perception that the crime was motivated by a prejudice bias of the perpetrator (Shively et al., 2001). In the NSPS, minority groups, such as the Indigenous population and residents who do not speak English at home, are under-represented, which most likely leads to an under-

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^84 This result could also be connected to victims and police being able to identify a violent hate crime more easily with racial slurs and derogatory language present, while property crimes are harder to identify without the presence of hate symbols. According to Harlow (2005), interpreting the offender’s intend is difficult and victims, as well as police officers might misinterpret symbols and words.
representation of hate crime victimisation, as prior research indicates that minority groups status increases people’s experiences of victimisation (see Shively et al., 2001). In terms of addressing this limitation, I have carefully considered any missing PMC victims and have used recoding techniques to avoid any dropouts of hate crime victims throughout the statistical analysis.

6.8 Discussion and Summary

In this chapter, I have examined the likelihood of being in one victim group over another, using the NSPS to compare and contrast the characteristics of victims of PMC, victims of other types of crime and non-victims. My analysis offers five main insights. First, PMC is a rare event. My research finds that just 1.081% of respondents to the NSPS had been victimised by a crime motivated by prejudice. The NSPS results support previous research into the low prevalence of PMC victimisation (Chongatera, 2013; Home Office et al., 2013; Johnson, 2005b, 2005c). For example, previous research (i.e., Chongatera, 2013) finds that 1.6% of people have experienced a hate crime. Similarly, the NSPS shows that PMC victimisation is low. These survey results demonstrate that it is important to conduct surveys in order to have better policy insight into the extent and seriousness of the PMC problem in Australia (Shively et al., 2001).

Secondly, my research shows that perception of police legitimacy (in respondents) stands out as a factor distinguishing between PMC victims and non-PMC victims, as well as between PMC victims and no-victims. I found that victims were more likely to have lower perceptions of police legitimacy, than people who had not been victimised. I also found that PMC victims had even lower perceptions of police legitimacy than non-PMC victims. This finding has implications for later research into victims’ reporting patterns, as lower levels of confidence in the police are problematic, as people who lack confidence in the police are unlikely to report a crime or PMC to the police (Cherney & Chui, 2009; Murphy & Cherney, 2011; Tyler, 2005, 2011). I am, however, unable to distinguish between the time (before or after the crime occurred) and nature of contact with police (i.e., being a victim, offender or any other police contact).

Thirdly, my analysis shows that the only clear distinction in regards to the risk factors for victimisation between who will be victimised with or without a prejudice motive is the respondent’s immigrant status. Being born outside of Australia was the most likely indicator of being victimised by a hate crime. Other risk factor variables were inconclusive. The no-victim group, for example, comprised the largest percentage of non-English speakers, while the non-PMC victim group had the largest percentage of non-Australian citizens, while the PMC victim group had the largest percentage of Indigenous Australians. According to Cultural Victimisation Theory, CALD groups
may experience prejudice at a higher rate than other minority groups (AHRC, 2012a). Indigenous Australians, for example, are likely to be excluded from social and community activities. Norms and stereotypes of a society can shape patterns of victimisation that are directed toward minority groups. Research shows that ethnic minorities and immigrants have a greater likelihood of victimisation (Burgess & Regehr, 2010; Culotta, 2005; von Hentig, 1948) and that visible minority group status is linked to hate crime victimisation, but less likely to be linked to non-PMC victimisation (Chongatera, 2013). My data analysis did indicate a clear distinction between immigrant status and different victim groups. In addition, my analysis concluded that PMC victims feel no more socially isolated than non-PMC victims and no-victims.

In theory, visual minorities are more likely to be victimised (Burgess & Regehr, 2010; von Hentig, 1948; Zur, 1995). According to Kääriäinen and Ellonen (2007, p. 7), people belonging to “visible minorities” are more likely targets of racism because they are easily distinguishable from the mainstream population (e.g., skin colour and speaking a different language). Gabor and Mata (2004), however, found in a Canadian study that both visible minority groups and the foreign born were less likely to experience victimisation, which also contradicted theories around minority group status and the possibility of victimisation. But what explains why the risk factor variables did not stand out in the NSPS data and overall the Australian context? The NSPS includes items that tap into the minority group status of respondents; however, the items are not as clear regarding the self-identified ethnicity of a respondent, as for example the United States surveys provide. In the United States, respondents identify as, e.g., African American, Asian American and Hispanic/ Latino American. These are very clear visible minority groups. In Australia, however, ethnicity is measured by, for example, a common language, a common birth country or a common religion, which does not distinguish between the visible differences of minority groups. Descriptive statistics around the foreign born variable, for example, indicate a high percentage of PMC victims born in Australia. This, however, does not automatically indicate that they do not belong to a visible minority group, nor does an indication of a birth country of India and Peru indicate that the respondent belongs to a visible minority. In addition, the NSPS data has the limitation that hate crime victimisation is a rare event with possible effects not showing up in the data analysis. My thesis additionally focuses on the reporting behaviour of hate crime victims and I am expecting more barriers to appear in regards to contacting the police and filing a police report.

Fourthly, my exploration of the NSPS data demonstrated that PMC victims experience more violent crimes, compared with property crimes. I found that PMC victims have indicated being a victim of a violent crime more prominently than having experienced a property crime, while non-PMC
victimisation in the NSPS illustrated more property crime victimisation than violent crime victimisation. These results are consistent with prior findings by Sandholtz et al. (2013). This finding has implications for later research into victims’ reporting behaviour, as research suggests that the type of crime a victim experiences will influence whether or not that victim reports the crime to police (Schneider et al., 1976; Suchman, 1997; Tyler, 2006b).

Fifthly, when I examined the state and territory differences in victimisation, I found that jurisdictions with higher numbers of recent immigrants were more likely to indicate hate crime victimisation, i.e. New South Wales and Victoria. Australia is a multicultural country, due to immigration and globalisation. These demographic shifts in the population can fuel social tension, prejudice and discrimination and ultimately prejudice motivated crime (Stacey et al., 2011). I also assume that New South Wales, Victoria and Queensland indicate higher PMC victimisation, as these states are on the forefront of public awareness campaigns alerting the public of the hate crime problem and consequently aiding police and victims in identifying hate crime incidents. Such police strategies foster minority group and police relations, as well as promoting hate crime as a serious problem in society, which leads to higher perceptions of police legitimacy and more cooperation with the police.

Overall, my results begin to paint an interesting story about the prevalence and patterns of hate crime. My results are consistent with the international research literature in that PMC is a rare event, that immigrant status is linked to hate crime incidents and that PMC victims experience more violent crimes relative to property crimes. My analysis set out to separate different victim groups from each other. My results point to some interesting nuances in the Australian context such as that PMC victims are not necessarily distinguishable from other crime victims or no-victims, but that immigrant status plays an important role in victimisation and that more diverse jurisdictions experience PMCs more prominently. My results show that PMC victims overall display lower perceptions of police legitimacy, which has implications for reporting behaviour.
Chapter 7: Study 3 – Results of Quantitative Analysis of PMC Reporting Behaviour

In addition to the limited public knowledge of hate crime, the denial or minimisation of hatred and prejudice can be also illustrated through the legal strategies developed. (Asquith, 2014, p. 177)

7.1 Introduction

Victims hold an important position in the criminal justice system process through initiating the involvement of criminal justice system authorities by reporting a crime to police (Gottfredson & Gottfredson, 1988; Hindelang & Gottfredson, 1976). Multiple factors contribute to the reporting behaviour of victims, including victim characteristics (i.e., age, gender and state of disadvantage) (see Carcach, 1997; Goudriaan et al., 2004), minority group status (i.e., ethnicity, language and sexual orientation) (see Culotta, 2005; Gerstenfeld, 2011; Miles-Johnson, 2013; Shively et al., 2001; Zaykowski, 2010), the type of crime victims experience (i.e., property vs. violent crime) (see Sandholtz et al., 2013; Schneider et al., 1976; Suchman, 1997), and victims’ perceptions of police, government and law legitimacy (see Goudriaan et al., 2004; Tyler, 2005, 2011), as well as a prejudice motive (see Lockyer, 2001; Perry, 2001).

According to Lyons (2008), hate crime reporting is dependent on individual-level perceptions of hate crimes and victims’ willingness to report such incidents to the police. Two perspectives influence the decision-making processes of victims: the normative perspective and the instrumental perspective. The normative perspective explains variations in reporting behaviour in terms of victims’ perception of the state and the law. These victims believe in the legitimacy and procedural justice of criminal justice authorities. As such, they believe that reporting a crime is the appropriate action. Opinions towards the police, the government and the law will influence a victim’s decision to report the crime to the police (see Goudriaan et al., 2004; Murphy & Cherney, 2010; Tyler, 2005, 2011). Weak PMC legislation may discourage victims from reporting hate crime to police or may offer only reporting mechanisms without police involvement (i.e., lodging a civil complaint or a complaint with the anti-discrimination commission). By contrast, the instrumental perspective suggests that the expected outcome (e.g., monetary compensation, effective prosecution) of reporting crime influences a victim’s decision to report crime to police. These victims hope for desired results and effective and rigorous police performance (see Schneider et al., 1976; Suchman, 1997; Tyler, 2006b; Willis, 2011).
In Chapter 6, I explored the prevalence of hate crime and victimisation patterns of victim groups and demonstrated differences in victimisation across different victim groups (PMC victim, non-PMC victim and no-victim) in the Australian context. I established that perceptions of police legitimacy and foreign-born status differentiated victims of PMC from other crime victims and from people who have not been victimised. These findings, as mentioned previously, will have implications for the reporting behaviour of victims. In this chapter, I conduct an analysis of victim reporting behaviour using the National Security and Preparedness Survey data. I begin by exploring differences between hate crime and non-PMC reporting to police in Australia. I will explore the descriptive statistics of police, government and law legitimacy in regards to reporting behaviour and discuss differences in property and violent crime reporting behaviour. Secondly, I will analyse the potential barriers of crime reporting by interpreting Generalised Linear Latent and Mixed Models (Gllamm). Finally, I will explore the state and territory differences of reporting behaviour including differences in relation to varying frameworks of PMC legislation in Australia.

7.2 How Many People Report PMC Compared with Non-PMC?

Hate crimes are generally found to be highly under-reported throughout the world (Gerstenfeld, 2011). Multiple reasons exist to inhibit victims of hate crime from coming forward and reporting PMC to the police, such as being unaware of the definition and laws governing hate crimes, concerns about retaliation, re-victimisation and exposure, as well as concerns about a victim’s English language proficiency (Lockyer, 2001). Surveys that include victimisation and reporting items are one tool for measuring the willingness of victims to report crime to the police (Carcach, 1997). The NSPS dataset utilises reporting behaviour measures, as well as distinguishes between hate crimes and non-PMC. Graph 7.1 below displays the differences between reporting PMC and reporting non-PMC.

Figure 7.1 Bar Graph of Crime Report to the Police by PMC vs. Non-PMC

As Graph 7.1 shows, 44% (N=22) of PMC victims indicate that they have reported the crime to police, while 56% (N=28) of PMC victims have not involved the police. These percentages are almost reversed for victims of crimes with no prejudice motive, with 56.4% (N=460) having reported the crime to
the police, compared with 43.6% (N=356) having refrained from filing a police report. The percentages above counter Kury’s (2001) assumption that only about 10% of crime is reported to police. The NSPS data, by contrast, shows that respondents self-report that out of 866 total crime incidents 55.7% (N=482) are reported, while 44.3% (N=384) are not reported to police. In these data, hate crime victims file police reports less frequently compared to other crime victims. The hate crime reporting percentages in the NSPS align with findings of the 2000-2003 National Criminal Victimization Survey, which also indicates that 44% of hate crime victims report crime to police (Harlow, 2005). Research indicates that hate crime often has more long-term and more serious consequences (Perry, 2001), however, these victims are less likely to come forward and involve the police.

7.3 Descriptive Statistics of Legitimacy on Reporting Behaviour

Important factors influencing a victim’s decision to report crime to police include the victim’s perception of the legitimacy of police, the government and the law. People who question the legitimacy of government agencies may be less willing to cooperate with police and more likely to refrain from reporting crime to police than people who have more confidence and trust in state authorities. Table 7.1 displays the mean differences of police, government and law legitimacy for people who reported the crime compared with people who decided against reporting the crime. Next to the mean, the table also displays the minimum and maximum values.

<table>
<thead>
<tr>
<th>Reporting behaviour</th>
<th>Police legitimacy M (min, max)</th>
<th>Federal government legitimacy M (min, max)</th>
<th>State government legitimacy M (min, max)</th>
<th>Law legitimacy M (min, max)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reported</td>
<td>3.658 (1.273, 5)</td>
<td>1.764 (1, 3.25)</td>
<td>1.705 (1, 3)</td>
<td>3.944 (1, 5)</td>
</tr>
<tr>
<td>Not Reported</td>
<td>3.486 (1, 5)</td>
<td>1.748 (1, 3.25)</td>
<td>1.668 (1, 3)</td>
<td>3.797 (1, 5)</td>
</tr>
</tbody>
</table>

The table above indicates that respondents who reported crimes to police have higher average perceptions of police legitimacy (3.658) compared with people who have not reported crimes to police (3.486). Similarly, respondents who reported a crime have slightly higher average perceptions of federal government legitimacy (1.764) compared with people who have not reported the crime (1.748) and, similarly, respondents have higher average perceptions of state government legitimacy (1.705) compared with people who indicated not reporting to police (1.668). Respondents who have involved the police also display higher average perceptions of law legitimacy (3.944) compared with people who have refrained from involving the police (3.797). Overall, respondents who decide to report crime to police appear to have higher average perceptions
of police, government and law legitimacy. The above descriptive statistics support prior research that the opinion towards the police, government, police and the law influence a victim’s decision to report crime to police (see Goudriaan et al., 2004; Murphy & Cherney, 2010; Tyler, 2005, 2011).

7.4 Property vs. Violent Crime and Reporting Behaviour

Schneider and his colleagues (Schneider et al., 1976; Suchman, 1997; Tyler, 2006b) have, for a very long time, shown that the type of crime a victim experiences influences the victim’s decision to report the crime to police. Incentives to report property crimes include insurance payments, while victims are less likely to report crimes involving physical or psychological loss (Schneider et al., 1976). In addition, property hate crimes are more straightforward, with racial messages included in the incident, while racial slurs are more difficult to verify (Blazak, 2011). Proving the hate motive may be very difficult in violent crime incidents (Franklin, 2002); therefore, victims might decide against reporting such incidents to police. As established in Chapter 6, PMC victims experience violent crimes more frequently than property crime. The graphs below display the percentages of reporting PMC and non-PMC depending on their experiences of a violent crime or a property crime incident.

Figure 7.2 Graphs of PMC Reporting (left) vs. Non-PMC Reporting (right) by Crime Type

![Graphs of PMC Reporting by Type of Crime](image1)

![Graphs of Non-PMC Behaviour by Type of Crime](image2)

Figure 7.2 on the left displays the PMC incident reporting by the type of crime a victim has experienced. Graph 1 indicates that victims decided not to report 60% (N=18) of violent crime incidents to police, compared with 40% (N=12) of violent PMC incidents that victims decided to report. PMC victims experiencing a property crime incident reported the crime 50% (N=10) of the time, while the other 50% (N=10) refrained from filing a police report. Graph 2 on the right shows the non-PMC incident reporting by the type of crime victims experience and indicates that respondents who experienced a non-PMC did not report 49.8% (N=128) of violent crime incidents to police, while, almost equally, 50.2% (N=129) did not report the violent crime to police. Non-
PMC victims reported 59.2% (N=331) of property crime to police, while 40.8% (N=228) of victims refrained from filing a police report for property crime. Not only did hate crime victims experience more violent crime than property crime, as established in Chapter 6, but violent crimes were also less frequently reported by hate crime victims, while the non-reporting rate of violent crime for non-PMC victims was almost 50/50. Prior research suggests that hate crimes tend to be more violent and harmful in nature and have more long-term psychological consequences for victims, additionally extending the harm to the victim’s associated group (see Blazak, 2011; Gan et al., 2011; Lawrence, 1999; Perry & Alvi, 2012). Multiple reasons, however, exist for victims not to report violent crime to police, including concerns of retaliation and re-victimisation, as well as prior experiences with state authorities (see Culotta, 2005; Lockyer, 2001; Shively et al., 2001).

7.5 The Potential Barriers to the Reporting of Crime to Police

Research shows that multiple barriers are responsible for PMC victims refraining from reporting hate related incidents to police. These barriers include the fear of reprisal (Lockyer, 2001), concerns regarding police handling the incidents (Chakraborti et al., 2014; Poynting & Noble, 2004), as well as privacy issues and the victim’s embarrassment (Culotta, 2005), as well as the lack of a support system and cultural and language-based concerns (McCaffery, 2013). In a Canadian study of hate crime victims and their motives to report hate incidents to police, McCaffery (2013) finds that different hate crime victims have different motives to report the incident to police. Jewish interviewees, for example, name their sense of religious and civic duty as a factor in reporting crime to police, while Muslim respondents report incidents to preserve their religious and ethnic freedom as a motive, as well as trying to be an active and engaged citizen (McCaffery, 2013). Perceptions of procedural justice influence perceptions of police legitimacy positively and victims are more satisfied with the police service (Hinds & Murphy, 2007) and more likely to file a police report (McCaffery, 2013). Victim characteristics, as well as perceptions of police, therefore, play an important role in the decision to report hate crime to the police.

Table 7.2 below shows the Generalised Linear Latent and Mixed Models (Gllamm) exploring the influence of individual characteristics and potential barriers on the decision to report crime incidents to police. As this is a multilevel model, the table below contains the crime incidents (level one units) and the individual respondents (level two units). Table 7.2 displays Model 1, which includes the demographic control variables and the crime incidents flags, Model 2, which includes the demographic and potential barriers control variables and the crime incident flags and Model 3, which includes the control variables, the policing explanatory variables and the crime incident flags.
### Table 7.2 Gllamm Models Indicating the Likelihood of Reporting Crime Incidents to Police

| Level | Crime Incidents: | Model 1 |  | Model 2 |  | Model 3 |  |
|-------|------------------|---------|-----------------|---------|-----------------|---------|
|       |                  | OR [95%CI] | SE | OR [95%CI] | SE | OR [95%CI] | SE |
|       | Hate crime       | 0.851* [0.738, 0.982] | 0.062 | 0.845* [0.732, 0.974] | 0.062 | 0.851* [0.740, 0.980] | 0.061 |
|       | Violent crime    | 1.075 [0.982, 1.177] | 0.050 | 1.072 [0.978, 1.174] | 0.050 | 1.070 [0.977, 1.172] | 0.050 |
|       | Property crime   | 1.147* [1.032,1.276] | 0.062 | 1.138* [1.023, 1.266] | 0.062 | 1.137* [1.024, 1.263] | 0.061 |

**Individual: Control Variables: Demographics**

| Age (18-95) | 1.004** [1.001, 1.007] | 0.001 | 1.004** [1.001, 1.007] | 0.001 | 1.004** [1.001, 1.007] | 0.001 |
| Gender (female) | 1.053 [0.981, 1.131] | 0.038 | 1.056 [0.983, 1.134] | 0.039 | 1.026 [0.955, 1.102] | 0.038 |
| Dependent children | 0.954 [0.879, 1.035] | 0.040 | 0.962 [0.886, 1.045] | 0.040 | 0.968 [0.892, 1.049] | 0.040 |
| Income | 1.005 [0.987, 1.024] | 0.009 | 1.004 [0.986, 1.022] | 0.009 | 1.001 [0.983, 1.019] | 0.009 |
| Education | 0.986 [0.959, 1.015] | 0.014 | 0.985 [0.957, 1.014] | 0.015 | 0.984 [0.955, 1.013] | 0.015 |
| Home ownership | 0.958 [0.870, 1.056] | 0.048 | 0.953 [0.864, 1.051] | 0.048 | 0.960 [0.872, 1.057] | 0.048 |
| Married | 1.062 [0.984, 1.146] | 0.041 | 1.061 [0.982, 1.146] | 0.042 | 1.041 [0.964, 1.124] | 0.041 |
| Unemployed | 0.888 [0.729, 1.082] | 0.090 | 0.871 [0.712, 1.065] | 0.089 | 0.868 [0.712, 1.058] | 0.088 |

**Individual: Control Variables: Potential Barriers to Reporting**

| LOTE | 1.033 [0.817, 1.305] | 0.123 | 0.983 [0.781, 1.238] | 0.116 |
| ATSI | 1.091 [0.787, 1.512] | 0.182 | 1.064 [0.774, 1.463] | 0.173 |
| Australian citizen | 1.168 [0.995, 1.372] | 0.096 | 1.162 [0.988, 1.368] | 0.096 |
| Foreign born | 1.038 [0.943, 1.142] | 0.051 | 1.021 [0.929, 1.123] | 0.049 |
| Preference for Anglo-Saxons as neighbours | 0.991 [0.952, 1.031] | 0.020 | 0.994 [0.955, 1.035] | 0.020 |
| Religion (Christian) | 0.991 [0.921, 1.068] | 0.037 | 0.993 [0.922, 1.070] | 0.038 |

**Individual: Explanatory Variables:**

| Police legitimacy | 1.002 [0.950, 1.057] | 0.027 |
| Cooperation with police | 1.162*** [1.096, 1.232] | 0.035 |
| Identifying with Australia and its community | 0.975 [0.927, 1.025] | 0.025 |
| Law legitimacy | 1.013 [0.962, 1.066] | 0.027 |
| Federal government legitimacy | 1.008 [0.933, 1.088] | 0.040 |
| State government legitimacy | 0.999 [0.933, 1.071] | 0.035 |

Variance of random intercept (level 2) | 0.088 | 0.086 | 0.076 |

Log likelihood | -580.15 | -572.27 | -548.98 |
| N | 841/733 | 833/725 | 823/717 |
| AIC | 1188.29 | 1184.53 | 1149.96 |
| BIC | 1254.58 | 1279.03 | 1272.50 |

Note: *p-value < 0.05; **p-value < 0.01; ***p-value < 0.001

OR: odds ratio; SE: standard error; CI: confidence intervals
Table 7.2 shows the odds ratio (OR), the 95% confidence intervals (CI), the standard error (SE) and an indicator of the p-value.85

Model 1 Interpretation: Demographics (control variables) influencing reporting behaviour:

Model 1 in table 7.2 suggests that out of all demographic variables only age is significantly associated with the likelihood of reporting crime incidents to police. Every one unit increase in individual age is associated with an estimated 0.4% increase in the odds of reporting crime to police (OR: 1.004; p-value: 0.004). Prior findings from Carcach (1997) and Goudriaan et al. (2004) support conclusions that victims who are older are more likely to report crime to police. People in employment and with higher income have also been more likely to report crime to the police (see i.e., Carcach, 1997; Goudriaan et al., 2004); however, these factors were not significantly associated with reporting behaviour in the above models. According to Carcach (1997), gender is an additional important factor for reporting behaviour but reporting depends on the type of crime (e.g., assault vs. robbery). In my study, none of the other demographic variables are significantly associated with reporting crime to police.

The multilevel models above allow for a distinction between hate crime and crime without a prejudice motive and between violent crime and property crime. Model 1 indicates that the variables hate crime and property crime are significantly associated with whether or not the crime incident is reported to police. Experiencing a hate crime incident is associated with an estimated 14.9% (1 - 0.851) decrease in the odds of reporting crime to police (OR: 0.851; p-value: 0.027), while experiencing a property crime incident is associated with an estimated 14.7% increase in the odds of reporting crime to police (OR: 1.147; p-value =0.011).

Model 2 Interpretation: Potential barriers (control variables) influencing reporting behaviour:

Model 2 explores the potential barrier variables that may influence the reporting of crime to police. As table 7.2 shows, Model 2 displays similar results to Model 1: the variables age, hate crime and property crime are significantly associated with reporting behaviour. The results show that a one unit increase in age and experiencing a property crime incident is associated with an estimated 0.4% (OR: 1.004; p-value: 0.004) and 13.8% (OR: 1.138; p-value: 0.018) increase, respectively, in the

85 Gllamm is a user-written program for Stata for the estimation of multilevel models for non-continuous responses (gllamm.org, 2012) and is an appropriate model for the NSPS data using a dichotomous dependent variable.
odds of reporting crime to police. Experiencing a hate crime incident is again associated with an estimated 15.5% (1 - 0.845) decrease in the odds of reporting crime to police (OR: 0.845; p-value: 0.021). Prior research indicates that minority group status influences the decision to report crimes to the police (e.g., ethnicity, language and sexual orientation) (see Culotta, 2005; Gerstenfeld, 2011; Miles-Johnson, 2013; Shively et al., 2001; Zaykowski, 2010). The potential barrier variables are not significantly associated with reporting or not reporting crime incidents to police. This result may indicate that the potential barrier variables are less likely to impact on the reporting behaviour of victims.

The variable Australian citizen was significantly associated with reporting behaviour until I included the variable property crime into Model 2. Before the addition of property crime, identifying as an Australian citizen is associated with an estimated 19.3% (OR: 1.193; p-value: 0.031) increase in the odds of reporting crime to police. This result indicates that property crime is trumping the comparison or distinction between Australian citizens and respondents who are not Australian citizens. I found a partial mediation effect between property crime and identifying as an Australian citizen, indicating that being victimised by a property crime may partially explain why Australian citizenship is related to reporting crime to police86. People of other nationalities might not come forward to report crime to police because they may be unfamiliar with the Australian criminal justice system, have negative experiences with criminal justice authorities in their home country, may not want to cause any trouble in their host countries or may fear for deportation due to illegal status.

Similar to the above findings, prior literature suggests that the type of crime a victim experiences influences the victim’s decision to file a crime report (see Schneider et al., 1976; Suchman, 1997; Tyler, 2006b). This includes, for example, that property crime is often reported as police reports are necessary to access insurance pay-outs. NSPS respondents not identifying as an Australian citizen may also be less likely to have content insurance and may have less of an incentive to report the crime to police. This result supports the Instrumental Perspective with victims expecting some form

86 I checked for moderating and mediating effects between Australian citizenship and property crime using correlations, interaction terms and simple regression. None of the interaction terms were significant, so there was no moderation effect. I found a partial mediating effect. I also checked for a moderating effect on identifying as an Australian citizen and the preference for having Anglo-Saxons as neighbours, as with the addition of the variable preferring Anglo-Saxons in the neighbourhood, the variable Australian citizenship was no longer significant; however, I was unable to detect a mediation or moderation effect.
of outcome or gain when reporting a crime to police. These results are consistent with the literature and echo what I found in Chapter 6, where I conclude that hate crime victims experience violent crimes more often compared with property crimes and this may have implications for reporting behaviour, as hate crime victims are more prone to experience violent victimisation (Sandholtz et al., 2013) and victims of property crime are more likely to report crime to police; however, their experiences of victimisation may subsequently be less likely reported to police.

Model 3 Interpretation: Policing scales (explanatory variables) influencing reporting behaviour:

Model 3 seeks to explore if the explanatory variables may have an influence on reporting crime to police. As table 7.2 shows, the findings of Model 3 mirror the findings from Model 1 and 2, indicating that variables age, hate crime and property crime are again significantly associated with crime reporting behaviour. An increase in age and experiencing a property crime incident is significantly associated with an estimated 0.4% (OR: 1.004; p-value: 0.011) and 13.8% (OR: 1.137; p-value: 0.016) increase, respectively, in the odds of reporting crime to police, and experiencing a hate crime incident is associated with an estimated 14.9% (1 - 0.851) decrease in the odds of reporting crime to police (OR: 0.851; p-value: 0.025). In addition, none of the potential barriers variables are significantly associated with reporting behaviour and a partial mediating effect between the variables Australian citizenship\(^{87}\) and property crime exists.

In regards to the explanatory variables, only a respondent’s willingness to cooperate with police is significantly associated with crime reporting behaviour. Every one unit increase in individual willingness to cooperate with police is associated with an estimated 16.2% increase in the odds of reporting crime to police (OR: 1.162; p-value: 0.000). This suggests that respondents who stated that they were likely to cooperate and assist police were also more likely to report the crime to the police. The variable perceptions of police legitimacy at one point was also significantly associated with reporting behaviour until the variable willingness to cooperate with police is added into the model. Every one unit increase in individual perceptions of police legitimacy is associated with an estimated 5.2% increase in the odds of reporting crime to police (OR: 1.052; p-value: 0.032). Respondents who indicated having higher perceptions of police legitimacy were also more likely to report the crime to the police. As established in Chapter 6, hate crime victims are more likely to

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\(^{87}\) Before the addition of property crime, identifying as an Australian citizen is associated with an estimated 18.5% (OR: 1.185; p-value: 0.041) increase in the odds of reporting crime to police.
have lower perceptions of police legitimacy, which in turn influences the decision to report PMC to the police, as well as influences the attitudes toward cooperating with the police.

I checked for a moderating and mediating effect and found a true mediation effect between perceptions of police legitimacy and the willingness to cooperate with police.\(^88\)

The above mediation graphic shows the connection between what people think about the police (IV), what people think they would do in regards to their willingness to cooperate with police (MV), and what people will actually do, which is report the crime to police (DV). For a mediating effect to occur, all the following assumptions have to hold true:

1. the IV significantly affects the mediator,
2. the IV significantly affects the DV in the absence of the mediator,
3. the mediator has a significant unique effect on the DV, and
4. the effect of the IV on the DV shrinks upon the addition of the mediator to the model.

(UCLA Statistical Consulting Group)

Through running various simple regressions and logistic regressions, I have found that two statements hold true. Firstly, when the crime report is predicted by both the perceptions of police legitimacy and the willingness to cooperate with police, the regression coefficient of the willingness to cooperate with police is significant and the regression coefficient of the perceptions of police legitimacy differs (higher) when the willingness to cooperate with police is in the regression. Secondly, the willingness to cooperate with police completely mediates the perceptions of police legitimacy and crime report relation if all three conditions are met:

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\(^{88}\) The willingness to cooperate with police variable taps into respondents’ general attitudes towards reporting a crime to police, while the crime report variable directly tests, if people have reported a crime to police in the past 12 months. I ran a simple correlation to test if these constructs are too similar and found that with a Pearson's \( r \) score of 0.23, this does not seem to be the case.
(1) perceptions of police legitimacy predict the crime report;
(2) perceptions of police legitimacy predict the willingness to cooperate with police;
(3) perceptions of police legitimacy no longer predict crime report, but the willingness to cooperate with police does when both the perceptions of police legitimacy and the willingness to cooperate with police are used to predict crime report.

The willingness to cooperate with police completely mediates the police legitimacy and crime reporting relationship. This suggests that the willingness to cooperate with police explains the relationship between perceptions of police legitimacy and the reporting of crime to police. People who have higher perceptions of police legitimacy are also more willing to cooperate with police and, ultimately, more likely to report the crime to police.

Previous literature shows that the legitimacy of the law matters (see, i.e., Jenness & Grattet, 1996; Murphy & Cherney, 2010) and that people who perceive the law and its criminal justice agents as legitimate are more likely to cooperate with the police and report crimes to police than those people who do not perceive the law and its criminal justice agents as legitimate (Tyler & Jackson, 2013). As well, the literature shows that perceptions of government legitimacy can be linked to reporting behaviour (Goudriaan et al., 2004). These explanatory variables are never significantly associated with reporting behaviour throughout this analysis. With police being the first point of contact as a government institution, police legitimacy and cooperation are a more likely explanation of victims’ decisions to report crime to the police.

The willingness to cooperate with the police appears to have a significant impact on victims reporting crime to police; therefore, I explore further below the descriptive statistics of the willingness to cooperate with police by victim type. Table 7.3 below displays the attitudes toward cooperating with police by exploring the mean of victim types, as well as the minimum and maximum values.

### Table 7.3 NSPS Mean Differences of Cooperation with Police by Victim Type

<table>
<thead>
<tr>
<th>Victim type</th>
<th>Police cooperation M (min, max)</th>
</tr>
</thead>
<tbody>
<tr>
<td>PMC</td>
<td>4.405 (1, 5)</td>
</tr>
<tr>
<td>Non-PMC</td>
<td>4.449 (1, 5)</td>
</tr>
</tbody>
</table>

Table 7.3 indicates the average response of victims’ willingness to report crime to the police by victim type. With a mean of 4.405, hate crime victims are slightly less willing to cooperate with the police compared to non-PMC victims with a mean of 4.449. As the NSPS is a cross-sectional
dataset, I am unable to identify what influences these lower attitudes toward police cooperation. The experience of prejudice motivated victimisation, most likely by a member of the majority group, may influence the willingness to cooperate with police, who most likely represent the interests of the majority group. Other factors, such as prior experiences with the police, may be indicative of certain attitudes toward cooperating with police. Next, I will explore the descriptive statistics in regards to differences in reporting PMC and non-PMC by jurisdiction.

### 7.6 Australian State and Territory Differences Regarding Reporting Behaviour

Australian states and territories differ in their legislative approaches towards hate crime incidents. From the outset, I proposed that these differences in legislative approaches to hate crime would influence reporting opportunities and mechanisms, which in turn would influence people’s decisions to report PMC to police. Table 7.4 below displays the descriptive statistics for reporting behaviour of PMC and non-PMC by jurisdiction, distinguishing between respondents who have filed a police report concerning the crime and those who have not.

**Table 7.4 NSPS Descriptive Statistics of Reporting Behaviour by Jurisdiction**

<table>
<thead>
<tr>
<th>Police report by jurisdiction</th>
<th>PMC victimisation</th>
<th>Non-PMC victimisation</th>
</tr>
</thead>
<tbody>
<tr>
<td>NSW</td>
<td>35.7% (5)</td>
<td>58.9% (142)</td>
</tr>
<tr>
<td>Vic</td>
<td>55.6% (5)</td>
<td>59.3% (89)</td>
</tr>
<tr>
<td>Qld</td>
<td>60% (3)</td>
<td>51.4% (72)</td>
</tr>
<tr>
<td>SA</td>
<td>60% (3)</td>
<td>56.7% (38)</td>
</tr>
<tr>
<td>WA</td>
<td>50% (5)</td>
<td>54.4% (50)</td>
</tr>
<tr>
<td>Tas</td>
<td>0% (0)</td>
<td>58.8% (20)</td>
</tr>
<tr>
<td>NT</td>
<td>0% (0)</td>
<td>85.7% (12)</td>
</tr>
<tr>
<td>ACT</td>
<td>20% (0)</td>
<td>48% (35)</td>
</tr>
</tbody>
</table>

Table 7.4 displays the reporting behaviour of NSPS respondents by jurisdiction, distinguishing between hate crime incidents (PMC) and crime incidents without a prejudice motive (non-PMC). In New South Wales, 35.7% (N=5) reported the PMC to police, while 64.3% (N=5) indicated that they did not report the hate crime to police. In Victoria, 55.6% (N=5) of respondents reported and 44.4% (N=4) did not report the PMC to police, while in Queensland and South Australia, 60% (N=3) of hate crime victims decided to report it, compared with 40% (N=2) who did not report the PMC. In Western Australia, 50% (N=5) indicated reporting the PMC to police, with the other 50% (N=5) refraining from filing a police report. Tasmania and the Northern Territory each had one PMC victim who indicated they did not report the PMC to police. The Australian Capital Territory had 20% (N=1) of PMC victims reporting the incident to police, with 80% (N=4) refraining from doing so. The states with the highest percentage of reported PMC were Queensland and South Australia.
closely followed by Victoria and Western Australia. Victims in New South Wales and the Australian Capital Territory reported PMC less frequently, while none of the PMC victims in Tasmania and the Northern Territory reported the crime to police.

For comparison purposes of prejudice motive vs. other motive, table 7.4 above displays the non-PMC reporting behaviour by jurisdictions in the far right column. In New South Wales, 58.9% (N=142) of crime victims involved the police, while 41.1% (N=99) did not involve the police. In Victoria, 59.3% (N=89) of victims reported the crime to police, while 40.7% (N=61) did not report the crime. In Queensland, 51.4% (N=72) respondents indicated reporting the crime to police, while 48.6% (N=68) refrained from reporting the crime to police. In South Australia, 56.7% (N=38) of non-PMC victims reported the crime to police, while 43.3% (N=29) decided not to involve the police. In Western Australia, 54.4% (N=50) of non-PMC victims reported the crime to police, while 45.7% (N=42) of victims did not report the crime to police. 58.8% (N=20) of Tasmanian victims reported the crime to police, while 41.2% (N=14) refrained from involving the police. In the Northern Territory, 85.7% (N=12) of non-PMC victims reported the crime to police, while 14.3% (N=12) did not file a police report. In the Australian Capital Territory, 48% (N=35) of non-PMC victims reported the crime to police, while 52.1% (N=38) decided not to involve police. The Northern Territory had the highest percentage of respondents reporting a crime without a prejudice motive to the police. Victoria, New South Wales, Tasmania, South Australia, Western Australia and Queensland all displayed reporting rates of above 50%. The Australian Capital Territory had the lowest percentage of reporting crime to police falling slightly under 50%. Next, I will address how reporting behaviour and legislative frameworks may be associated.

7.7 The Association between Legislation Addressing PMC and Reporting Behaviour

Australian states and territories utilise different legislative frameworks when dealing with hate motivated incidents. These legislative frameworks, related police policies and frontline- responses influence people’s decision to access the criminal justice system and report hate motivated incidents to the police. According to Hall (2012), effective and successful responses to hate crime will increase trust and confidence in state agencies and, therefore, with legislation shaping the way police responds to hate crimes, the likelihood of victims reporting the crime to police might increase.

In a study on the experiences of hate crime incidents on American campuses, van Dyke and Tester (2014) include a measure of the existence of hate crime laws in United States state jurisdictions where colleges were located, expecting that reporting behaviour would be higher at colleges in
states with hate crime legislation. The study, however, concluded that there were no significant differences in reporting behaviour between colleges in states with or without hate crime legislation and more or less hate crime reporting agencies (van Dyke & Tester, 2014). In chapter 5, I found that PMC legislation is very inconsistent in Australia and depends on which state and territory the victim is located in. Nevertheless, I was unable to include jurisdictional dummy variables in my analysis because hate crime incidents are a rare event, with only 50 hate crime incidents in my data divided across eight Australian jurisdictions. As an alternative approach, I rank order the number of PMC victims and the respective reporting rates in percentages by Australian jurisdictions.

Using my Chapter 5 to rank order different state and territory legislative responses to hate incidents, the table below displays the ranking from weak to strong legislative frameworks.

**Table 7.5 Ranking of Jurisdictional Legislative Frameworks by NSPS Reporting Rates**

<table>
<thead>
<tr>
<th>PMC legislation ranking</th>
<th>Jurisdiction ranking</th>
<th>PMC victims N</th>
<th>Reporting rate %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Weak</td>
<td>The Northern Territory</td>
<td>1</td>
<td>0%</td>
</tr>
<tr>
<td>↓</td>
<td>Tasmania</td>
<td>1</td>
<td>0%</td>
</tr>
<tr>
<td>↓</td>
<td>The Australian Capital Territory</td>
<td>5</td>
<td>20%</td>
</tr>
<tr>
<td>↓</td>
<td>Queensland</td>
<td>5</td>
<td>60%</td>
</tr>
<tr>
<td>↓</td>
<td>Victoria</td>
<td>9</td>
<td>55.6%</td>
</tr>
<tr>
<td>↓</td>
<td>New South Wales</td>
<td>14</td>
<td>35.7%</td>
</tr>
<tr>
<td>↓</td>
<td>South Australia</td>
<td>5</td>
<td>60%</td>
</tr>
<tr>
<td>strong</td>
<td>Western Australia</td>
<td>10</td>
<td>50%</td>
</tr>
</tbody>
</table>

Table 7.5 shows that states and territories with weak legislative frameworks, such as the Northern Territory, Tasmania and the Australian Capital Territory, have low PMC reporting rates when compared with the remaining Australian states. Queensland, Victoria and New South Wales have very similar medium-strength legislative frameworks. The table shows, however, that Queensland with a 60% and Victoria with a 55.6% reporting rate differ from the noticeably low reporting rate in New South Wales of 35.7%. New South Wales has a very low reporting rate for having been the first Australian state to address racial vilification in its legislation.

Possible explanations exist for the rank order results of the low hate crime reporting rate in New South Wales, displayed in Table 7.5. One possible explanation stems from the results of Chapter 6, in which I found that victim characteristics distinguished PMC victims from other crime victims, in that foreign-born respondents were more likely in the PMC victim group compared with the other victim groups. Australia has seen a vast intake of immigrants in the past 50 years, with the majority of immigrants settling in major urban areas, such as Sydney (NSW) and Melbourne (Vic) (Forrest & Dunn, 2007). Sydney’s population, for example, consist of 43% of residents who have emigrated
from a non-English-speaking country, with 39% of new immigrants having arrived in the period of 1996-2001 (Forrest & Dunn, 2007). According to Forrest and Dunn (2007), “Sydney is, therefore, Australia’s major immigrant receiving city” (p. 700). Such rapid change in diversity can lead to racial tensions due to, for example, concerns regarding competition for jobs or an existing form of national ethnocentrism (Forrest & Dunn, 2007). Such racial tensions may be apparent in my Chapter 6 results. The self-reported victimisation results displayed that the highest number of hate crime incidents – 28.3% of hate crimes in Australia – occurred in New South Wales. In addition, high profile cases in New South Wales, such as the 2005 Cronulla Riots (affecting people from Lebanese decent) possibly impact racial tensions in New South Wales.

My findings in Chapter 6 on PMC victim characteristics and factors have highlighted that PMC victims had lower perceptions of police legitimacy, which also showed a link to the reporting of crime to police. The population of New South Wales is very diverse and many new immigrants continue to move into the state, whose distrust of police leads to tension. Incidents with minority groups and their relationship with police in New South Wales, such as the Tempe Riot affecting Arab communities (see Fraser, Melhem, & Yacoub, 1997), the 2009 racial attacks of international students affecting Asian communities (see Mason, 2012a) and the 2004 Redfern Riots affecting the Indigenous communities (see Gelber & Stone, 2007) further highlight the problem with minority groups and police. These minority group incidents with police and the police legitimacy results above suggest that tensions and mistrust toward the police still exist and that police strategies in New South Wales have to continue to address this mistrust of vulnerable communities.

Victoria is known for a more community-policing approach, including integrating the community into crime fighting efforts (Beyer, 1993). In regards to PMC, Victoria is unique in that its law enforcement agency created a strategy to specifically tackle the problem of hate crime and align police practices with PMC legislation (Mason et al., 2014). If police take hate crimes more seriously (e.g., when rigorous hate crime laws are in place), more attention is given to and more resources are allocated to investigate hate incidents (Lyons & Roberts, 2014). Such an approach will ultimately increase minority group trust in police and therefore increase reporting behaviour.

Table 7.5 also shows that South Australia has a reporting rate of 60% and is the only Australian state that also employs tort proceedings in its PMC statutes. Victims in South Australia are able to receive monetary compensation in civil proceedings, which may be motivation enough for victims to report crime to police. This result suggests that the Instrumental Perspective has an influence on victims to report hate crime to the police, where certain incentives, such as financial compensation,
can increase the willingness to report the crime. My results showing that differences in legislative frameworks may impact on the reporting of hate crime incidents in Chapter 5 offer some insight: Western Australia has the strongest framework legislating against hate crimes, and although its PMC reporting rate is 50%, it is only ranked fourth on the reporting rate next to Queensland (60%), South Australia (60%) and Victoria (55.6%). Although the legislative framework in Western Australia is strong, it has not been shown to be very effective. According to McNamara and Gelber (2015, February), courts have only tried three successful cases utilising Western Australia’s PMC related criminal law.

The association between PMC legislative frameworks in Australia and the reporting behaviour of hate crime victims is not straightforward and multiple factors influence the decision of hate crime victims to involve the criminal justice system. The message sent to victims by the state through PMC legislation seems to be more important than the actual utilisation of the legislative frameworks by the state. The different legislative frameworks influence the criminal justice system structures in place to deal with hate crimes, including police procedures and strategies. These different policing structures and reporting mechanisms influence patterns of reporting PMC to police. Further, enhancing hate crime victims’ perceptions of trust and confidence in the police may play a more important role in tackling the under-reporting of hate crimes. According to Ben-Porat and Yuval (2012), “[t]he perceptions of minorities that they have been neglected or abused have led to declining trust in the police, a reluctance to cooperate with [them] and, in some cases, direct clashes that further erode trust” (p. 249). Australian state and territory police are addressing these issues through varying police strategies, through employing police liaison officers and creating diversity units, increasing diversity training of police staff and implementing specific strategies and action plans to improve police-minority-group relationships. This aligns with Hall’s (2012) assertions that positive relationships between the public and police are important in fighting hate crimes. Successful responses to PMC will influence the public’s willingness to report hate crimes to the police (Hall, 2012).

7.8 Limitations of Study 3

According to Shively et al. (2001), future research may only adequately deal with the limitation of infrequent hate crime events and predominant minority group victimisation by oversampling minority groups until a sufficient sample for analysis exists. Another limitation exists in regards to the NSPS, in that the law legitimacy items do not specifically inquire about respondents’ perception of the legitimacy of hate crime legislation. This item addresses only respondents’ perceptions of
obeying the law in general. In addition, the outcome variable in study 3 (crime report) is a dichotomous variable, indicating if the crime has been reported to the police or not, instead of a process variable, explaining why the victim has decided to report the crime to police, which limits the understanding of the decision-making process around reporting-behaviour.

The limitations around the utilisation of surveys including hate crime items, such as the NSPS, indicate that better measures to observe and record hate crime victimisation and, consequently, the reporting of hate crime to police are necessary to capture PMC in Australia. Better data collection processes and recording of PMC incidents by police could increase the visibility of PMC incidents, while further research into the utilisation of different legislative approaches and police strategies could have an impact on the reporting behaviour of PMC victims. With Australia’s lacking official recording practices in regards to hate crime victimisation, surveys including victimisation items may be the best possible way to explore hate crime victimisation and victims’ reporting behaviour at this point in time.

7.9 Discussion and Summary

In this chapter, I have examined the potential barriers to report crime to police in the NSPS dataset, also differentiating between the reporting of hate crime incidents and the reporting of crimes without a prejudice motive. My analysis includes five main insights. Firstly, my analysis finds that hate crime is less frequently reported than non-PMC. This finding may be a result of hate crime victims indicating lower perception of police legitimacy compared with non-PMC victims or people who have not been victimised (as established in Chapter 6), which influences a victim’s decision to involve the police. This result aligns with the 2000-2003 National Criminal Victimization Survey finding in regards to the reporting rates of hate crime victims (Harlow, 2005).

Secondly, my analysis shows that certain characteristics, potential barriers and explanatory variables play an important role for victims’ decision-making processes to report hate crime to police. In accordance with the literature (Carcach, 1997; Goudriaan et al., 2004), an increase in age increases the likelihood of respondents to report crime to police. People who are Australian citizens are also more likely to report the crime to police. This could result from foreign nationals lacking

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89 The NSPS only measures the most common motivation for PMC victimisation related to race, religion and nationality, therefore, the survey results omit a large number of hate crime victims by not including items requesting information on, for example, sexual orientation, gender or disability.
the familiarity with the Australian criminal justice system, experiencing differing treatment by criminal justice authorities in their home country or fearing immigration status issues. Research conducted on the Leicester Hate Crime Project finds that hate crime victims experience their victimisation as a “routine reality of being ‘different’” (p. 5), opposed to an incident in need of reporting (Chakraborti, 2015). Even though Australia is a multicultural country, a lack of support from criminal justice authorities may lead to victims normalising their everyday experiences of hate crime.

Thirdly, my multilevel analysis shows that perceptions of police legitimacy and the willingness to cooperate with the police indicate a significant association with reporting behaviour. This result suggests that these explanatory variables are key indicators for reporting or not reporting the crime to police. According to Tyler and Jackson (2013), cooperation is essentially voluntary and people’s loyalty and sense of duty to community and authorities impacts people’s decision to report crime to police. In interviews with hate crime victims, McCaffery (2013) finds that amongst the inhibiting factors for reporting the crime to police, all respondents indicated a lack of confidence in the broader justice system. This doubt in the judicial system included lenient sentencing, punishments reinforcing prejudice, revolving door justice, delays in trial and court officials lacking experience, as well as the need for adequate legislation addressing anti-social behaviour. McCaffery (2013) finds that hate crime victims’ past interaction with police, as well as the overall image of the police service, are key factors in deciding to report the hate incident to police.

Fourthly, when examining the differences in reporting behaviour by jurisdiction, my results suggest a complex picture when linking victim reporting behaviour to different Australian jurisdictions. I find that ranking the legislative frameworks tackling hatred have not directly corresponded to the reporting of hate crime by victims. In particular, the reporting rates in New South Wales need further exploration, as the reporting rate of 35.7% in New South Wales is considerably lower than the reporting rates in states with similar strength legislation. Multiple factors may be responsible for this result in New South Wales, including the high intake of especially new immigrants, the high prevalence of hate crime victimisation compared with the other Australian jurisdictions, high profile riots further inciting racial tensions, as well as mistrust resulting from minority group clashes with police. Depending on the state and territory in Australia, hate crime victimisation is either addressed in the criminal code or the civil code, or is based in anti-discrimination legislation. These different legislative frameworks involve different processes, such as filing a police report, lodging civil complaints or lodging a complaint with the respective anti-discrimination commission, resulting in different police strategies and processes tackling hate incidents.
Fifthly, my exploration of the NSPS data in the multilevel models demonstrates that victims are more likely to report property crime to police compared with violent crime. In accordance with prior literature and the Instrumental Perspective, victims are more likely to report crime to police when a certain gain or outcome is apparent. Victims, for example, will more likely report property crime to gain access to insurance pay-outs (Schneider et al., 1976). The partial mediating effect between property crime and being an Australian citizen explaining the reporting of crime suggests that victims who are not Australian citizens are unlikely to have content insurance and, therefore, have less of an incentive to report the crime to police. In addition, chapter 6 has indicated that hate crime victims experience more violent crime than property crime, which further reduces the under-reporting of PMC incidents.

Overall, my findings in this chapter suggest that victims have very little incentive to report hate incidents to police. The way legislation is set up in different jurisdictions in Australia appears to lead to different police processes and different categorisations of hate incidents. In Australia, different states and territories have decided to tackle hate incidents in varying ways. Some governments have pressed for criminal sanctions taking a strong stance against hate crime, while others deal with vilification under anti-discrimination legislation. Different legislative frameworks influence the criminal justice system structures in place to deal with hate crimes and hate incidents, including police responses and reporting mechanisms. Different criminal justice system structures influence patterns of hate crime reporting. These different legislative responses are indicative of the politicisation of hate crimes in the different Australian jurisdictions and that these political nuances influence the context in which people report.

My results show consistency with international literature in regards to the lower likelihood of hate crimes being reported to police compared to non-PMC, that it is likely that citizenship status is linked to reporting crime to police, that perceptions of police legitimacy influence the victim’s decision to involve the police, as well as that people who indicate they would cooperate with police are also more likely to do so. My results also indicate that there are jurisdictional differences in reporting rates in the Australian context, which may link back to jurisdictional differences in legislative frameworks, police strategies and reporting mechanisms.
Chapter 8: Conclusion, Discussion and Future Directions

*It may be true that morality cannot be legislated, but behaviour can be regulated. The law may not change the heart, but it can restrain the heartless.*

(Martin Luther King Jr. [1962] cited in King, 1991)

8.1 Introduction

Scholars around the world have dedicated considerable attention to the topic of hate crime (see, e.g., Chakraborti, 2010; Chakraborti & Garland, 2009; Cunneen et al., 1997; Gerstenfeld, 2013; Hall, 2013; Perry, 2001, 2003a; Turpin-Petrosino, 2015); however, research on the legislative framework in the Australian context is rather scarce (see Jayasuriya, 2012; Mason, 2009; McNamara, 2002; Meagher, 2005, 2006). According to Stacey (2015), primary research on hate crime law has focused on the development of legislation, the definitions around hate crime and the prosecution of hate crime. The literature, however, lacks research on how hate crime law in different jurisdictions impacts on the reporting of hate crime by police (Stacey, 2015). Another gap in the literature is whether there is a correlation between differences in hate crime legislation and the involvement of the victim in the reporting of hate incidents to police. My thesis addresses this gap in the literature, linking different processes involved in hate crime reporting, which processes are dependent on the legislative frameworks that are utilised in different Australian states and territories.

One of the main problems regarding hate crime is that victims rarely come forward and report crime to police. Multiple factors exist that have an impact on the under-reporting of hate crime, such as a victim’s minority group status (see Culotta, 2005; Gerstenfeld, 2011; Miles-Johnson, 2013; Shively et al., 2001; Zaykowski, 2010) and a victim’s perception of the legitimacy of criminal justice system agencies (see Goudriaan et al., 2004; Tyler, 2005, 2011). The literature, however, does not address the impact of different legislative frameworks on a victim’s decision to report hate crime incidents to police. According to Petrosino (2004), one way to increase our understanding of the PMC context is to explore different legislative frameworks. The legislative context sets the scene for police practice and procedures and how law enforcement responds to hate crime incidents. The legislative context also dictates the reporting mechanism that victims can access, such as filing a police report or lodging a complaint with the anti-discrimination board.
In my thesis, I have explored the influence that different legislative frameworks in Australia may have on reporting a hate incident to police. I have explored differences in hate crime legislation and the context surrounding the different laws in Australia and how these shape patterns in reporting behaviour of victims. Further, I have investigated the potential risk factors for victimisation and the barriers that emerge regarding the reporting of hate crime. I have assessed whether or not there is an association between perceptions of trust in police, trust in government and trust in the law and the willingness of victims to come forward and cooperate with police (Tyler, 2005, 2011).

I have addressed how the context surrounding various laws across different Australian state and territories shape the patterns in the reporting behaviour of victims. I have employed a mixed-methods approach, contrasting each of the relevant laws that pertain to PMC incidents and that are currently in place in each state and territory in Australia. I have analysed the National Security and Preparedness Survey (NSPS) to explore the victimisation patterns of hate crime victims in Australia and have explored the personal barriers that may hinder the reporting of hate crime to police. In the remainder of this conclusion, I will address the main contributions of my thesis to the hate crime literature, will explain the policy and practice implications and will suggest future research in regards to PMC legislation and reporting behaviour of victims.

8.2 PMC Legislation and its Influence on Reporting Behaviour

Pinpointing what influences a victim’s decision to report crime and/or hate crime to police is a complex undertaking. My three thesis studies set out to explain the link between the legislative context of PMC victimisation and the reporting of hate crime incidents to police. Firstly, a lack of motivation to report hate crime to police appears to exist in the way that different bodies of legislation interpret and define hate crimes differently and these different legislative foundations appear to shape the way victims respond. Jurisdictional differences in reporting rates in the Australian context are apparent and these differences in reporting rates may link back to jurisdictional differences in legislative frameworks and concomitant police strategies and reporting mechanisms. My results indicate that jurisdictions with stronger legislative frameworks display higher reporting rates than jurisdictions with relatively weak legislative frameworks. Three main suggestions emerge from my thesis research, identifying the best-practice legislative frameworks to deal with PMC victimisation and encourage PMC reporting behaviour, which I will expand on below.
8.2.1 The Harmonisation of PMC Legislation in Australia

The harmonisation of PMC legislation is the process of creating common standards across all Australian jurisdictions both in the definition and interpretation of legislation and in police processes involved in hate-based incidents. In Australia legislative approaches to hate-based incidents vary across states and territories. These variations in legislative contexts can lead to confusion of hate crime victims in regards to reporting mechanisms and may reduce reporting rates due to weak messages of governments that racism and racist violence are tolerated more in one jurisdiction compared with other jurisdictions. Many advantages exist in the legislative harmonisation of hate-based incidents in a country like Australia, but such harmonisation is also laced with difficulties.

Firstly, the legislative harmonisation across all states and territories would ensure consistent definitions and interpretations of hate crime, which are useful in the context of victims and police correctly identifying hate-based incidents and the context of the prosecution and courts successfully trying hate-based incidents under PMC legislation. Definitional and procedural differences exist between unlawful (civil) and serious (criminal) vilification, which dictate the reporting mechanisms of victims. A unified definition and criminal justice system process around hate-based incidents would simplify the identification of hate crime and therefore increase reporting behaviour and successful trials. A unified definition of hate crime would also support the ease of recording hate crime by police and the PMC data collection in Australia, as different definitions in different jurisdiction can complicate accurate data collection (Adamczyk et al., 2014). As literature points out, a universal definition of hate crime is difficult to achieve and scholars still search for the most appropriate definition (see, e.g. Gerstenfeld, 2011; Mason, 2009); however, it is possible to strive for an Australian-based unified definition including the historical, social and political context of the Australian continent.

Secondly, the harmonisation of PMC legislation would ensure that all minority groups are protected equally across Australia. Different jurisdictions employ legislation that varies in the protection of minority groups from hate-based incidents, with some jurisdictions not explicitly specifying any categories (e.g., the Northern Territory) and others excluding certain categories from protection under PMC legislation (e.g., only New South Wales and Tasmania protect people with a disability). Such differences in protection of minority groups across different jurisdictions leads to a victim’s being able to report the hate incident in one jurisdiction but not in the other. A struggle exists for such protected categories in the inclusion under PMC legislation, due to the lack of empirical
evidence and claim to vulnerability, as well as their strangeness and distance from the general public (Mason, 2014c). Such differential treatment may lead to people in need of such protection feeling “less worthy” (Mason-Bish, 2012, p. 2). A consistent approach across all states and territories would ensure that minority groups have equal protection from hate crime incidents and equal access to justice no matter where in Australia they reside.

Thirdly, the harmonisation of PMC legislation would guarantee consistent penal models and punishments for hate crime offenders across Australia. Some Australian jurisdictions allow for criminal sanctions in regards to hate crime (e.g., Western Australia), while other jurisdictions depend on civil sanctions for hate-based incidents (e.g., Northern Territory). Stiffer penalties, for example, exist in Western Australia, where a court can sentence an offender to a maximum of 14 years imprisonment for a hate crime or AU $24,000 in fines. These differences in penal models and legislative approaches will influence the reporting mechanism for reporting (police report vs. complaint to anti-discrimination commission) and, consequently, the involvement of the police in regards to hate incidents. The lack of police involvement in jurisdictions with only complaint-based reporting mechanisms and outcomes of hate incidents (e.g., apology or retraction of statement) might be unsatisfactory for victims and might further decrease PMC victims’ trust and confidence in criminal justice system agencies in these jurisdictions. Harmonising PMC legislation across all states and territories will ensure that PMC reporting mechanisms and case outcomes are consistent across Australia and that victims are awarded equal outcomes and offenders receive equal punishments across states and territories.

8.2.2 The Adoption of Stronger Legislative PMC Frameworks across Australia

Differences in legislative approaches for hate crime incidents influence reporting opportunities, reporting mechanisms and police responses, which consequently influence a victim’s decision to access the criminal justice system. State and territories with relatively strong legislative frameworks correspond with relatively high reporting rates (with the exception of New South Wales) compared with jurisdictions with weak legislative frameworks (e.g., the Australian Capital Territory). Jurisdictions with weak PMC legislation and consequently weak sanctions for offenders and outcomes for victims may discourage victims from coming forward and reporting a hate incident to police. More punitive measures for offenders for hate-based conduct seem to correspond with higher reporting rates. Stronger legislative frameworks also correspond with more police involvement (e.g., in Western Australia), as in jurisdictions with sanctions based in the criminal
code, the police will investigate the hate incident, while the complaint-based approach often lacks the resources for an extensive investigation (Walters, 2006).

Strong PMC legislation will consequently lead to more rigorous law enforcement responses, which have a deterrent impact on and can reduce hate crime incidents. Since the establishment of the Crime and Disorder Act 1998 in the United Kingdom, for example, a multitude of new initiatives followed, increasing the detection of hate crimes and encouraging victims to report such incidents to police (Walters, 2013). Increasing criminal justice responses will enhance feelings of security amongst minority groups (Walters, 2013), which in turn can lead to more trust in the police, government and the law, and consequently to enhanced reporting of hate crime incidents. Legislating against hate crimes creates public awareness, whereby the public will scrutinise state responses to such crimes (Walters, 2013).

The goal of PMC legislation is not only the reduction of hate-based incidents, but also the signalling of the jurisdiction’s moral condemnation of PMC (Franklin, 2002). PMC legislation has an expressive and symbolic character (Beale, 2000) and counteracts the message offenders send to their victims (Hurd & Moore, 2004). Furthermore, police and prosecutors, who enforce PMC legislation, also convey a message of condemnation of hate crime to its victims and the public (Berard, 2010) and through their police processes convey the importance of protecting minority groups from such incidents. Implementing strong legislative frameworks and the message behind these frameworks across Australia may be what PMC victims need to gain more trust and confidence in the Australian criminal justice system and its authorities (see, e.g., Hall, 2012). Strong legislative frameworks may be the starting point for increasing heightened police and public awareness of hate crimes in Australia.

8.2.3 Increasing the Utilisation of PMC Legislation in Australia

A discrepancy exists in Australia between the benefits of implementing stronger PMC legislation and increasing victims’ reporting behaviour and the actual utilisation of such legislation. Jurisdictions in Australia only sparingly use the existing criminal provisions and rarely convict offenders of hate crimes in Australia. Mason (2014a) has found only 24 court cases in New South Wales, Victoria and the Northern Territory that have applied hate or prejudice as an aggravating factor in sentencing, while McNamara and Gelber (2015, February) assert that Western Australian courts have tried only three successful cases while no other jurisdiction (i.e., ACT, NSW, Qld, SA, and Vic) has utilised their PMC criminal provisions. Even though an under-utilisation of PMC
legislation in Australia exists, victims’ reporting behaviour seems to increase with more punitive legislation.

According to Burnett (2013), the criminalisation of hate crime is both punitive and symbolic. It is punitive in regards to combating racism by applying harsher sentences and punishments and symbolic in that, by criminalising hate crime, the state sends a message that racism is taken seriously (Burnett, 2013). PMC legislation utilised in Western Australia, for example, is both punitive and symbolic in not only employing sentencing enhancement provisions, but also in sending messages to vulnerable groups that such hateful behaviour is not tolerated in Western Australia. The disconnect between utilising punitive measures and higher reporting rates in jurisdictions with stronger PMC legislation may suggest that the actual utilisation of PMC legislation in regards to criminal sanctions may have less of an influence on victims’ decisions to report a crime to police, while the symbolic message behind stronger PMC legislation may have a greater impact on reportingPMC to police. A PMC victim’s decision to report a hate incident to police might be more influenced by a jurisdiction’s recognition and support of vulnerable groups in society (see Walters, 2005).

8.3 The Politicisation of PMC Legislation

Different legislative frameworks in Australian jurisdictions influence the criminal justice system structures and the policies in place to respond to the issue of hate crime. One Australian state (Western Australia) criminalises hate incidents and includes rigorous police involvement and penalties, while other jurisdictions (such as, e.g., the Australian Capital Territory and the Northern Territory) leave victims to lodge complaints with anti-discrimination boards, which requires limited police involvement and provides limited motivation to report hate incidents. Jurisdictions differ, for example, in their protection of certain categories. A victim belonging to a minority group might be protected in one jurisdiction, but not in the other. Stotzer (2010) finds, for example, that when sexual orientation is included in hate crime legislation and policies, hate crime victimisation based on this protected category is more likely to be reported than when sexual orientation is excluded from such policies.

According to Thornhill (2014), “the law cements the shared rational expectations of society as a whole, and it articulates a present and persistent memory of society’s founding freedoms and perpetual demands for emancipation and moral legitimacy” (p. 496-497). Such shared expectations, however, seem to vary in different Australian jurisdictions with state and territory governments, consequently sending different messages to hate crime victims. Different jurisdictional frameworks
exist in Australia including different institutional, community and political support, which, according to Stotzer (2010), are all aligned with the level of reporting of hate crimes. In regards to institutional support, King, Messner, and Baller (2009), for example, find that police agencies in U.S. states that have experienced lynching (i.e., in the Southern states) and consequently have failed to protect a minority group in the past are less likely to comply with and enforce hate crime laws and are more likely to record no hate crime incidents. In Australia, such lack of institutional support has been evidenced by the denial of hate-based incidents towards international students in Sydney and Melbourne affecting Asian communities (see, e.g., Mason, 2012a). Zemsky and Sanlo (2005) find that it is less about giving victims an opportunity to report hate crimes and more about an institution’s symbolic commitment to the core values of diversity and equality.

Jurisdictions with a supportive climate from the community and community organisations also increase the decision to report hate-based violence to police. McVeigh, Welch, and Bjarnason (2003) find that social movements, supported by civil rights and human rights organisations and supported by the community, are aligned with an increase in hate crime reporting. In jurisdictions where minority groups experience discrimination and perceive intolerant attitudes (e.g., homophobia) hate-based violence is less likely to be reported to police than in jurisdictions displaying more tolerant attitudes and inclusionary policies (Stotzer, 2010). Different jurisdictions in Australia place political emphasis on different issues around minority groups, hate crime and PMC legislation. According to Duggan and Heap (2014), “[p]olitical rhetoric capitalizing on populist social issues has proven to be a successful tactic for governments in fighting and winning elections” (p. 42). Such gathering of votes by political parties is evident in Australia by the continuing discussions around immigration, refugees and asylum seekers, terrorism laws and changes of section 18C in the Racial Discrimination Act 1975 (Cth) (Austl.). PMC victims residing in jurisdictions with a more supportive and inclusive climate are more likely to come forward and report hate crimes. Hate crime reporting rates are, therefore, influenced by more inclusive environments, which foster reporting rather than hide hate-based violence (Stotzer, 2010).

The public discourse around PMC victimisation has evolved differently not only in recent years, but also in different jurisdictions. According to Gurvitch (1942), “[l]aw… is linked with external reality, with collective forces proper, with people and things” (p. 295). Varying political, social and legal contexts influence the implementation of different legislative approaches (see, for example, the Northern Territory context around the NTER and the weak legislative framework concerning hate incidents). These variations in legislative frameworks might even suggest a lack of politicisation of hate crime legislation in state and territories with weak legal change in terms of
PMC legislation. Liu (2015) asserts that multiple theories exist for legal change. Firstly, legal change is a social process depending on social institutions, including its structural mechanisms and cultural practices (Liu, 2015). Secondly, legal change stems from individual seminal ideas, which are gradually accepted by followers, the public and consequently legislators (Liu, 2015). Different governments have dealt with the emergence of hate crime differently, including denying and trivialising victimisation noticeably based on prejudice and hatred (see, for example, Mason, 2012b) and introducing different legislative responses and different police strategies, depending on the jurisdiction victims reside in. This politicisation of hate crime legislation and the different political nuances of state governments dealing with hate crime are likely to influence the context in which a hate crime victim decides to report the incident to police.

8.4 The Implications for Policy and Practice

After more than two decades, Australian hate crime legislation is still in its infancy, employing very limited criminal sanctions as a response to hate incidents (Asquith, 2014). According to Mason (2014a), “[h]ate crime laws take many forms. Some are freshly crafted, while others are reformed versions of offences dealing with civil or human rights” (p.298). Asquith (2014) argues that “a governance of denial” (p.174) exists in Australia (as well as New Zealand). First, Australia lacks ‘ideal victim’ (Mason, 2014c) cases, which leads to lower community awareness and consequently government responses. Ideal victim cases in other countries include, for example, the Stephen Lawrence case in the UK and the James Byrd, Jr. and Matthew Shepard case in the U.S.; however, “no hate crime victim (or their family) has had sufficient capital to activate a social imagination about hate crime in this region” (Asquith, 2014, p. 176). Asquith (2014) argues that the limited criminal responses to prejudice incidents in Australia stem from this lack of public awareness about hate crime and its impact on minority groups, and that a reluctance to witness and acknowledge hate crimes exist, not only by the public but also by the government. Second, the existing legislation in Australia separating the civil offence of vilification and the criminal offence of prejudiced violence complicates the reporting and consequently the prosecution of such crimes (Asquith, 2014). PMC legislation is rarely used and largely ineffective in Australia; there is an apparent lack of case law on vilification, with no clear rulings to help judges in the decision to apply PMC legislation and its consequences for offenders (Asquith, 2014). Further, people from marginalised groups are over-represented as perpetrators of hate crimes under PMC legislation, with two-thirds of cases involving members of minority groups as perpetrators with their most common victims also belonging to a minority group (Mason, 2014a).
My thesis research indicates that a change in the legislative context to more punitive measures may increase the reporting behaviour of victims, but that fostering PMC victims’ confidence and trust in criminal justice authorities may be a more significant factor. Minority groups in Australia have received mixed messages from the government from proposed changes to the federal Racial Discrimination Act and from the impact of the treatment of and debate around asylum seekers and the impact of new terrorism laws. In 2014, for example, the government proposed a possible change of the federal legislative framework in a more lenient direction, suggesting the removal of section 18C from the Race Discrimination Act with the argument that it undermines free speech. Section 18C of the RDA “makes it unlawful to offend, insult, humiliate or intimidate another person on racial grounds” (Pung, 2015, p. 98). This proposed legislative change incurred a united response in opposing the suggested changes, which included not only multicultural and Indigenous communities, but also “human rights experts, psychologists, public health advocates, churches and civil society” (Pung, 2015, p. 99). Most of the opposition to such changes named concerns around the danger that licencing racial hatred (Pung, 2015, p. 99) can have, as well as sending the message to the public that hate speech is acceptable in Australia.

In other countries, the public has reacted differently to proposed legislative changes. According to Levey (2015, February), Canada has had very different experiences compared with Australia, when changes of its legislation were put up for debate, with Canada facing no opposition from minority groups, while minorities in Australia joined forces and mobilised against the changes in the RDA. Both countries are very different in their public acceptance of immigrants and minority groups. Canada’s immigration policy is one of acceptance and embracing immigrants and minority groups, while the Australian multicultural policy is primarily concerned with common citizenship rights and discrimination (Levey, 2015, February). New terrorism legislation and the continuing political and media debate around an influx of ‘boat people’ further sends intolerant messages to minority groups. The Australian government has put the proposed changes to the RDA on hold, due to overwhelming opposition.

Many reasons exist to implement harsher legislative frameworks. Walters (2006) suggests that “without attempting to change the criminal law in support of proscribing racially motivated violence we are doing nothing at all to challenge the way in which people perceive racially motivated crime” (p. 76). According to Balint (2015, February), laws and social norms are important for people to start internalising these views and, consequently, foster more overall tolerance in society; however, as the Australian Race Discrimination Officer rightly asks, how do we measure the impact of the law? The RDA, for example, is not an instrument of coercion, but an
educational tool of civil laws to change people’s attitudes. The law, therefore, has a more expressive power (Soutphommasane, 2015, February). Mason (2014a) further explains that criminal sanctions of PMC legislation act as a form of moral training that labels, prohibits and punishes prejudice, and are, therefore, not just a repressive exercise of power. Walters (2006) argues that “[h]ate crime legislation will have a long term effect” (p.76), but other areas, such as education, social policy, the media and policing will have to be aligned with hate crime legislation to combat the underlying cause of racism.

My thesis research indicates that when it comes to policy, it may be less important to look at the legislation and may be more about what else to change in society, which makes these reporting avenues of hate crime more successful, strengthens victims’ trust in police to come forward and reduce racism and hate violence in the process. According to Wickes et al. (2015), for hate crime legislation to be successful, police need to actively enforce it. Wickes et al. (2015) suggest that empathetic responses by police to victims and providing viable solutions to prevent PMC will strengthen police-PMC-victim relationships. A shared vocabulary in terms of hate crime victimisation may be useful for police and victims to identify the crime as a hate crime; however, Wickes et al. (2015) have found that it is not so much the terminology that increases reporting behaviour, but the trust in police and procedural justice, which promotes reporting behaviour. My thesis research indicates that the application of PMC legislation may not be as significant as the message the legislation sends to the public regarding intolerance toward and condemnation of hate crime in society. Police processes will, however, depend on the law on the books, and if victims are not satisfied with the law in action, they will be less likely to report the crime to police. According to my thesis research, hate crime victims’ low perceptions of police legitimacy are a significant barrier to reporting hate crime to police and this barrier needs addressing in the future.

8.5 Future Research

PMC legislation in Australia is still at an early stage and further research into the legislative context of hate crime victimisation and reporting behaviour is necessary. More awareness needs to be created of legislation dealing with hatred and prejudice in Australia, as according to Charlesworth (2015, February), people might not be aware that hate crime is a legal issue. So far, only few studies exist that have explored victims’ knowledge around the law and around police processes (see more recently Chakraborti et al., 2014) or have investigated the publics’ overall understanding and legal consciousness of hate crime (see, e.g., Johnson & Byers, 2003; Lyons, 2008; Steen & Cohen, 2004). This raises questions, such as how many people are aware of existing legislative frameworks in
Australia? What has been done to inform hate crime victims of their choices to pursue the incidents and has this information reached the wider public? Lyons (2008) suggests that greater public sensitivity and the ability to distinguish between PMC and non-PMC may have an effect on the willingness of victims, as well as third party witnesses, to report such crime to police and, therefore, to involve criminal justice processes. Green and Spry (2014), for example, suggest the use of public messaging to inform the public of sanctions applicable to hate crime offenders, to stress the importance of reporting such crimes to the police, and to promote empathy and clear up negative stereotypes. Australian studies in the future may explore whether different minority groups are aware of laws and their rights in regards to PMC victimisation, how much knowledge they have of the legislation or if a lack of awareness exists and, if they are aware of legislative avenues, how this information has reached them.

Further future research may concentrate on hate crime victims and their opinion on best-practise PMC legislation. Such studies may raise questions, such as if victims want more punitive measures for offenders or if PMC victims are satisfied with a complaint-based approach. Mason (2014b), for example, questions the use of penal punitiveness, in light of a culture of control and mass imprisonment by Western nations. A lack of research exists regarding PMC victims’ opinions on how different jurisdictions deal with hate crimes. More recent research has delved into the possibility of using restorative justice avenues (see Gavrielides, 2012; Walters, 2014b). Victim attitudes still need more exploring in regards to utilising restorative justice measures compared with more punitive measures. In addition, a national hate crime victimisation survey specifically addressing racism and hate crime victimisation would further increase an understanding of PMC victimisation patterns and reporting behaviour. This national hate crime victimisation survey should also include survey items on other protected categories, such as sexual orientation and gender identity, to gain a better understanding of victimisation patterns and reporting behaviour of the LGBTI community. This survey should also include items that inquire about victimisation based on ‘alternative’ appearance or lifestyle, mental ill-health and asylum-seeker or refugee status, as such characteristics of difference have been largely ignored by PMC legislation due to their ‘not-obvious’ hate crime characteristics (Chakraborti, 2015), not only in Australia, but also in light of the European refugee crisis, as well as the intake of Syrian refugees in other countries around the world.

A lack of data on hate crime victims’ knowledge on PMC statutes, as well as the lack of data recording in regards to arrests, prosecutions and outcomes in Australia at this point prevents any assumptions of PMC legislation having an overall effect on the prevention of hate crime. Further research should explore the main source of reporting hate crime to police and inquire about PMC
victims decisions to report the hate incident to police in Australia. A possibility to discover PMC victims’ reasons to report hate incidents to police, as well as to introduce a longitudinal aspect to my research would be to run a second wave of the NSPS inquiring victims’ reasoning behind reporting or not reporting to the police. Such research would not only increase the possibility of exploring causal relationships in regards to prior police contact, PMC victimisation and reporting behaviour, but also ask victims their personal reasons for reporting or not reporting the crime to law enforcement officials. Further studies may include questions on the knowledge of legislative frameworks and the utilisation of complaint-based approaches.

According to Green and Spry (2014), research has been conducted in trying to evaluate the implementation of new legislation, as well as procedures (see, for example, Dube, Dube, & Garcia-Ponce, 2013 and their research on U.S. gun laws and violence in Mexico; Vásquez, Maddan, & Walker, 2008 and their study on the influence of sex offender registration and notification laws in the U.S.). These studies utilise interrupted time series analysis, which is a method that “focuses on the effects of a sudden shock that is hypothesised to generate a shift in outcomes” (Green & Spry, 2014, p. 235). An evaluation of the introduction of PMC legislation in Australia and the patterns of victimisation and reporting after the implementation of such legislation are still outstanding. Stotzer (2010) conducted a U.S.-based study of college campuses on the impact of sexual-orientation-related hate crime policies in academic institutions and including state-level hate crime legislation and policies and how these policies affect the reporting behaviour of victims. Stotzer (2010) found that the inclusion of sexual orientation in the state-based and institutional-based policies was significantly associated with the reported number of hate crimes at these institutions. Stotzer’s (2010) results suggest the importance of including sexual orientation in state and campus policies. The impact of the inclusion of protected categories in state and territory legislation and their link to reporting behaviour also needs further exploration in Australia.

While the effect of implementing hate crime legislation on victims’ reporting behaviour needs exploration, so also does the effect of ‘triggering events’, such as high profile hate crime cases and hate crime court decisions. Prior research has investigated triggering events of hate crime incidents, as in such cases as the 9/11 and 7/7 terrorist attacks and the subsequent rise in hate crime incidents (Green & Spry, 2014). As well as analysing the 9/11 attacks, King and Sutton (2013) have also analysed hate crime incidents after the Rodney King and O.J. Simpson verdicts and court rulings legalising same-sex marriage. Since these studies, other incidents have taken place that also might have triggered hate crime incidents around the world and in Australia, such as the recent terrorist
attacks in Paris on 13th November 2015. Again, the lack of recording by police and reporting by hate crime victims in Australia might make such research impossible at this point in time.

My thesis research points out that one of the main factors in not reporting hate crimes to police has been the impact that lower perceptions of police legitimacy have on the reporting behaviour of victims. Future research should investigate the way that police respond to hate crime allegations and translate the legislative contexts in each Australian state and territory. Hate crime legislation is necessary to ensure that law enforcement personnel pay special attention to detecting and tackling hate crime (Iganski, 1999b; Walters, 2013). According to Mason and Dyer (2013), there is a “need to provide clear and consistent judicial guidance concerning the definition of prejudice motivated crime which, in turn, can be relied upon by law enforcement officers” (p.912). Hate crime legislation, therefore, has a clear link to the identification of hate crime by police, police practices, procedures and strategies implemented concerning hate crime, which in turn influence the willingness to report hate crimes to the police. Lyons and Roberts (2014), for example, point to future research in “how agency-level policies and characteristics, including the presence of a dedicated hate crimes unit and community policing initiatives […] influence hate crime clearance” (p.285).

During my thesis research, I undertook an online search of Australian state and territory police websites to uncover information provided to the public related to hate crime and fostering police-minority group relationships. I found that not all Australian jurisdictions address the issue of hate crimes on their publicly available websites. The Northern Territory Police, Australian Capital Territory Policing and South Australia Police make no mention of hate crimes on their website, while Tasmania Police and Western Australia Police at least reference the hate crime problem. Surprisingly, although Western Australia has a strong set of PMC legislation, it lacks a police strategy to tackle the problem. Victoria Police is unique in having implemented a PMC strategy, while the New South Wales Police Force, although lacking a specific strategy, addresses bias crime, has introduced a bias crime coordinator and a speak-out- hotline and, as well, has provided police officers with a hate crime recording mechanism. Public documents, however, were very far and few between in Australia and future studies might benefit from exploring how existing police strategies are being utilised by police departments and police officers. According to Gillis (2013), only very little is known about police responses to hate crime incidents and often community awareness and willingness to embrace and utilise PMC legislation stems from criminal justice system agents (police and prosecution).
What may be necessary for the prosecution and successful outcomes of hate crime cases may lie in a concentration on police strategies and procedures. Mason et al. (2014) point towards enhancing police members’ understanding of PMC by integrating such information into police manuals, recording systems, recruit training and policy documents, which leads to police focusing on evidence necessary for successfully investigating, prosecuting and sentencing PMC incidents. Such a strategy enhances community confidence in police, ultimately leading to the prevention of hate crime (Mason et al., 2014).

8.6 Concluding Comments

The purpose of this research was to explore the legislative context of PMC legislation and how these differences in legislative frameworks in terms of reporting mechanisms and subsequent police responses may influence a victim’s decision to report hate crime to police. My thesis research has confirmed much of what the literature has suggested about the complex nature of legislation dealing with hate and prejudice in Australia, the prevalence and characteristics of hate crime victimisation in Australia, the importance of police legitimacy and the type of crime experience for the reporting behaviour of victims. My research has also opened up discussion about best-practice PMC legislation and, consequently, police strategies tackling the problem of hate crime in Australia. As Walters (2013) states, “legislation helps to advance public awareness of hate incidents, which in turn promotes better scrutiny of the state’s responses to hate crime” (p. 135) and this in turn can lead to an improved police-community relationship.

Australian state and territory responses will also need to consider cyber hate crime as an expanding issue in need of best-practice legislative frameworks. In the age of the internet, an enhanced exposure to hate crimes online exists in Australia (Dunn & Atie, 2015, February). Hostility can now be easily expressed through internet websites, such as Facebook and Twitter (Walters, 2014a). According to Mason (2015, February), victims lodged 40% of racial hatred complaints with the Australian Human Rights Commission in 2012/13 due to material posted on the internet (Mason, 2015, February). Much law exists in Australia that contains (appropriate) legislation that can be employed against online material promoting hate and prejudice (i.e., the RDA and state and territory legislation, the criminal law, telecommunications laws and Internet Terms of Service and Codes of Service) (Mason, 2015, February). Mason (2015, February) argues that the issue is not the lack of law, but the lack of usage of the law. Punishment has been notoriously ineffective in the criminal domain and would be even more difficult to enforce online (Mason, 2015, February). According to Mason (2015, February), strong legislation is necessary for the government to take a
strong stand against racism, but oversight and authority are necessary as regulation alone is not
enough. The presence of legislation in Australia is not sufficient; the processes around the
legislation need to change, including more frequently prosecuting hate crime incidents in courts.
Successful prosecutions are necessary to educate the public about the problem of hate crime and
hold perpetrators accountable for their actions (Gillis, 2013).

The internet, however, does not only allow for ease of displaying hostility, but is also an easy tool
to denounce and prosecute hostility online (Walters, 2014a). The publicising of displays of hostility
through the posting on-line of videos taken on mobile phones on public transport, for example,
demonstrates how powerful the internet can be in challenging hateful attacks (Walters, 2014a).
Hashtags, such as the “#I’ll ride with you” campaign on Twitter after the Sydney Siege, for
example, showed the public’s support for Muslim communities both symbolically and literally by
offering to ride public transport together with minority groups who felt uneasy to do so by
themselves after this triggering event. Such internet campaigns have powerful effects on minority
group members, indicating that they are not alone and that prejudice motivated attacks are not
tolerated in Australia. However, even though legislation is present that can deal with online hate,
punishing online hate and prejudice is also a difficult undertaking.

Every year, hundreds of thousands of people still experience hate crime incidents around the world
(Chakraborti, 2015). The aim of hate crime legislation is to eliminate effectively the occurrence of
hate crime incidents; however, if legislation is used only sparingly, the law cannot utilise its full
potential (Gillis, 2013). Best-practice PMC legislation in Australia is difficult to pinpoint because
Australian governments have not utilised its legislative frameworks extensively, nor consistently
and, therefore, a limited potential of hate crime laws exists in Australia. In addition, different
political nuances in different Australian states and territories influence legislative and police
responses. These socio-political distinctions of addressing hate incidents influence the context in
which victims decide to report hate crime to police.
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