

POLICING QUEER BODIES: FOCUSING ON QUEER EMBODIMENT IN POLICING RESEARCH AS AN ETHICAL QUESTION

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This paper takes up an ethically challenging position: it argues that it may be useful to explore how 'queering' heteronormative embodiment in public space may lead to certain types of policing practices. It argues that policing may involve ways of 'reading' particular bodies as 'queering' heteronormative ways of doing subjectivity, and that this may have implications for queer communities more broadly. In doing this, the paper challenges policing as somehow impartial by suggesting that more could be done for queer communities. Informed by literature about heteronormative police culture, hate crimes and embodiment, police-queer relationships, and ethical policing practices, this paper brings together these discomforting issues and suggests they are explicitly important for policing young people that 'queer' heteronormativity. The paper concludes with a call for 'embodying' criminological research to produce ethical policing practices with queer communities.

I INTRODUCTION

Ask any person that identifies as gay, lesbian, or transgender, and they will tell you that embodiment matters in how they experience everyday life. A young gay male, for instance, will tell you that having a body that enacts 'gayness' via 'visual (and transgressive) codes of camp and effeminacy'¹ is more likely to make your body the object of visual scrutiny, particularly in schooling spaces. The key issue in this situation is the degree to which members of the queer community, who identify as gay, lesbian, bisexual, transgender, transsexual, intersex, queer, questioning, do embodiment in ways that position them as *outside* dominant heterosexist ways of doing gender and sexuality. These bodies 'queer' taken for granted expectations about gender and sexuality: they disrupt the expectation that people ought to be properly masculine and heterosexual for example. The question arises then: why has embodiment not been interrogated as an issue that mediates policing practices with queer communities? This is a particularly

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¹ M Barron and S Bradford, 'Corporeal Controls: Violence, Bodies, and Young Gay Men's Identities' (2008) 39 *Youth & Society* 237.

important question when police culture is steeped in fairly rigid understandings of what it means to be a properly masculine and therefore heterosexual officer.² What information do we *not* have, then, if we persist with the idea that policing queer communities involves policing non-bodies? Most importantly, how are police going to respond ethically if we continue to leave unquestioned the disconnect between communities that do embodiment in ways that ‘queer’ sexual subjectivity and police that do embodiment in ways that are properly heterosexual?

This paper argues that overlooking the role of embodiment and ‘queering’ properly gendered, heterosexual embodiment in criminological and social research into policing practices is unethical and unhelpful. Working through Foucault’s idea of an ethics of discomfort,³ this paper takes up a precarious position by posing the importance of exploring how embodying diverse sexual subjectivities lead to certain types of policing practices. This position is ‘uncomfortable’ because it challenges the idea that policing is impartial and argues that more could be done for queer communities. While existing literature suggests that the police have improved their relationship with marginalised communities,⁴ this paper insists that more work needs to be done. It attempts to demonstrate how a highly complex, competing range of issues and ‘categories of difference’ *intersect*⁵ in ways that make this an issue warranting further attention: ‘queering’ heteronormativity, sexuality, gender, visibility, embodiment, victimisation, subcultural spectacle, homelessness. These issues are examined below by firstly addressing what the paper means by ‘queering’ heteronormative expectations about sexuality and gender. It then draws on literature about how policing is itself a practice defined by heteronormative expectations about sexuality and gender. Following this is a discussion of literature demonstrating how ‘reading’ bodies as ‘queering’ heteronormative embodiment is fundamental to hate crime and some forms of policing work, and how this is an issue that requires further examination in relation to young people specifically. The paper concludes with a call for embodied research about policing queer communities that elucidates how the ‘queering’ body *matters*⁶ in policing processes in contemporary Western culture.

II ‘QUEERING’ HETERONORMATIVE EXPECTATIONS ABOUT SEXUAL EMBODIMENT

For some time now, queer theorists have demonstrated that Western culture privileges some ways of doing sexuality and gender over others. While diversity clearly informs how we do gender, in the form of metrosexual masculinity⁷ for example, the link between gender and sexuality is less diverse. Heterosexual orientation continues to be reinforced as the only proper way of doing sexuality in contemporary Western culture. Nowhere is this clearer than in schools where children are encouraged to be heterosexual in every way, with Martino noting that peer groups in an Australian

² A Prokos and I Padavic, “‘There Oughtta be a Law Against Bitches’: Masculinity Lessons in Police Academy Training’ (2002) 9 *Gender, Work and Organization* 439.

³ M Foucault, ‘For an Ethic of Discomfort’ in J D Faubion (ed), *Michel Foucault Power: Essential Works of Foucault 1954-1984* (2000) 443.

⁴ J Chan, ‘Police Culture: a Brief History of a Concept’ in T Anthony and C Cunneen (eds), *The Critical Criminology Companion* (2008) 218, 225.

⁵ K Davis, ‘Intersectionality as Buzzword: a Sociology of Science Perspective on What Makes a Feminist Theory Successful’ (2008) 9 *Feminist Theory* 68.

⁶ J Butler, *Bodies That Matter: on the Discursive Limits of Sex* (Routledge, 1993).

⁷ H Shugart, ‘Managing Masculinities: the Metrosexual Moment’ (2008) 5 *Communication and Critical/Cultural Studies* 280.

secondary school constitute 'abusive forms of heterosexual masculinity': 'Those boys who chose not to play football or who displayed characteristics and traits attributable to gay people became visible targets for the "cool boys" and were derided'.⁸ Renold, in a study of a British primary school, also found that 'being a "proper boy" involves establishing or at least investing in and projecting a recognisable (and hegemonic) heterosexual identity', and that this involved 'homophobic/anti-gay performances [that] not only had the effect of subordinating alternative masculinities and non-hegemonic sexualities, but implicitly subordinates femininities and all things "feminine"'.⁹ This research demonstrates that the only way to be a proper boy or a proper girl is to be heterosexual, and that homophobia is bound up in this process, with 'sissiness' being subject to denigration and violence as a way of policing proper gendered behaviour.¹⁰

To step outside the assumption of heterosexuality as normal has historically been sanctioned as 'queer' and abnormal.¹¹ This word, used here as a noun, is used in this paper as a verb to describe how heteronormative relations are disrupted by marginal embodiment of sexuality and gender. The term queer in this paper, then, 'signifies not only those who mark themselves as gay or lesbian, but anyone whose proclivities, practices, or sympathies defy the strictures of the dominant sex/gender/sexual identity system'.¹² Rather than describing queer people as in opposition to heterosexual (normatively gendered) people, queer refers to the range of embodied practices that may situate a person as 'queering' heteronormative ways of doing sexuality. *Heteronormativity* is a term used to demonstrate the normalisation of heterosexuality in contemporary Western culture.¹³ It implies a deeply entrenched regulatory power that works in conjunction with heterosexuality in Western culture. Heterosexuality, as normal sex, is invested with the power to define all other sexualities and sexual lifestyles as marginal and 'abnormal'. Queer bodies, then, are queer inasmuch as they disrupt heteronormative ideas about what it means to be heterosexual in contemporary Western culture and are 'other-ised by the mainstream'.¹⁴

This paper contends that it is possible to *read*¹⁵ the 'queering' of heteronormativity that certain bodies do. Foucault notes that the body is capable of being *inscribed*¹⁶ in and through discursive knowledges in ways that can be 'read' as a text of knowledge. Kamler talks about this in her work in terms of how 'discursive practices are accomplished not only through language, but through bodies, through ways of moving, dressing and talking, and through ingrained bodily dispositions or habitus'.¹⁷ The law

⁸ W Martino, "'Cool Boys", "Party Animals", "Squids" and "Poofers": Interrogating the Dynamics and Politics of Adolescent Masculinities in School' (1999) 20 *British Journal of Sociology of Education* 239.

⁹ E Renold, 'If You Don't Kiss Me, You're Dumped' (2003) *Educational Review* 179.

¹⁰ M S Kimmel, 'Masculinity as Homophobia: Fear, Shame and Silence in the Construction of Gender Identity' in H Brod and M Kaufman (eds), *Theorizing Masculinities* (1994) 213, 214.

¹¹ A Ault, 'The Dilemma of Identity: Bi Women's Negotiations' in S Seidman (ed), *Queer Theory/Sociology* (1996) 311, 322.

¹² Ibid 322.

¹³ A Cranny-Francis et al (eds), *Gender Studies: Terms and Debates* (Palgrave MacMillan, 2003).

¹⁴ W Morgan, 'Queer Law: Identity, Culture, Diversity, Law' (1995) 5 *Australasian Gay and Lesbian Law Journal* 31.

¹⁵ B Kamler, 'Text as Body, Body as Text' (1997) 18 *Discourse: Studies in the Cultural Politics of Education* 369.

¹⁶ M Foucault, 'Nietzsche, Genealogy, History' in P Rabinow (ed), *The Foucault Reader* (1984) 76, 83.

¹⁷ Kamler, above n 15, 373.

professor is the focus of Kamlers' discussion as a body that performs particularly discursive knowledge about what it means to know about the law:

When Professor North performs the Socratic genre, he not only demonstrates his knowledge of the law and his power to evaluate student performance of the law, he *is* the law and its embodiment. His body can itself be seen as a text which is read by students and has material effects on their bodies.¹⁸

This paper maintains that it is this form of embodying discursive knowledge that 'queering' heteronormativity involves. 'Queer' bodies perform knowledge about what it means to disrupt heteronormative ways of doing sexual subjectivity. How other people, particularly police officers, 'read' these performances is of key concern in this argument.

III READING 'QUEER' BODIES AND HATE CRIME

Reading bodies in terms of how they 'queer' heteronormativity is a core concern in relation to hate crime, particularly those crimes targeting gay, lesbian, and transgender people. Hate crimes (or bias crimes):

are words or actions intended to harm or intimidate an individual because of her or his membership in a minority group; they include violent assaults, murder, rape, and property crimes motivated by prejudice, as well as threats of violence or other acts of intimidation.¹⁹

There is a burgeoning literature that shows hate crimes directed at people that 'queer' heteronormative subjectivity are no less common now than they were when they became the subject of focused research in the 1970s. Much research has been conducted internationally,²⁰ with a few studies with an Australian focus,²¹ and most elements of these forms of victimisation have been studied including prevalence, perpetrators, victim experiences, incident characteristics, and victim reporting habits.

A consistent theme in research on 'queer' related hate crime is that the perpetrators target *bodies* that 'queer' heteronormative ways of doing sexual subjectivity. Tomsen's work demonstrates the importance of the role of gender non-conformity in anti-homosexual hate crimes.²² This work makes an important link between the construction

¹⁸ Kamler, above n 15, 369.

¹⁹ G M Herek, 'Hate Crimes Against Lesbians and Gay Men: Issues for Research and Policy' (1989) 44 *American Psychologist* 948, 948.

²⁰ Ibid; G M Herek et al, 'Hate Crime Victimization Among Lesbian, Gay, and Bisexual Adults: Prevalence, Psychological Correlates, and Methodological Issues' (1997) 12 *Journal of Interpersonal Violence* 195; G M Herek, J C Cogan and J R Gillis, 'Victim Experiences in Hate Crimes Based on Sexual Orientation' (2002) 58 *Journal of Social Issues* 319; K Kuehnle and A Sullivan, 'Patterns of Anti-Gay Violence: an Analysis of Incident Characteristics and Victim Reporting' (2001) 16 *Journal of Interpersonal Violence* 928; G Mason, 'A Picture of Hate Crime: Racial and Homophobic Harassment in United Kingdom' (2005) 17 *Current Issues in Criminal Justice* 79.

²¹ S Tomsen, *Hatred, Murder and Male Honour: Anti-Homosexual Homicides in New South Wales 1980-2000*, Australian Institute of Criminology Research and Public Policy Series No 43 (2002); G Mason, 'Sexuality and Violence: Questions of Difference' in C Cunneen, D Fraser and S Tomsen (eds), *Faces of Hate: Hate Crime in Australia* (1997) 115; G Mason, 'Heterosexual Violence: Typicality and Ambiguity' in G Mason and S Tomsen (eds), *Homophobic Violence* (1997) 15.

²² S Tomsen, 'Hate Crimes and Masculine Offending' (2001) 10 *Gay and Lesbian Law Journal* 26.

of masculinity and the different forms of homophobic violence engaged in by men and young boys:

The later revelation that the deceased and his friends were attacked because they looked effeminate and in particular because they ‘wore tight pants’ is a stark reminder of the role of stereotyping in victim selection and the arbitrariness of this form of attack.²³

In his studies of anti-homosexual killings, Tomsen notes that ‘a continuous backdrop to the motives of offenders are mainstream constructions of male identity, and the deviant positioning of homosexuality in the code, practices and discourses that reproduce social understandings of masculinity’.²⁴ In Tomsen’s work, anti-homosexual killings generally took two forms: a violent conflict between two men, where the survivor alleges that the deceased made a sexual advance towards him; or a group of young people, usually male attacking a homosexual person in a public space. In both cases, it would appear that the gay body was a key element in the process of the attacks: in the first instance, the male body is ‘read’ as gay and subsequently attacked for this; in the second instance, the gay male body breaches the boundaries of masculine bodily integrity and is subsequently attacked. Homophobic violence, then, may be triggered by the ‘threat’ that the gay male body poses to heteronormative masculine identities. More importantly, how people ‘read’ the male body as gay appears to be of central concern in these types of crime.²⁵

Other hate crime research supports the idea that ‘queering’ heteronormative embodiment is targeted by perpetrators. The visibility of these bodies features strongly in this research,²⁶ with victims noting that behaving ‘in a way that made their gay or lesbian identity apparent to others’²⁷ preceded being attacked in public spaces: ‘visibility is an incitement to attack: looking like a lesbian was seen as a significant provocation for previous attacks on focus group participants’.²⁸ Research in America has found that in hate crimes perpetrated against lesbian, gay, and bisexual adults, ‘sexual orientation was assumed by the perpetrators on the basis of contextual cues’.²⁹ Contextual cues about gender non-conformity were a major factor, with transgendered people having ‘a significantly higher percentage of deaths than males and females’ in one American study.³⁰ This visibility often makes gay, lesbian, bisexual, and transgender people in Australia the subject of verbal abuse and derision from strangers as they are walking around in public space.³¹ Other Australian research has found that lesbian and gay adults will avoid displays of affection ‘to reduce the risk of violence,

²³ S Tomsen and G Mason, ‘Engendering Homophobia: Violence, Sexuality and Gender Conformity’ (2001) 37 *Journal of Sociology* 257, 268.

²⁴ S Tomsen, ‘“A Gross Overreaction”: Violence, Honour and the Sanctified Heterosexual Male Body’ in S Tomsen and M Donaldson (eds), *Male Trouble: Looking at Australian Masculinities* (2003) 91, 95-96.

²⁵ E A Stanko and P Curry, ‘Homophobic Violence and the Self “at Risk”: Interrogating the Boundaries’ (1997) 6 *Social & Legal Studies* 513.

²⁶ G Mason, ‘Body Map: Envisaging Homophobia, Violence and Safety’ (2001) 10 *Social & Legal Studies* 23.

²⁷ Herek et al, above n 20, 207.

²⁸ B Skeggs, ‘Matter Out of Place: Visibility and Sexualities in Leisure Spaces’ (1999) 18 *Leisure Studies* 222.

²⁹ Herek, Cogan, and Gillis, above n 20, 325.

³⁰ Kuehnle and Sullivan, above n 20, 937.

³¹ M Pitts et al, *Private Lives: A Report on the Health and Wellbeing of GLBTI Australians* (2006) Gay and Lesbian Health Victoria <http://www.glhv.org.au/files/private_lives_report_1_0.pdf> at 3 August 2008.

harassment or threats'.³² This is supported by research in Europe noting that lesbian, gay, bisexual and transgender young people especially restrict the public spaces they inhabit according to where they think they are less likely to be harassed and abused.³³ These are usually spaces in which they are less visible amongst other forms of embodiment that 'queer' heteronormative subjectivity, such as 'gay friendly spaces'. The bodies in this research visually conveyed very specific meanings that were 'read' as 'queering' heteronormativity by perpetrators. Although it would only be in extreme cases where the queer body was subject to physical attack causing death, this research clearly makes apparent how 'reading' bodies as 'queering' heteronormative subjectivity can have powerful effects.

IV POLICE MACHO CULTURE AND DENIGRATING 'QUEER' EMBODIMENT

In contrast to 'queering' heteronormative subjectivity, policing is a social practice constituted around heteronormative ways of doing sexuality and gender. This is unmistakable in research by Herbert who argues that policing processes are rigidly constructed around heterosexual masculinity, with officers ignoring community-oriented modes of policing space as 'effeminate':

The desire to become a hard charger, to enact the masculinist form of policing, motivates officers to define and approach the spaces of patrol with the aim of ensuring tactical control. The hard charger ideal denigrates such activities as public meetings or idle chatter with neighborhood residents, and discourages officers from reconciling their view of the spaces of patrol with the views of the people who inhabit them. The spatial strategies of community policing are simply too effeminate to win broad support from those officers who seek cultural refuge in images of the triumphant warrior. Many officers therefore use their discretionary authority to ignore the mandates of community policing.³⁴

Producing proper policing subjectivity involves reifying and embodying discursive ideas about gender and sexuality that are masculine and heterosexual. For example, being a gay or lesbian police officer has been identified in international research as fraught with difficulties,³⁵ particularly if you are a gay male in the police force.³⁶ In addition to this, very rigid forms of heterosexual masculinity are reified in police culture, with feminised identities and bodily practices marginalised as counterproductive to and unsuitable for policing work. Prokos and Padavic found a 'hidden curriculum' being instructed to police recruits in the United States. The training centre:

³² Walksafe Queensland, *Everyone has the Right to be Able to Walk Safe Within Their Community* (2004) 26. <http://www.walksafe.org/ValleysafeWalksafeProject_2004.pdf> at 11 January 2009.

³³ J Takacs, *Social Exclusion of Young Lesbian, Gay, Bisexual and Transgender (LGBT) People in Europe* (2006) ILGA-Europe 65 <http://www.ilga-europe.org/europe/publications/non_periodical/social_exclusion_of_young_lesbian_gay_bisexual_and_transgender_people_lgbt_in_europe_april_2006> at 3 August 2008.

³⁴ S Herbert, "'Hard Charger" or "Station Queen"? Policing and the Masculinist State' (2001) 8 *Gender, Place, and Culture* 55, 68.

³⁵ J S Arnott, 'Gays and Lesbians in the Criminal Justice System' in J E Hendricks and B Byers (eds), *Multicultural Perspectives in Criminal Justice and Criminology* (1994) 222.

³⁶ M E Burke, *Coming Out of the Blue: British Police Officers Talk About Their Lives in 'the Job' as Lesbians, Gays and Bisexuals* (Cassell, 1993); R A Buhrke, *A Matter of Justice: Lesbians and Gay Men in Law Enforcement* (Routledge 1996).

taught recruits that dominant masculinity is necessary to performing their duties as cops ... male students learned that it is acceptable to exclude women, that women are naturally very different from men and thus can be treated differently, that denigrating and objectifying women is commonplace and expected, and that they can disregard women in authority.³⁷

This demonstrates that to be a proper police officer means doing embodiment in thoroughly masculine and heterosexual ways, and marginalising those bodies that fail to align with these norms.

Part of reinforcing these forms of 'macho' masculinities involves the denigration of bodies that 'queer' heteronormative ways of doing masculinity and sexuality. Myers, Forest and Miller notes that 'people who are seen as outsiders in the heterosexual hypermasculine context of policing (including straight women, lesbians, and gay men) may feel pressure to conceptualize gender in such a way that conforms to the ideal'.³⁸ The denigration of these 'outsiders' is made evident in recent research conducted in the United States and the United Kingdom that has found that police practice homophobic ways of thinking about gay, lesbian, and transgender people.³⁹ For example, Phillip Lyons et al found that their sample of 152 Texan police officers overwhelmingly endorsed homophobic attitudes.⁴⁰ In fact, 32% of officers agreed and strongly agreed with the statement that 'I think male homosexuals are disgusting'. In a further article reporting about the same study, Lyons, DeValve and Garner noted that among the 747 police chiefs in Texas, 62% believed that homosexuality is akin to 'moral turpitude' and 56% identify homosexuality as a form of perversion.⁴¹ Recent qualitative research conducted by Amnesty International also highlights some of these attitudes: 'I know we are supposed to be tolerant but that's a bunch of bull, they should all be killed' (San Antonio police officer responding to a same sex domestic violence call).⁴² Some researchers have even investigated the attitudes of criminal justice undergraduate and law enforcement undergraduate students in the United States and have found that they too are homophobic,⁴³ more so even than other disciplines within university settings.⁴⁴

The homophobia demonstrated in research with police officers has made the relationship between the police and gay, lesbian, and transgender people a topic of

³⁷ Prokos and Padavic, above n 2, 454.

³⁸ K A Myers, K B Forest and S L Miller, 'Officer Friendly and the Tough Cop: Gays and Lesbians Navigate Homophobia and Policing' (2004) 47 *Journal of Homosexuality* 17.

³⁹ M Bernstein and C Kostelac, 'Lavender and Blue: Attitudes about Homosexuality and Behaviour Toward Lesbians and Gay Men Among Police Officers' (2002) 18 *Journal of Contemporary Criminal Justice* 302.

⁴⁰ P Lyons et al, 'Police Judgments of Culpability and Homophobia' (2005) 1 *Applied Psychology in Criminal Justice* 1.

⁴¹ P L Lyons, M J DeValve and R L Garner, 'Texas Police Chiefs' Attitudes Towards Gay and Lesbian Police Officers' (2008) 11 *Police Quarterly* 102.

⁴² Amnesty International, *Stonewalled – Still Demanding Respect: Police Abuses Against Lesbian, Gay, Bisexual and Transgender People in the USA* (2006) 47 <[http://www.amnesty.org.ru/library/pdf/AMR510012006ENGLISH/\\$File/AMR5100106.pdf](http://www.amnesty.org.ru/library/pdf/AMR510012006ENGLISH/$File/AMR5100106.pdf)> at 29 January 2008.

⁴³ K D Cannon, "'Ain't No Faggot Gonna Rob Me!'" Anti-Gay Attitudes of Criminal Justice Undergraduate Majors' (2005) 16 *Journal of Criminal Justice Education* 226; J M Olivero and R Murataya, 'Homophobia and University Law Enforcement Students' (2001) 12 *Journal of Criminal Justice Education* 271.

⁴⁴ L A Ventura et al, 'Differences in Attitudes Toward Gays and Lesbians Among Criminal Justice and Non-Criminal Justice Majors' (2004) 28 *American Journal of Criminal Justice* 165.

concern in criminological research. Homophobia, however, intersects with a tense history evidenced by both over-policing practices (such as the 1994 police raid of the Tasty Nightclub in Melbourne)⁴⁵ and under-policing practices, where assistance is sought but the police response is minimal.⁴⁶ People identified as gay or lesbian were constituted as a moral threat to the sanctity of marriage and the family. This tension is multiplied by the only fairly recent decriminalisation of homosexual intercourse in the *Criminal Code*, and the policing of queer leisure spaces.⁴⁷ ‘Queering’ heteronormative sexualities, then, was historically identified and targeted as a ‘condition to be policed, controlled and regulated’.⁴⁸ These issues have made how queer communities experience policing an important area of research concern.

While a range of issues are explored in relation to how the gay, lesbian, bisexual, and transgender communities experience policing, the discrimination they experience in their interactions with police is a key issue.⁴⁹ Fifty three per cent of Williams and Robinson’s 354 gay, lesbian, and bisexual respondents living in Wales noted that they felt unprotected by the law.⁵⁰ In addition, one quarter of all respondents in this study stated that they had been discriminated against or harassed by police because of their sexual orientation. Wolff and Cokely conducted a content analysis of written incident reports about police collated by a Lesbian Gay Bisexual and Transgender (LGBT) advocacy group from 1990-2000 in Minnesota. They found incidences ranging from ‘police acting disrespectful, rude, in an inappropriate manner, engaging in harassment, and denying services to victims, to officers acting as the actual perpetrators of anti-LGBT verbal harassment, intimidation, and physical assault’.⁵¹ Research conducted in Northern Ireland by Radford, Betts and Ostermeyer found that issues like those in Wolff and Cokely’s research made their lesbian, gay and bisexual respondents much less likely to report victimisation to police.⁵²

These types of responses are reiterated in Australian research. A report by the NSW Police Service states that of the 259 gay and lesbian respondents to their survey, 82% suggested that they had not reported an incident of victimisation to police.⁵³ The main reasons given for not reporting involved the belief that police would not do anything and that they would not be supportive. These themes were also reflected in focus groups

⁴⁵ M Groves, ‘Not so Tasty’ (1994) 20 *Alternative Law Journal* 123.

⁴⁶ R White and S Perrone, *Crime and Social Control* (Oxford University Press, 2005).

⁴⁷ A Cherney, ‘Gay and Lesbian Issues in Policing’ (1999) 11 *Current Issues in Criminal Justice* 35; D Dalton, ‘Surveying Deviance, Figuring Disgust: Locating the Homocriminal Body in Time and Space’ (2006) 15 *Social Legal Studies* 277.

⁴⁸ R White, ‘Young People and the Policing of Community Space’ (1993) 26 *Australian and New Zealand Journal of Criminology* 215.

⁴⁹ Stormbreak Research and Consultancy, *Lesbian, Gay, Bisexual and Transgender Safety in Liverpool: A Report on the Research Findings* (2006) The City of Liverpool <<http://www.liverpool.gov.uk/Images/tcm21-98011.pdf>> at 29 January 2008.

⁵⁰ M L Williams and A L Robinson, ‘Problems and Prospects with Policing the Lesbian, Gay and Bisexual Community in Wales’ (2004) 14 *Policing & Society* 213.

⁵¹ K B Wolff and C L Cokely, ‘“To Protect and to Serve?”: An Exploration of Police Conduct in Relation to the Gay, Lesbian, Bisexual, and Transgender Community’ (2007) 11 *Sexuality and Culture* 12.

⁵² K Radford, J Betts and M Ostermeyer, *Policing, Accountability and the Lesbian, Gay and Bisexual Community in Northern Ireland* (2006) Community Relations Council <http://www.community-relations.org.uk/consultation_uploads/NIPB_Policing_and_LGB.pdf> at 16 August 2007.

⁵³ NSW Police Service, *Out of the Blue: A Police Survey of Violence and Harassment Against Gay Men and Lesbians* (NSW Police Service, 1995).

conducted recently by the Attorney General's Department NSW, with respondents noting prior negative experiences with police.⁵⁴ However, most respondents stated that they would report the incident to police despite this. Even more recently in *Private Lives* report, however, nearly half of all participants in all age groups stated that they disagreed with the statement that police officers treated them 'with courtesy and respect'.⁵⁵ The overarching theme in all this research, then, is that the threat of victimisation and harassment by the police, and limited police response to reports of victimisation by 'queer' people makes them less likely to report crime and victimisation and more likely to be suspicious of law enforcement processes.⁵⁶ So if we know this, why should we renew our focus on these issues in relation how people 'queer' proper heteronormative ways of doing embodiment?

V POLICING AND 'READING' AND DETECTING BODIES AS 'QUEER'

What is most interesting about the research outlined so far is that the role of the body in police-queer community relationships is overlooked. This is despite the fact that reading bodies as 'queering' dominant expectations of heterosexuality was undoubtedly somehow involved in policing work in historical contexts. That is, policing involved 'detecting' bodies that were discursively *inscribed*⁵⁷ as 'queering' heteronormativity. Laws criminalising homosexual activity could not have been applied to queer communities without some understanding of what these bodies looked like. Even more interesting, although a good proportion of police work involves policing bodies, the body appears to have been almost completely marginalised as a mediator of these interactions.

Although limited, research does indicate that reading bodies as 'queer' is a practice that police officers engage in. Pratt and Tuffin found evidence of a common discourse in New Zealand police officers' discussions of homosexual men in particular, this being 'effeminism'.⁵⁸ Homosexual men were described as visibly homosexual based on 'an effeminate way of speaking, an effeminate way of walking and standing (swinging the hips and bending the wrist), and, in the extreme, cross-dressing'.⁵⁹ An associated discourse, deviance, was spoken by the officers as being inextricably linked with gay males. Gay males were described as deviant by the officers because 'homosexuality was equated or juxtaposed with pedophilia, flashing, sexual promiscuity, and other sexual behaviors generally considered inappropriate or illegal'.⁶⁰ Police officers' associations of gay males with deviance in this study demonstrate how they have learned to 'read' male bodies as gay and therefore 'queering' heteronormative ways of doing sexual subjectivity. All this research demonstrates consistently that being a proper police

⁵⁴ Attorney General's Department NSW, *'You Shouldn't Have to Hide to be Safe': A Report on Homophobic Hostilities and Violence Against Gay Men and Lesbians in New South Wales* (2003) Lawlink New South Wales <[http://www.lawlink.nsw.gov.au/lawlink/cpd/ll_cpd.nsf/vwFiles/Hide2BSafeExec.pdf/\\$file/Hide2BSafeExec.pdf](http://www.lawlink.nsw.gov.au/lawlink/cpd/ll_cpd.nsf/vwFiles/Hide2BSafeExec.pdf/$file/Hide2BSafeExec.pdf)> at 29 January 2008.

⁵⁵ Pitts et al, above n 31, 52.

⁵⁶ Amnesty International, above n 42; Wolff and Cokely, above n 51.

⁵⁷ Foucault, above n 16.

⁵⁸ A C Pratt and K F Tuffin, 'Police Discourses of Homosexual Men in New Zealand' (1996) 31 *Journal of Homosexuality* 57.

⁵⁹ Ibid 61.

⁶⁰ Ibid 63.

officer involves the consistent *iteration*⁶¹ of heterosexual ways of being as normal and right, and marginalising all other ways of embodying sexuality as abnormal. This paper surmises that the disconnect between a ‘macho’ heterosexual police culture and bodies that ‘queer’ this culture requires further consideration.

Despite decriminalisation,⁶² similar practices of reading and ‘detecting’ certain forms of ‘queer’, non-heteronormative embodiment actually constitutes part of contemporary policing work. ‘Queer’ sexual practices are directly subject to policing and regulation.⁶³ One of the main sexual practices regulated in this way is beat sex (Australian term) or cottaging (British term). ‘Beats’ or ‘cottages’ are primarily ‘spaces where gay men “cruise” other men in the pursuit of desirous encounters’⁶⁴ and are considered ““diseased” places where “dirty” sex was transacted’.⁶⁵ These practices have long been the subject of legal regulation precisely because ‘what were ostensibly “private” acts between consenting adults remained criminal in public on the basis that their visibility was deemed offensive to public morality’.⁶⁶ This is despite research that advises that these spaces are an important part of how men that use these spaces forge subjectivity as they ‘offer a sense of freedom and lack of fear for patrons’.⁶⁷ Men involved in these sexual practices are therefore considered ‘a particular type of sexual figure who is deviant, abnormal, suspect, and in need of regulation by the criminal law’.⁶⁸

Most importantly, these bodies are visible in how they ‘queer’ heteronormative embodiment and law enforcement directly inform their policing of these practices with a discursive understanding of what it means to embody this. Dalton examines this process in an analysis of how ‘police entrap gay men by mimicking gay bodily appearances, gestures and mannerisms’.⁶⁹ Analysing interviews with 20 men that had been detected by police in beat spaces, Dalton shows how police officers acted as *agent provocateur* and ‘performed’ ‘as gay men’ very effectively:

This particular police officer was *au fait* with the codes of gay men. I read them [his signs] as authentic ... We circumnavigated around each other a few times and then he ... had on a checked shirt and a singlet underneath. He was standing in one of the walkways playing with his nipple. This turned out to be a police officer right! And then I went up to him and started to play with his other nipple. Then he flashes his badge.⁷⁰

Dalton’s work reveals that police officers are adept at ‘reading’ bodies that ‘queer’ heteronormative ways of doing sexual subjectivity. They are so adept in fact that they can enact this expertly. This certainly indicates that more work needs to be done on the

⁶¹ J Butler, *Gender Trouble* (Routledge, 1999).

⁶² M Bull, S Pinto and P Wilson, *Homosexual Law Reform in Australia*, Trends and Issues in Crime and Criminal Justice No 29 (1991).

⁶³ C R Leslie, ‘Creating Criminals: The Injuries Inflicted by “Unenforced” Sodomy Laws’ (2000) 35 *Harvard Civil Rights-Civil Liberties Law Review* 103.

⁶⁴ D Dalton, ‘Policing Outlawed Desire: “Homocriminality” in Beat Spaces in Australia’ (2007) 18 *Law Critique* 375.

⁶⁵ *Ibid* 380.

⁶⁶ P Johnson, ‘Ordinary Folk and Cottaging: Law, Morality, and Public Sex’ (2007) 34 *Journal of Law and Society* 528.

⁶⁷ S Magni and V Reddy, ‘Performative Queer Identities: Masculinities and Public Bathroom Useage’ (2007) 10 *Sexualities* 239.

⁶⁸ Johnson, above n 66, 532.

⁶⁹ Dalton, above n 64, 375.

⁷⁰ *Ibid* 390.

degree to which these processes inform everyday policing, particularly that policing that happens in public spaces with young people that are highly visible in these spaces.

VI POLICING YOUTHFUL 'QUEER' EMBODIMENT IN PUBLIC SPACE: A CENTRAL CONCERN

Nowhere is it more important to interrogate the role of 'queering' heteronormative embodiment in policing than with young people. The various subcultures that young people are affiliated with make them highly visible, as the body is made and re-made as a key indicator of these affiliations. 'Youth – often expressed bodily – is nothing if not spectacular',⁷¹ with bodily practices usually displayed in public spaces. The problem with this situation is that the embodiment of these highly visible, spectacular youth subcultures is most commonly enacted in the key areas in which interactions between police and young people are forged, such as shopping centres and strip malls.⁷² Young people that 'queer' heteronormative subjectivities and involve themselves in these forms of subculture would undoubtedly make themselves more visible and perhaps more subject to police attention.

Doing embodiment in ways that 'queer' heteronormativity is identified, albeit briefly, as an important issue in research with young people. This concern is evidenced in recent research by the Attorney General's Department NSW,⁷³ with the majority of focus group participants aged 17 to early 20s noting:

a close connection between safety, visibility, and appearance. They said that they usually think carefully about what clothes they will wear and whether it will make them look gay/lesbian. In addition to these kinds of small daily choices, clothing was said by some to be a bigger issue when they go away, for example to another city, their home town, or a country area. Not everyone agreed that they automatically tone down their appearance in such situations, but a number indicated that they give it deliberate thought because they want to avoid homophobic remarks or behaviour:

- 'So much is about how we look. What does a lesbian look like?'
- 'Appearance, that's all strangers have to judge you on'
- 'I think, can I wear that gay shirt in Perth?'
- 'When I go away I take a whole new wardrobe'.

For these young people, the 'queering' body is directly linked with the victimisation and abuse that they are subject to in their everyday lives. The performance of 'queering' embodiment is something that is meticulously managed by these young people as a key factor in maintaining safety and wellbeing, especially in public spaces.

More importantly, however, the life circumstances of queer young people more often than not see them spending significant amounts of time in public space. Queer young people experience multifarious forms of verbal, emotional, physical and sexual victimisation at the hands of their friends, school peers as well as the general public.⁷⁴

⁷¹ Barron and Bradford, above n 1, 235.

⁷² R White 'Curtailing Youth: A Critique of Coercive Crime Prevention' (1998) 9 *Crime Prevention Studies* 93.

⁷³ Attorney General's Department NSW, above n 54, 16.

⁷⁴ V Ellis and S High, 'Something More to Tell You: Gay, Lesbian or Bisexual Young People's Experiences of Secondary Schooling' (2004) 30 *British Educational Research Journal* 213; A Phoenix, S Frosh and R Pattman, 'Producing Contradictory Masculine Subject Positions: Narratives

Lynne Hillier et al, in *Writing Themselves In Again*, note that 38% of their 1749 young same sex attracted respondents reported unfair treatment on basis of sexuality.⁷⁵ School is identified in this research as the most dangerous place for queer young people, with 74% of young people who reported abuse in this study noting that it occurred at school. Examples of this abuse included threats to kill, being pushed down the stairs, being punched, thrown into walls, spat on, and being raped with objects to ‘straighten them out’. Research from the United States by Savin-Williams shows that queer young people experience the following at higher levels than heterosexual counterparts: verbal abuse, physical assault, robbery, rape, and sexual abuse mostly by family members and other peers.⁷⁶ Savin-Williams also found that this victimisation lead to school related problems, running away, homelessness, substance abuse, mental health problems, prostitution, suicide, and conflict with the law. Homelessness most commonly emerges as a result of parental reactions to the ‘coming out’ process, where a queer young person discloses their sexual orientation to their parents for the first time. Hillier notes that disclosing this to parents is rarely a positive occasion, with no parents of the 748 same sex attracted young people that participated in the questionnaire ‘celebrating’ this disclosure.⁷⁷ Events like this can reasonably make the young person that ‘queers’ heteronormative subjectivity the focus of more police attention and intervention than their heterosexual counterparts.⁷⁸ Their bodies are marked not only as bodies in need of treatment (for drug addiction for example) and welfare but also as law and order problems (in relation to practices of ‘survival sex’ for example) in need of proper regulation. With young bodies being ‘marked’ in these ways, they could be ‘reacted to as likely to be part of the trouble rather than as innocent victims’.⁷⁹ It seems appropriate, then, to move into a focus on how bodies are ‘read’ by police officers as ‘queering’ heteronormative sexual subjectivity for better and worse in policing practices.

VII EMBODYING RESEARCH FOR MORE ETHICAL POLICING WITH QUEER COMMUNITIES

In line with an understanding of ethics as ‘thinking and theorizing about what is good and bad, and how people should live’,⁸⁰ this paper calls for embodied research on how policing happens in queer communities. This paper argues that ethical policing practices are produced only by interrogating how bodies are ‘read’ as ‘queering’ heteronormative subjectivities in sociological and criminological research. To suggest a focus on embodiment in research processes is not new. Embodiment is considered an important

of Threat, Homophobia and Bullying in 11-14 Year Old Boys’ (2003) 59 *Journal of Social Issues* 179.

⁷⁵ L Hillier, A Turner and A Mitchell, *Writing Themselves in Again: 6 Years on: The 2nd National Report on the Sexual Health & Well-Being of Same Sex Attracted Young People in Australia* (Australian Research Centre in Sex, Health & Society, 2005).

⁷⁶ R Savin-Williams, ‘Verbal and Physical Abuse as Stressors in the Lives of Lesbian, Gay Male, and Bisexual Youths: Associations with School Problems, Running Away, Substance Abuse, Prostitution, and Suicide’ (1994) 62 *Journal of Consulting and Clinical Psychology* 261.

⁷⁷ L Hillier, ‘“It’s a Catch-22”: Same Sex Attracted Young People on Coming Out to Parents’ in S S Feldman and D A Rosenthal (eds), *Talking Sexuality: Parent-Adolescent Communication* (2003) 75.

⁷⁸ Savin-Williams, above n 76.

⁷⁹ B Hudson, ‘Difference, Diversity and Criminology: The Cosmopolitan Vision’ (2008) 12 *Theoretical Criminology* 275, 278.

⁸⁰ Grayling cited in G Pavlich, ‘Ethics, Universal Principles and Restorative justice’ in G Johnstone and D W Van Ness (eds), *Handbook of Restorative Justice* (2007) 615, 615.

area of concern for social and sociological researchers more broadly,⁸¹ with a focus in recent research on ‘making and doing the work of bodies – of becoming a body in social space’.⁸² That the criminological and sociological research on policing ‘queer’ communities continues to overlook this seems unusual, especially considering the historical interest in criminology in ‘discovering’ ‘homosexual men and women as sexually and socially degenerate’.⁸³ Criminological research is not immune to having ‘constructed a series of others who are outside the constituency of inclusion, justice and protection of law; a series of others who are outsiders who have struggled for recognition, and for participation in discourses of criminalization, justice and safety’.⁸⁴ In this instance, however, this paper argues that the discomfort that comes with ‘reading’ and enquiring about research participant bodies as ‘queering’ heteronormativity is a more productive and ethically sound research position to be working out of than marginalising embodiment. More importantly, research framed in this way may offer up more complex, multidimensional ways of challenging the homophobic attitudes that inform how police officers ‘read’ bodies as ‘queering’ heteronormativity.

The paper suggests that ethical policing practices can be better supported when criminological and social researchers ‘bring the body back in’⁸⁵ to research about how queer communities are policed. In policing practices, where police protection can be allotted ‘based on membership in certain categorical groups’,⁸⁶ research that focuses on ‘queering’ heteronormativity may be useful in highlighting the diversity of embodiment and increasing police understanding and recognition of this diversity. Doing this may well enable officers to move beyond the idea, for example, that all gay men are ‘effeminate’ and ‘cross-dressing’,⁸⁷ and move towards an awareness of very mundane details which can assist in making more equitable, sensitive policing practice. This could be as mundane as training police officers to ask a transgender person how they would prefer to have their ‘sex’ recorded in police case notes, rather than simply making assumptions about this informed by conjecture. These types of clarification may make a sizeable impact on how policing relationships are forged between queer communities and police.⁸⁸ Thus, to continue to overlook this embodied experience in the lives of queer communities raises the question not only of how ethical policing practices are, but also the extent to which policing work is enacted in line with notions of diversity and pluralism.

Further to this, it raises the question of the effectiveness of policing practices when a more embodied research approach may enable more useful outcomes for the police as well as queer communities. For the current paper, ‘reading’ a body as visibly ‘queering’ heteronormativity is not necessarily counterproductive. Embodying research about

⁸¹ L Buchholz, ‘Bringing the Body Back in to Theory and Methodology’ (2006) 35 *Theory & Society* 481.

⁸² B Turner, *The Body and Society* (Sage, 1996) xiii.

⁸³ S Tomsen, ‘Was Lombroso a Queer? Criminology, Criminal Justice and the Heterosexual Imaginary’ in G Mason and S Tomsen (eds), *Homophobic Violence* (1997) 33, 33.

⁸⁴ Hudson, above n 79, 288.

⁸⁵ A W Frank, ‘Bringing Bodies Back in: A Decade Review’ (1990) 7 *Theory, Culture and Society* 131.

⁸⁶ J Pollock, *Ethics in Crime and Social Justice* (Thomson Wadsworth, 2004) 154.

⁸⁷ Pratt and Tuffin, above n 58.

⁸⁸ M Couch et al, *Tranznation: A Report on the Health and Wellbeing of Transgendered People in Australia and New Zealand* (2007) Gay and Lesbian Health Victoria <http://www.glhv.org.au/files/Tranznation_Report.pdf> at 3 August 2008.

policing and queer communities may make available a range of information about these relationships that has been previously overlooked to avoid the discomfort of asking about this in research processes. For example, at present, data relating crime and victimisation to queerness recorded by police is minimal, if not almost invisible. This is particularly the case with statistical information, with initiatives like the Walksafe Queensland Anti-Violence Project working to increase information recorded by police about 'hate crimes' based on sexual orientation and gender identity.⁸⁹ Informing policing practices with notions of queer embodiment has the potential to improve this situation. These are just some scenarios that may be made possible by focusing on bodies that 'queer' heteronormative embodiment in research about how queer communities experience policing.

While all of these situations would undoubtedly require a rigorous sensitivity and professionalism on the part of the officers involved, they are certainly more productive outcomes than continuing the invisibility of sexual orientation in police records and police work. Given that police officers are vital 'in the realisation of fundamental modern values: freedom, security, safety, equality, justice',⁹⁰ shifting the focus onto visibly 'queering' bodies in doing policing research may well offer up more productive understandings of how to do this in relation to queer communities. Kleinig notes that this is vitally important 'where one's actions will impinge on the lives of others'⁹¹ in the course of policing work.

VIII CONCLUSION

There is little doubt that bodies that 'queer' heteronormative sexual subjectivity are in some ways more visible than others, particularly in the case of the highly visible, hypermasculine bodies being constructed in gay culture.⁹² This paper has argued that these bodies 'emit meanings' and can be 'read', and that this may be a point of interest in how queer people experience policing practices. Despite some research indicating that police too visually 'read' bodies as 'queering', based on ideas about 'effeminacy' in relation to gay men for example, the paper has demonstrated that criminological research on policing practices with queer communities is disembodied. That is, researchers shy away from engaging participants in discussions about whether or not they think 'queering' bodies are more or less targeted by police precisely because they behave in ways that disrupt heteronormative ways of doing sexual subjectivity. This paper contends that this is an unproductive research position to work from considering that 'the gaze of the law, conjoined with the legal imagination, produces a vision of homosexual subjectivity that is severely impoverished'.⁹³ It has attempted to map the intersectional nexus point of a complex skein 'of discursive elements that can come into play'⁹⁴ that together demonstrate the importance for further pursuing research at this nexus point. We can only gain a better, more detailed understanding of how queer

⁸⁹ Walksafe Queensland Anti Violence Inc, *Walksafe Queensland Anti-Violence Project* <<http://www.walksafe.org/>> at 3 August 2008.

⁹⁰ T Prenzler, 'Ethics and Accountability in Law Enforcement' in S Hayes, N Stobbs and M Lauchs (eds), *Social Ethics for Legal and Justice Professionals* (2006) 124, 124.

⁹¹ J Kleinig, *The Ethics of Policing* (Cambridge University Press, 1996) 6.

⁹² D Ridge, D Plummer and D Peasley, 'Remaking the Masculine Self and Coping in the Liminal World of the Gay "Scene"' (2006) 8 *Culture, Health & Sexuality* 501.

⁹³ D Dalton, 'Surveying Deviance, Figuring Disgust: Locating the Homocriminal Body in Time and Space' (2006) 15 *Social & Legal Studies* 277.

⁹⁴ M Foucault, *The History of Sexuality: An introduction, Volume 1* (Penguin, 1990) 100.

communities are policed, and the impact of homophobic 'readings' of bodies that 'queer' heteronormativity, with further research that *works with rather than against* 'queering' embodiment.

It is important to note at this point what the paper is not saying. It is not arguing that we launch into a neo-Lombrosian project and attempt to link queer bodily characteristics with criminality. In addition, it is not proposing that criminological and social researchers rigidly stereotype and classify queer bodies in order to better understand policing practices. Rather, the author is interested in the ways that we might learn from exploring how police read certain bodies as 'queering' heteronormativity for better and for worse. Of essential importance for this paper, then, is 'bringing bodies back in'⁹⁵ to criminological and social research about gay, lesbian, bisexual, and transgender experiences of policing. It is challenging researchers to push the boundaries of acceptable research and to *embody* research about how policing happens so that more productive outcomes may be achieved for members of queer communities and for law enforcement.

⁹⁵ Frank, above n 85, 131.