

GOVERNMENT RESPONSE TO
THE DRUGS AND CRIME PREVENTION COMMITTEE FINAL
REPORT OF THE INQUIRY INTO PUBLIC DRUNKENNESS

Background

1. The Government welcomes the Drugs and Crime Prevention Committee's Final Report of the Inquiry into Public Drunkenness, and thanks for their contributions the Committee and the various individuals and organisations who made submissions to the Inquiry.
2. In March 2000, the Committee received the Terms of Reference for the Inquiry into Public Drunkenness. The Committee was requested to inquire, consider and report to Parliament on the issue of public drunkenness, and in particular:
 - a) consider the appropriateness of the existing law in Victoria relating to public drunkenness;
 - b) identify any law reform the Committee considers necessary to deal with public drunkenness;
 - c) review the adequacy of existing strategies for dealing with persons arrested for public drunkenness, such as diversion of people from police custody into sobering-up centres.
3. In conducting the Inquiry the Committee was to regard:
 - a) approaches taken to this issue in other Australian jurisdictions;
 - b) the Final Report (published 1991) of the Royal Commission into Aboriginal Deaths in Custody;
 - c) such other legislation, case law, reports and materials as are relevant to the Inquiry.
4. The offences for public drunkenness are contained in sections 13, 14 and 16 of the Summary Offences Act 1966:

s13. Persons found drunk

Any person found drunk in a public place shall be guilty of an offence and may be arrested by a member of the police force and lodged in safe custody.

s14. Persons found drunk and disorderly

Any person found drunk and disorderly in a public place shall be guilty of an offence.

s16. Drunkards behaving in riotous or disorderly manner

Any person who, while drunk--

- (a) behaves in a riotous or disorderly manner in a public place;
 - (b) is in charge, in a public place, of a carriage (not including a motor vehicle within the meaning of the Road Safety Act 1986) or a horse or cattle or a steam engine—
- shall be guilty of an offence.

5. The Committee consulted widely in Victoria and interstate, including drug, alcohol and homelessness welfare agencies, Aboriginal groups, Police, local councils and lawyers. The Committee received a total of forty-two submissions: thirty-five from organisations, six from private citizens and one joint submission. The Committee's Final Report containing forty-nine recommendations was tabled in Parliament on 13 June 2001.

Discussion

6. Public drunkenness is a significant problem. Its significance does not lie so much in the impact it has on the day to day life of Victorians, as it does in the many and wide ranging issues that arise in any attempt to address the problem.
7. This Report makes it clear that to think about the decriminalisation of public drunkenness we must think beyond the picture of a young man at the end of a night of binge drinking who is picked up by the police and effectively given a safe bed until he sobers up. We must think about the way we use alcohol in our society, how that use intersects with the use of other drugs and where we draw the line on what is acceptable public behaviour.
8. Statistics included in this Report show that the charge of being drunk in a public place was the third most commonly heard charge in the Victorian Magistrate's Court in 1998/1999. In that year there were 17 414 such charges heard. The only more common charges were theft and obtaining property by deception. In January to June of 1997 40% of people received in police cells were people who had been found drunk in a public place.
9. Any discussion of public drunkenness soon leads on to the problem of alcohol abuse. This Report looks at the differing impact of public drunkenness on vulnerable groups including young people, the homeless, women and people with mental health issues. As the Report notes, problematic public drinking takes on different forms and creates different dilemmas and challenges depending on the specific group within the community.
10. Many health and medical issues flow from drunkenness and the Report details alcohol consumption patterns in Australia and specifically in Victoria. These figures show the widespread use of alcohol in our community and how that use impacts differently in rural and metropolitan areas. Any response to public drunkenness must therefore focus on health, as well as legal issues.
11. The Report pays careful attention to the disproportionate effect of the criminalisation of public drunkenness on indigenous communities. In discussing this issue, the Report considers the Royal Commission into Aboriginal Deaths in Custody and ultimately incorporates some of its recommendations.
12. Some organisations in Victoria are already using systems other than the criminal justice system to deal with the problems of public drunkenness. The Drugs and Crime Prevention Committee met with people involved in running sobering up centres and also travelled interstate to other jurisdictions where public

drunkenness has already been decriminalised and where sobering up centres have been put into place.

13. As well as dealing with what might be termed the core issues of public drunkenness the Committee took the opportunity to comment on issues as diverse as licensing laws, public transport, municipal laws and education.
14. The forty nine recommendations made by the Committee range across all these topics. The thrust of the Report is encapsulated in its first recommendation:

Decriminalisation of public drunkenness offences shall take effect but not until the following requirements are met:

- Legislation with regard to civil apprehension and detention of intoxicated persons is enacted;
- Adequate numbers of sobering-up centres and associated services are established;
- Comprehensive training for police officers and sobering-up centre staff with regard to the new legislation and any protocols and guidelines associated with it is undertaken.

Response

15. This Report has raised some extremely difficult questions that cut across a range of Government portfolios. Given the amount of detail in the Report and the breadth of the recommendations that it contains the Government intends to make a considered response. We need time to properly consider the recommendations and their implications for Victoria.
16. In order to deal systematically with the issues raised in the various recommendations, the Government has grouped them into four categories. These categories are:
 - **Group 1:** These are the most general recommendations made by the Committee. They deal with the central questions raised by the Report. Any response to the Report must address these recommendations before it can turn to the more detailed recommendations that follow.
 - **Group 2:** These are the more detailed recommendations contained in the Report. They suggest ways in which sobering up centres could work. They also contain detailed proposals for a new piece of legislation dealing with public intoxication.
 - **Group 3:** The recommendations in Group 3 deal predominantly with monitoring and evaluating the success of steps taken in answer to the recommendations in groups 1 and 2. They also include the recommendations about police training and education.
 - **Group 4:** The Committee has made a number of recommendations that can stand independently of the recommendations in the other groups. The

recommendations in this group include suggestions about liquor licensing, public education and the management of large public events.

17. The recommendations are placed into categories in the table below.
18. The central questions for Government arise from recommendations in Group 1. The answers to almost all the recommendations in the Report will flow from the Government's response to these recommendations. The first task for the Government is therefore to look closely at the recommendations in this group.

Government Action

19. The Government considers that the Drugs and Crime Prevention Committee's Final Report of the Inquiry into Public Drunkenness is very helpful in examining the complex and broad ranging issues raised by public drunkenness, and that it makes some important recommendations. As a result, this Government will continue to consider those recommendations. To this end the Department of Human Services and the Department of Justice will work together and with other relevant areas of the Government to examine the recommendations in group 1.
20. In particular, the Government will consider:
 - exactly what type of facility provides the most appropriate response to people apprehended due to public drunkenness;
 - what type of legislation best addresses the problems that arise with regard to civil apprehension and detention of intoxicated persons;
 - the resource implications of the Committee's recommendations; and
 - the most recent statistics on the numbers and geographical spread of people held in police cells due to intoxication.
21. As noted above, the Report discusses the disproportionate effect of the criminalisation of public drunkenness on indigenous communities. This Government is committed to maximising Indigenous input into policies that impact on the Koori community and people. In considering the issues listed above, the Government will act in accordance with the principles of the Victorian Aboriginal Justice Agreement.
22. The Government will make a further comment on the Final Report when the thresh-hold issues have been considered in detail.

Inquiry Into Public Drunkenness

General Recommendations

Recommendation	Position
<p>1. Decriminalisation of public drunkenness offences shall take effect but not until the following requirements are met:</p> <ul style="list-style-type: none"> • Legislation with regard to civil apprehension and detention of intoxicated persons is enacted; • Adequate numbers of sobering-up centres and associated services are established; • Comprehensive training for police officers and sobering-up centre staff with regard to the new legislation and any protocols and guidelines associated with it is undertaken. 	Group 1
<p>2. Recommendations 79–84 of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC) should generally be implemented (see attachment).</p>	Group 1

Specific Recommendations

Recommendations with regard to the Law	Position
3. Section 13 of the <i>Summary Offences Act 1966</i> should be repealed.	Group 2
4. Section 14 of the <i>Summary Offences Act 1966</i> should be repealed.	Group 2
5. Section 16 of the <i>Summary Offences Act 1966</i> should be repealed.	Group 2
6. Comprehensive new legislation dealing with public intoxication should be enacted.	Group 2
7. A new public disorder offence must not be considered as a replacement for the repeal of public drunkenness offences.	Group 2

Recommendations with regard to a new Public Intoxication Act	Position
8. Comprehensive legislation dealing with the civil apprehension and detention of intoxicated persons and related matters should be enacted.	Group 2
9. Such legislation should include but not be restricted to the following provisions: (Specified in Report)	Group 2

Recommendations with regard to sobering-up centres	Position
10. Substantial numbers of sobering-up centres must be established <i>before</i> decriminalisation takes effect.	Group 2
11. Substantial numbers of sobering-up centres should be strategically established in Melbourne and regional Victoria, particularly in locations of high demand.	Group 2

12. Where appropriate, sobering-up centres should be established specifically for Indigenous people.	Group 2
13. Consideration should be given wherever possible to sobering-up centres established for Indigenous people forming part of a holistic 'treatment service' or 'healing centre'.	Group 2
14. Where appropriate, Indigenous Community or Night-Patrols run in conjunction with sobering-up centres should be established.	Group 2
15. A separate Indigenous patrol staffed by women and for women should be established.	Group 2
16. Where appropriate, sobering-up centres should be established specifically for young people.	Group 2
17. Where appropriate, sobering-up centres should be established specifically for women.	Group 2
18. Where this is not possible, at least one female staff member should be in attendance at the sobering-up centre at all times.	Group 2
19. Appropriate protocols need to be established between Victoria Police and the government departments or agencies responsible for funding and administering sobering-up centres.	Group 2
20. Sobering-up centres must establish partnerships with appropriate rehabilitative, support and treatment services, including hospitals and community health centres, as part of a coordinated approach to drug and alcohol service delivery.	Group 2
21. Sobering-up centres' services should be regularly reviewed and monitored to determine their effectiveness and adequacy.	Group 2
22. Comprehensive guidelines should be published to assist staff in the running of sobering-up centres.	Group 2
23. Funding for sobering-up centres should be coordinated by one central authority and allocated on a triennial basis.	Group 2
24. Funding for Community or Night Patrols be allocated on a separate basis.	Group 2
25. A thorough costing analysis be undertaken with regard to the establishment of sobering-up centres and associated services prior to decriminalisation.	Group 1

Recommendations with regard to Police and Policing Issues	Position
<p>26. Pursuant to Recommendation 85 of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC):</p> <p>a) Police Services must monitor the effect of legislation which decriminalises drunkenness with a view to ensuring that people detained by police officers are not being detained in police cells when they should more appropriately have been taken to alternative places of care;</p> <p>b) The effect of such legislation should be monitored to ensure that persons who would otherwise have been apprehended for drunkenness are not, instead, being arrested and charged with other minor offences. Such monitoring should also assess differences in police practices between urban and rural areas; and</p> <p>c) The results of such monitoring of the implementation of the</p>	Group 3

decriminalisation of drunkenness should be made public.	
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Recommendations with regard to Training and Education	Position
27. Police members should be given detailed and ongoing training and education with regard to any proposed legislation concerning public intoxication and the issues pertaining to public drunkenness.	Group 3
28. Police training with regard to public drunkenness should be culturally specific to the interests of Indigenous people.	Group 3
29. Wherever possible, training on Indigenous issues should be conducted by an Indigenous person.	Group 3
30. Police training with regard to public drunkenness should take place prior to the legislation taking effect.	Group 3
31. In particular, all levels of police should have comprehensive and ongoing training with regard to the medical and health risks associated with alcohol and other drug consumption or perceived consumption.	Group 3
32. All police personnel must be alerted to the existence of and be familiar with the latest version of the Police Medical Checklist.	Group 3

Recommendations with regard to Local Government	Position
33. Consideration should be given to ensure that municipal by-laws concerning drinking in public places do not have the potential to 're-criminalise' public drunkenness and the potential to further disenfranchise Indigenous communities.	Group 3

Recommendations with regard to expansion of Community Justice Panels	Position
34. An Indigenous Community Justice Panel should be established in Melbourne.	Group 4

Recommendations with regard to public major events	Position
35. That consideration be given to the establishment of temporary sobering-up centres at every major public event taking place in the State. Such shelters could be staffed by St John's Ambulance, Salvation Army or similar agencies.	Group 4
36. That public events and street festivals that serve alcohol be subject to safety and process audits and appraisals before, during and after the event.	Group 4

Recommendations with regard to public education	Position
37. Education programs should be developed within schools and the general community to inform young people, parents and other adults of the risks associated with alcohol consumption.	Group 4

38. Community education programs should be established to inform the public about the proposed Public Intoxication Legislation.	Group 3
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Recommendations with regard to Licensees	Position
39. Liquor Licensing Accords and Forums are to be encouraged and promoted in all local communities.	Group 4
40. Liquor Licensing Accords and Forums should wherever possible have participation from all relevant community sectors.	Group 4
41. Consideration should be given, where appropriate, for a representative from the Indigenous community to be on licensing committees or forums.	Group 4
42. Licensees and hotel managers must ensure that all staff involved in the selling and service of liquor undertake Responsible Service of Alcohol training.	Group 4
43. Licensees should be encouraged under Accord principles and arrangements to coordinate trading hours.	Group 4

Recommendations with regard to the Taxi and Transport Industries	Position
44. A review of the current provision of public and private transport services, including taxi services, be undertaken with the aim of ensuring that adequate provision is made so people, especially young people, can return to their homes directly after visiting licensed premises, particularly in high activity precincts.	Group 4
45. Consideration should be given to the extension of public transport hours that service high activity precincts.	Group 4

Recommendations with regard to monitoring	Position
46. A monitoring body should be established to oversee the implementation of the Committee's recommendations.	Group 3
47. Sobering-up centres' services should be regularly reviewed and monitored to determine their effectiveness and adequacy.	Group 3
48. That police record the procedure and outcome and disposition, if appropriate, for every person apprehended under the new provisions and forward such data to the body established to monitor the new system.	Group 3
49. That in particular, police who transport an intoxicated person to a sobering-up centre record such transfer in a register specifically established for the monitoring of the new system.	Group 3