

**Submission
No 65**

MEASURES TO REDUCE ALCOHOL AND DRUG- RELATED VIOLENCE

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1. Preface

New South Wales Young Lawyers is a division of the Law Society of New South Wales. Members include legal practitioners in their first 5 years of practice and/or under the age of 36 and law students. There are currently over 15,000 members.

The NSW Young Lawyers Criminal Committee (the Committee) is responsible for development and support of members of NSW Young Lawyers who practice in or are interested in the Criminal Law. The Committee takes a keen interest in providing comment and feedback on the criminal law and the structures that support it, and consider the provision of submissions to be an important contribution to the community. The Committee is drawn from prosecution, defence (both private and public), police, the courts and other areas of practice that intersect with the criminal law.

The Criminal Law Committee is grateful for the opportunity to make this submission.

2. Recent Trends

The Inquiry will of course be aware that on 15 January 2014, prior to the new government measures being introduced, the Bureau of Crime Statistics and Research (BOCSAR) issued a media release¹ clarifying that the incidents of assault in Kings Cross (and indeed NSW-wide) are either stable or on the decline over a 2-year and 5-year period. Significantly, it showed an average annual downturn in assaults in licensed premises in Kings Cross of around 30%. These figures indicate that incidents of violence in this area were appreciably declining before the implementation of recent measures.

The Committee considers that the BOCSAR statistics are the best available information on incidents of violence in which alcohol is a contributing factor. Accordingly, we consider that incidents of alcohol-related violence in New South Wales have been in decline, in spite of media reports which tend to imply the contrary.

This is corroborated by data from NSW Health, which show that hospitalisation for interpersonal assault is declining and at an all-time low, both generally and for young males.²

Given that there is a long-term downward trend in the level of violence in the Sydney CBD, any further downward trend must be considered in that light. This makes it difficult to accurately assess whether the recent changes have had a (further) role to play in the recent trends.

However, measures which limit alcohol consumption directly address a risk factor for violence in the Sydney CBD. In that way, the recent changes seek to address “the cause” rather than “the symptom”, and have some merit.

3. Further Measures

The proposed measure of most concern to the Committee is mandatory sentencing, which we note has been the subject of significant debate in the community, the media, and the Parliament.

The Committee opposes any move towards mandatory sentencing. To this end, we point toward the empirical evidence on what factors impact crime – noting that the magnitude of a sentence is not one such factor. BOCSAR’s research has found that increasing the length of prison sentences exerts no measurable effect at all on crime.³ The same study concluded that

“the effects of income on crime are far larger than those of the criminal justice system. This suggests that measures that affect the economic well-being of the community provide more potential leverage over crime than measures that influence the risk of arrest or the severity of the punishments imposed on

¹ http://www.bocsar.nsw.gov.au/bocsar/mr_20140115_assault.html

² http://www.healthstats.nsw.gov.au/indicator/inj_violhos

³ NSW Bureau of Crime Statistics and Research, ‘The effect of arrest and imprisonment on crime’ (2012) p16

offenders” (p17)

This view is supported by the anecdotal experience of practitioners. Persons accused of criminal offences, even after being arrested and charged, typically have no idea what sentence they are liable to receive. The general community is, by and large, profoundly ignorant of the penalties they are liable to receive for any one offence, beyond a vague understanding of what is a serious offence and what is a less serious offence.

In this way, precise sentences handed down by the courts for various offences do not seem to deter in a purely arithmetic way. People are deterred by knowing that offences are serious, that they are likely to be caught and arrested, prosecuted and incarcerated.

In those circumstances, it is difficult to justify mandatory sentencing by arguing that it will have an appreciable effect upon violence; the assertion is contradicted by the data and by the anecdotal experience.

Given that the data does in fact suggest that the risk of arrest or incarceration has an appreciable effect, this would support an increase in pro-active and visible policing as well as other measures that cause a perception of the likelihood of detection.

The Committee also notes the very significant financial cost mandatory sentencing would impose on the community, requiring increases in funding to policing, the Office of the Director of Public Prosecutions, Legal Aid, courts, and the prison system. All these bodies are in significant funding stress and would expect to have their workloads increase exponentially under a mandatory sentencing regime.

4. Other Jurisdictions

The World Health Organisation (WHO) Policy Briefing: Interpersonal Violence and Alcohol (2006) and the WHO’s Regional Office for Europe’s Alcohol and Interpersonal Violence Policy Briefing (2005) highlighted the following as potentially effective strategies in preventing alcohol-related violence:

- Increases in alcohol prices
- Regulating alcohol sales, for example by conducting test purchases to ensure compliance with relevant legislation
- Reducing access to alcohol by young people by strictly enforcing laws banning the sale of alcohol to young people
- Legal intervention; specifically fines and banning notices for habitual troublemakers. However, the WHO noted there was limited evidence of the effectiveness of this strategy
- Modifying drinking settings; including training for bar staff and door supervisors and implementing codes of practice
- Improving the wider night-time environment; including providing safe night-time transport, increasing street lighting, and CCTV cameras

WHO also recommended the following priorities for addressing alcohol-related violence:

- Educating the public about the links between alcohol-related harms
- Increasing tax on alcohol: governments should consider public health priorities as well as trade and economic priorities
- More attention to collecting accurate data on alcohol-related harms
- Focusing policy efforts on empirically proven strategies
- Reducing alcohol promotions and other efforts to encourage rapid drinking; and
- Investment in treatment for alcohol dependence

The potential effectiveness or otherwise of these measures lies outside our expertise. We include them merely as a demonstration of credible alternatives to a mandatory sentencing regime.

5. Conclusion

The Committee thanks the Inquiry for the opportunity to comment on these important issues, and welcomes any opportunity to attend any public hearings that may be held.

Any request for further comment should be made to:

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