

**Submission
No 628**

SYDNEY'S NIGHT TIME ECONOMY

Organisation: Redfern Legal Centre

Date Received: 2 July 2019

Redfern Legal Centre



2 July 2019

Joint Select Committee on Sydney's night time economy
Parliament House NSW
6 Macquarie Street
Sydney NSW 2000

Dear Committee Secretary,

Re: Redfern Legal Centre Submission to the Joint Select Committee on Sydney's night time economy

Redfern Legal Centre welcomes the opportunity to provide a submission to the Joint Select Committee on Sydney's night time economy.

Redfern Legal Centre seeks to make a submission about the increase use of strip searches by NSW Police at music festivals/concerts. RLC is of the view the increasing use of strip searches falls within following Committee terms of reference:

- (a) Maintain and enhance community safety
- (b) Maintain and enhance individual health outcomes

Strip search powers and NSW

In New South Wales strip search laws are found within sections 31, 32, 33, 34, 34A & Part 15 of the *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW) (LEPRA).

For a search at a police station or place of detention, a police officer may conduct such a search if the '*officer suspects on reasonable grounds that the strip search is necessary for the purposes of the search*' (s.31(a), LEPRA)

For a search outside a police station, police may conduct such a search if the officer '*suspects on reasonable grounds that the strip search is necessary for the purposes of the search and that the seriousness and urgency of the circumstances make the strip search necessary*' (s.31(b), LEPRA).

Strip search data

Recent figures reveal the number of strip searches in NSW has increased from 3,735 in 2014-15 to 5,483 in 2017-18. This is an increase of nearly 47 per cent.¹

Redfern Legal Centre (RLC) has obtained some recent statistics under freedom of information laws from NSW Police about strip searches in NSW conducted in the field. The information reveals for a two-year period financial years (2016-2017 to 2017-2018):

- There were 296 children strip searched during this two-year period.
- Four thousand and eleven young people aged 18 to 25 were strip searched, accounting for forty-one per cent of searches conducted across the state. The youngest person strip searched was aged 10 and the oldest aged 82 years.
- The highest number of strip searches is occurring at Sydney Olympic Park (736), Sydney (593), Moore Park (409) and Surry Hills (341).
- Police reported 9,891 strip searches with 75 per cent of these being conducted on males (7,420) and 25 per cent conducted on females (2,471).
- The youngest person strip searched was aged 10 and the oldest aged 82 years.
- In a two-year period 10 per cent of strip searches were conducted on persons of Aboriginal and Torres Strait Islander people.

Strip searches and harm minimisation

Redfern Legal Centre (RLC) has been contacted by many people who have been subjected to humiliating full-body strip searches at festivals and other public places, where police have failed to ensure the preservation of privacy and dignity as required by law.

Teenagers and children as young as ten have been subjected to a full-body strip search.² In some circumstances, they have been asked to squat and cough.³

The stories we are hearing are distressing and could have been avoided. Outlined below are some of the key ways strip searches are causing harm to the community:

1. A child as young as ten years of age and up to 18 years can be required to take off all their clothes in front of two adult police officers in an unfamiliar environment. The law fails to reflect child protection principles.
2. For those who have been exposed to child or adult sexual abuse, sexual assault or domestic violence a strip search can be a trigger for further trauma.
3. Those who have been subjected to an invasive strip search where police have made them feel humiliated, scared and overpowered may be reticent to approach a police officer ever again, even when they need help. The well-being of young people and children is then compromised.

¹ Parliament of NSW, House Business Papers, Questions & Answers Paper No. 181, 2517 – Police-Police Strip Searches, Greens MP David Shoebridge, 14 November 2018.

² ABC, 'NSW Greens MP David Shoebridge says two thirds of police strip searches come to nothing', AAP; Dean Lewins, 13 Nov 2018.

³ ABC, Triple J, Hack, 'Strip, squat and cough: Your music festival legal FAQs answered', 19 Nov 2016.

4. The current law does not allow for transgender, intersex person and gender diverse peoples to choose the preferred gender of the officer/s to be present during a strip search. The current law only allows for a search to be conducted by an officer of the same sex as the person searched.

Inconsistent application of strip search laws

On Saturday 23 June 2019, Angus Thompson from the Sydney Morning Herald reported that in November 2018 the Lesson's Learnt Unit (LLU) within NSW Police had released an internal report which outlined concerns about the inconsistent application of strip searches by NSW Police Force.⁴

Although this LLU report has yet to be publically released, the article raises a number of concerns about the law failing to provide rigorous and clear guidance to police about the use and application of strip searches. The report highlights the need for legislative to ensure clear, strong regulatory guidance.

Open letter

In June 2019, RLC published an [open letter](#) to the NSW Police Minister outlining the harmful impacts of strip searches. Prominent members of the legal profession, including former NSW Director of Public Prosecutions Nicholas Cowdery QC and former Chief Justice of the Family Court, Hon Elizabeth Evatt AC and the NSW Bar Association have signed the letter

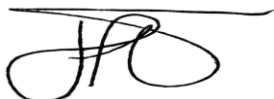
Report in strip search laws in NSW

Redfern Legal Centre has also commissioned a report from UNSW Law to compare the operation of police strip search laws in NSW with other jurisdictions across Australia and internationally. The report is due to be released in mid August.

To summarise, Redfern Legal Centre is of the view that community safety is enhanced by sound and well informed policing practice. The increase in strip searches is having a harmful and detrimental impact on the community by subjecting many, especially young people, to an invasive and undignified practice. Maintaining and enhancing individual health outcomes comes through ensuring that young people and police have an open line of communication and that young people feel that they can seek help from police when required.

We thank the Committee for considering our submission and we would welcome the opportunity to appear at the Committee to provide further submissions.

Yours sincerely



Joanna Shulman
Chief Executive Officer
REDFERN LEGAL CENTRE

⁴ Thompson, Angus, June 23, 2019, 'NSW Police admits breaching strip search laws', Sydney Morning Herald.