



# POLICE ASSOCIATION OF NEW SOUTH WALES

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Ms Jan Burnswoods MLC  
Chair  
Standing Committee on Social Issues  
Legislative Council  
NSW Parliament  
Macquarie Street SYDNEY 2000

28 November 2003

Dear Ms Burnswoods,

## **Re: Inquiry into the *Inebriates Act 1912***

The Police Association was asked by the Standing Committee on Social Issues to participate in the inquiry into the *Inebriates Act 1912*.

In preparing our submission, we sought the views and opinions from those of our members who contain some level of knowledge in this area. The responses we received indicate that there exist serious problems with the current legislation that require urgent attention.

Based on the information as provided by our members, the Association makes the following recommendations:

### **Recommendation 1:**

***The Police Association recommends that the Act be amended in order to grant Police the additional power to bring an inebriate before the Court on the day of listing the matter.***

### **Recommendation 2:**

***The Police Association recommends that a panel consisting of the local General Practitioner, Mental Health Team member and member of the local Court be formulated to review affidavits in order to establish a more effective process.***

**Recommendation 3:**

*The Police Association recommends that a separate entry on the Police Service's COPs system be created for inebriates for the purpose of assisting Police to substantiate an application before the Court at a later date.*

**Recommendation 4:**

*The Police Association recommends that the Act be amended to make it lawful for all ranks of the NSW Police Service to be able to prepare a 'brief' for Court in relation to inebriates.*

**Recommendation 5:**

*The Police Association recommends that the legislation be amended so as to remove from the Police the responsibility of finding an institution under Section 9 of the Act, willing to take the inebriate. The Association recommends that the responsibility for accommodating the person pursuant to that order be given to the NSW Health Department.*

**Recommendation 6:**

*The Police Association recommends that increased government funding be directed toward increasing the number of designated beds at gazetted facilities for the treatment and management of inebriates.*

**Recommendation 7:**

*The Association recommends that the Act be amended so as to allow for treatment to become an enforceable order to ensure that persons can be held, if necessary against their will, for a time determined by medical examination and recommendation.*

**Recommendation 8:**

*The Association recommends that additional government funding be allocated toward providing suitable housing for inebriates following their completion of treatment and subsequent release.*

**Recommendation 9:**

***The Police Association recommends the Act be amended to grant Police the power to confiscate and dispose of all liquor or spirits of intoxication in possession of public inebriates and minors.***

**Recommendation 10:**

***The Association recommends that consideration be given to the legislative inclusion of 'Excluded Persons'. This amendment thereby makes it an offence for these persons to possess or consume liquor, hence placing the onus of supply on the liquor suppliers.***

**Recommendation 11:**

***The Association recommends cooperation between major discount supermarket chains and the Police Service to remove from counter display the sale of methylated spirits in an effort to make it more difficult for inebriates to obtain alcohol.***

The following submission discussed these recommendations in greater depth and we ask the Legislative Council's Standing Committee on Social Issues to grant due consideration to these issues.

The Association thanks you for the invitation extended to us to participate in this review and we look forward to our further involvement in the future.

Yours faithfully,



Greg Chilvers  
Director  
Research and Resource Centre

**Police Association of  
NSW**

**Submission**

**Inquiry into the  
*Inebriates Act 1912***

**November 2003**

**Prepared by Sandra Soldo  
Research and Resource Centre**

## **Inquiry into the *Inebriates Act 1912***

### **The Current Situation**

The presence of chronic public inebriates throughout big cities, semi-urban and rural areas of New South Wales is a recurring problem that deserves immediate attention. This social underclass of disadvantaged people resides in areas such as government housing missions, poor neighbourhoods and related areas that have a chronic dependence on alcohol. A significant proportion of this population is, has been, or will be homeless at some point in time.

For individuals in this population, alcohol abuse is considered to be their primary problem. Many of these individuals may also be dealing with secondary problems such as other drugs or mental illness. These persons suffer from welfare related problems such as long-term health and dental issues, poor personal hygiene and contagious diseases. All such problems stem from the root cause of alcoholism with most having a chronic dependence on high volume, low price alcohol such as cask wines, ports and sherries and in many cases, methylated spirits.

Police are involved on a daily basis in dealing with the many problems that public inebriates face, as well as the consequences for others of the ongoing alcoholism of this group.

### **The City Experience**

A high ranking officer from the Surry Hills Local Area Command has informed the Association that many local residents (including young mothers and children) in Surry Hills, Kings Cross and surrounding areas are regularly being confronted by aggressive and foul mouthed drunken men exposing themselves, vomiting, urinating and defecating wherever they please.

This group also 'takes over' many public spaces such as Shannon Reserve in Surry Hills, which is a small children's playground. As a result, the public amenity of many of these spaces is eroded for the users for which they were originally intended, as parents wish to shield their children from such offensive behaviour and hence choose to avoid such public places altogether. These persons are often unsightly and aggressive to Police as well as other members of the public, causing them to feel intimidated.

Anecdotal evidence suggests that other offenders are also congregating with these persons and as a result stealing; stealing from motor vehicle and break and enter offences increase around the areas where these types of persons congregate.

### **The Country Experience**

A member from Goulburn Local Area Command, who has in excess of 25 years of service in various locations, has commented that there is a large body of evidence that highlights the major problems of alcohol and chemical dependencies in our indigenous population, particularly in western New South Wales.

In the past 12 months, this officer has noticed a marked increase in the number of persons who appear to be suffering from alcohol dependency in the Goulburn area. In most situations these persons, both male and female, do not cause major problems for Police, tending to be more everyday nuisances than serious criminal offenders. They appear not to contribute to crime statistics other than those of trespass, offensive behaviour and occasional shoplifting.

There is currently a group of itinerant males who are 'intoxicated' on a day-to-day basis. The attitude of Police towards this group of persons is generally one that whilst they are not annoying anyone, it is easier to merely leave them alone. Problems occur however, when these persons attend a local shopping centre for the purpose of obtaining alcohol, which entails either buying or stealing methylated spirits from the retailer. This product is readily available at all times when the store is open, can be purchased in various size containers and is a far cheaper option than purchasing alcohol from a licensed premises. Even when banned from such areas by virtue of bail conditions, the product is readily available elsewhere. Complaints are usually received from members of the public when these persons remain in these shopping areas. When Police attend, if the 'offenders' are still in the vicinity, it is the Police who are left with the problem of removing them.

### **Intoxicated Persons**

In years past, it appears that it was more common for Police to detain people as Intoxicated Persons (IPs).

Section 5 (1) of the *Intoxicated Persons Act 1979* gives police officers the right to detain an intoxicated person found in a public place who is:

- (a) "*behaving in a disorderly manner or in a manner likely to cause injury to the person or damage to property, or*

(b) *in need of physical protection because the person is intoxicated*".

Sections 6 of the Act states that an intoxicated person who is detained in an authorised place of detention

(d) *"must not be detained in a cell at that place unless it is necessary to do so or unless it is impracticable to detain the person elsewhere at that place"*

and

(f) *"must be released as soon as the person ceases to be an intoxicated person"*.

In more recent times, especially since the "Royal Commission into Aboriginal Deaths in Custody", there has been a move to reduce the number of intoxicated people in custody. This is not always possible however, and in some Local Area Commands there has been a marked increase of persons being detained at the Police Station as intoxicated persons, one example being Goulburn Local Area Command. The problem occurs as frequently no offence has been committed and as these persons fall within the meaning of the 'intoxicated persons' legislation, Police have to detain them as there are no alternatives for placement - there currently exists no other 'Proclaimed Place' within the Goulburn Local Area Command for the detention of intoxicated persons. This often causes problems with Police staffing levels due to the requirement to have a 'custody officer' with the person at all times until they are released.

### **Reduced Police Use of the *Inebriates Act 1912***

The comments received from our members indicate that there are currently less people being put before the Court as inebriates. This is not to say, however, that there are fewer people coming under Police notice for alcohol related matters, as seen in the above examples. So why then is this the case?

The responses from our members strongly indicate that many Police appear to be unaware of the *Inebriates Act* and the intentions behind it. A factor which may have contributed to this situation is the departure from the New South Wales Police of many experienced police officers, hence there would be a diminished number of Police who would be currently aware of the legislation.

One officer with over 20 years of policing experience has stated that until 8 years ago, it was common to have a sergeant place an inebriate before the Court. Since then, however, he has been led to believe by officers more senior than himself, that the *Inebriates Act* had been repealed.

A senior officer from the Surry Hills Command has succinctly expressed his view of some of the problems he sees exist within the Act:

*“Enforcement of the old Inebriates Act is cumbersome and does not provide workable, timely and simple solutions and has been branded unworkable by those who have attempted to impose it upon people...”*

This is a view that appears to be shared by Police throughout the State. Those who have on numerous occasions applied to the Courts to have persons be declared inebriates, are calling for a considerable streamlining of the current process.

### **The Issue of Summons**

The inebriate under the Act appears before the magistrate by way of Summons.

Police experience difficulty in getting a person before the Court on Summons (particularly in country areas where courts may sit only once a month). Once a Summons has been issued on a person, they often disappear on the day of Court and actively avoid Police to prevent being sent to a rehabilitation institution. Our members have expressed the need for Police to be given some form of power to bring the inebriate before the court on the day of listing the matter.

### **Recommendation 1**

***The Police Association recommends that the Act be amended in order to grant Police the additional power to bring an inebriate before the Court on the day of listing the matter.***

### **Medical Practitioners**

The Act requires statements from medical practitioners to establish the person's illness. Some members have expressed the view that too much emphasis is placed on this requirement.

One officer who has to date placed two people before the Court under the Act, had in the first instance acted as the initiator on behalf of the family. In this case, the requirement that the doctor act as the main evidence provider saw problems develop which were associated with having the doctor forced to wait around at Court all day whilst the inebriate was spoken to by a solicitor to appear before the Magistrate. It is this officer's suggestion that a panel consisting of the local General Practitioner, Mental Health Team member and local court should be formulated to review affidavits in order for the process to work more effectively.



Members have also spoken of the difficulties they face with the process with some doctors refusing to complete the medical certificate under the Act, believing they must have a personal knowledge of prior habitual use.

Members have suggested that a separate entry on COPs be created for inebriates so that any contact Police have with an inebriate can be recorded and easily retrieved out of COPs at a later date when an application is being put before the Court to substantiate an application.

### **Recommendation 2**

***The Police Association recommends that a panel consisting of the local General Practitioner, Mental Health Team member and member of the local Court be formulated to review affidavits in order to establish a more effective process.***

### **Recommendation 3**

***The Police Association recommends that a separate entry on the Police Service's COPs system be created for inebriates for the purpose of assisting Police to substantiate an application before the Court at a later date.***

### **The Requirement for the Rank of Sergeant to Prepare a 'Brief'**

Section 3(1)(c) of the Act states:

*"It shall be lawful for the Supreme Court or a District Court Judge or a Magistrate, on the application of a member of the police force of or above the rank of sergeant acting on the request of a duly qualified medical practitioner in professional attendance on the inebriate..."*

It is the view of many police officers, that to be effective, the legislation needs to be made user friendly, particularly for Police. There appears to be an unnecessary requirement for a Sergeant of Police to prepare a 'brief' for Court. The view of our membership is that there should be no reason why any Police officer is unable to report a matter of this nature.

#### **Recommendation 4**

***The Police Association recommends that the Act be amended to make it lawful for all ranks of the NSW Police Service to be able to prepare a 'brief' for Court in relation to inebriates.***

#### **Gazetted Hospitals**

When an inebriate is placed before the Court, the current process dictates that paperwork must indicate that a gazetted hospital is nominated and willing to accept the person.

Section 3(1)(f) of the Act states:

*"that the inebriate be placed in a licensed institution or a State institution established under section 9 for such period not exceeding 12 months..."*

The problem many Police are experiencing, is that the Courts are sometimes unwilling to make an order under Section 3(1)(f) until Police first find an institution under Section 9 willing to take the inebriate. This process creates an extra work for Police on the day of Court as they have to ring around the State searching for a place that will accept the person, at a time when an order has yet to have been made. One member has suggested that the legislation be amended so as to make the Court responsible for making the order with the Minister for Health given the responsibility for accommodating the person pursuant to that order, especially in country areas.

Police have described instances whereby gazetted facilities have refused over telephone to accept the inebriate, using the argument that they are no longer gazetted. Police have found that many facilities in general do not want to receive inebriates and will take every opportunity to try to avoid taking them in. In frustration and desperation, officers have in some instances nominated a facility without consent, in order to get the Court order.

Another problem Police have identified is the apparent lack of designated bed space at gazetted facilities for the treatment and management of inebriates. One member has commented that the facilities themselves do not appear to take court orders under the Act terribly seriously. It should be considered, however, that these facilities are obviously also under great pressure with limited resources and staffing due to current low levels of government funding.

### **Recommendation 5**

***The Police Association recommends that the legislation be amended so as to remove from the Police the responsibility of finding an institution under Section 9 of the Act, willing to take the inebriate. The Association recommends that the responsibility for accommodating the person pursuant to that order be given to the NSW Health Department.***

### **Recommendation 6**

***The Police Association recommends that increased government funding be directed toward increasing the number of designated beds at gazetted facilities for the treatment and management of inebriates.***

### **Treatment**

During a discussion with a Police Prosecutor and the Clerk of the Court at Goulburn Local Court about the *Inebriates Act*, our member was advised that several sections of the Act had been repealed or altered, which has had the result of taking away the ability of the Police and the Court to utilise the legislation in its intended manner. Although a Magistrate can still recommend that a person be required to have treatment for alcohol dependency, that person cannot be ordered by the Court to remain in treatment. What this means, is that a person can leave a treatment centre as soon as they are admitted. The explanation given to this officer was that quite literally, the person can "follow you back out the door as you leave".

The understanding of the legislation of many Police is that there is now no method of being able to detain a person against their will for the purpose of treatment, and this applies to applications made by both Police and/or families of inebriates. It is possible, that a person who is admitted to Hospital can be successfully treated for alcohol dependency if sufficient time is allowed - certainly, this was the intention of the Inebriates Act when first enacted. Presently, however, there appears that there is no legislation in place that allows the Court to order a person to enter a treatment program and remain there until such time as they are cured.

One member has suggested the following amendment to the current legislation. A person who is detained by Police as an 'intoxicated person' more than three times in a set period (say three months) should be automatically placed before a Magistrate so that an appropriate assessment and recommendation for treatment can be obtained. This treatment should be

an enforceable order and ensure that persons be held, if necessary against their will for a time determined by medical examination and recommendation.

Our members are in general agreement that what is needed is for the Court or Police to have some power to remove the inebriate from the home and place them in a rehabilitation facility where they would be forced to stay until certified that they have improved. The *Inebriates Act* needs to be amended to allow Court orders that will ensure that these people are given a very real chance to be successfully treated and in the process, provide much needed help to their families so that the situations as demonstrated in Examples 1 and 2 (refer to pages 13-14) can be prevented. Police have suggested that the treatment orders should not have a court-determined time frame placed on the inebriate. Rather, the inebriate should be subject to suitable medical assessment by a Board to determine if the person is capable of self-management.

Officers have raised concern with the fact that following the conclusion of the treatment order, there appears to be little or no follow up in the form of monitoring or counselling from the gazetted facility to ensure that the inebriate does not slip back into their former behaviour (see Example 3, page 15). In one instance, an officer recalls an inebriate going AWOL before the order expired, yet the facility failed to notify Police who had carriage of the matter.

In addition, there needs to be suitable housing in place for when the inebriate completes treatment and is subsequently released, such as occurs in the city of Portland, Oregon.

The State of Washington Joint Legislative Audit and Review Committee looked at the issue of public inebriates in their "Chronic Public Inebriates Survey Report" (Report 97-4) in June of 1997. The Report detailed progress measures in the States of Oregon and Washington.

In the city of Portland, the program they have developed has been held as a national model for dealing with chronic public inebriates. The major distinguishing features include its organisational structure, including the existence of a primary service coordinating entity, and the comparatively wide availability of alcohol and drug-free housing for Chronic Public Inebriates. This low-cost housing is typically "single room occupancy" requiring abstinence from alcohol and drugs as a condition of occupancy and is designed for those who are in or awaiting treatment programs. A replication of this programme in New South Wales could have beneficial results for many public inebriates who have been reduced to a state of homelessness.

#### **Recommendation 7**

***The Association recommends that the Act be amended so as to allow for treatment to become an enforceable order to ensure that persons can be held, if necessary against their will, for a time determined by medical examination and recommendation.***

### **Recommendation 8**

***The Association recommends that additional government funding be allocated toward providing suitable housing for inebriates following their completion of treatment and subsequent release.***

### **Police Powers**

In relation to dealing with inebriates, Police find conventional law enforcement ineffectual with the use of Summary Offences "move along" legislation only a short-term measure. As one senior officer has stated:

*"The imposition of fines by Police on these persons has no deterrent whatsoever as they often have no means or intentions of paying such fines".*

Moreover, in the event that these people are arrested and charged, the Courts appear reluctant to jail those who repeatedly break the law for so called minor offences such as Offensive Conduct, which is what this type of behaviour constitutes. The above police officer gives credence to this statement by providing as an example, an alcoholic and habitual offensive conduct offender from the Kings Cross area who in the mid 1990s, was charged on over 100 occasions by local police prior to a very short custodial term being imposed on him. Immediately upon his release, he reverted to his former behaviour and was again arrested, a result which actively demonstrates the futility of this approach for Police as well as a lack of satisfaction on behalf of the community.

### **Confiscation & Disposal of Liquor & Spirits from Inebriates**

Presently, Police powers in relation to the confiscation of alcohol are restricted to the drinking of alcohol in alcohol-free zones as provided in the Local Government Act 1993. Section 643 of the Act allows for the confiscation of alcohol.

- (1) *"Alcohol in the immediate possession of a person in an alcohol-free zone who is committing, or has just committed, an offence under section 642, and any container in which the alcohol is packaged, may be seized by a police officer or an enforcement officer."*

(2) *Alcohol (and any container) seized under this section is, by virtue of the seizure, forfeited to the Crown and may be disposed of in accordance with directions given by the Commissioner of Police”.*

A further legislative amendment needs to be made to the *Inebriates Act* so as to grant Police the power to confiscate and dispose of all liquor or spirits of intoxication in possession of public inebriates and minors (in areas that are not limited to only alcohol-free zones).

As per the Police Association of NSW’s Alcohol Summit 2003, Discussion Paper:

“Police officers should have the **right to confiscate and dispose of liquor** in the possession of persons they believe are already intoxicated and they believe will probably be involved in an alcohol-related harm incident in that drinking period”.

#### **Recommendation 9**

***The Police Association recommends the Act be amended to grant Police the power to confiscate and dispose of all liquor or spirits of intoxication in possession of public inebriates and minors.***

#### **Legislative Amendment to include ‘Excluded Persons’**

A senior officer of the Police Service has suggested as a possible solution, a legislative amendment in the form of an inclusion of ‘Excluded Persons’.

Presently, the NSW Liquor Act provides for it to be an offence to sell or supply liquor to a person under the age of 18 years. Although it does provide for penalties for those who possess the liquor under the age of 18 years, the more serious penalties and business implications lie with those who supply the liquor i.e. the licensees and liquor outlets.

At present, licensees and their servants may only refuse service to a person who is “violent, intoxicated, quarrelsome or disorderly”. As many habitually intoxicated persons do not meet these provisions first thing in the morning when they purchase their liquor, the sale takes place and the problems as described already in some depth, tend to take place later in the day.

Provisions exist to stop persons supplying liquor to under 18’s either directly or through a ‘third person’. This officer proposes the development of a further

category of an 'excluded person' to be added to this section of the Act, creating an offence for these persons to possess or consume liquor and hence placing an onus on liquor suppliers to not supply to these persons.

An offence of 'supply of spirit of intoxication' such as methylated spirits to an excluded person could also be created, making these types of substances 'restricted' and not on counter display. This already takes place in many rural areas where merchants have cooperated with local Police. Similar precedents exist where spray cans have been removed from open sale and knives are not sold to persons aged less than 18 years in general stores. Anecdotally, the majority of the purchases for both discount volume liquor and also 'spirits of intoxication' are made in major discount supermarket chains such as Coles or Woolworths. Gaining the support of these organisations as in their support of the knife legislation would be crucial to the success of these initiatives.

The officer anticipates that there will be difficulties enforcing this type of legislation, but points out that at the present time, there exists no mechanism for Police to stop liquor suppliers from selling alcohol to habitually intoxicated persons.

*"There needs to be a clear impediment and deterrent for these persons to gain access to alcohol as they cannot help themselves and thus should have the right to obtain alcohol removed from them".*

At the very least, he envisages that it may make it more difficult for these people to obtain alcohol and once they overcome the 'lifestyle addiction' of alcohol, it may lead them into long-term changes and diversions from their current behaviour and lifestyle. It is clear that the social problems for the whole community will only increase, particularly in inner city areas and places such as Aboriginal missions should something not be done to limit the supply of alcohol in these communities. One way to do that is to squarely place the onus of supply on the liquor suppliers.

Again using the Portland experience as an example, the Portland State Liquor Control Commission and local Police worked with downtown merchants who sold low-cost, high-alcohol wine and beer to remove such liquor from store shelves. The city of Portland has imposed restrictions on the sale of fortified wine since 1986 and on large-size containers of malt beverages since 1993. Although the restrictions have reportedly resulted in some dispersal of the problem (i.e. to other areas), the program manager of the City's Liquor Licenses and Regulatory Permits division said they have reduced the incidence of alcohol-related problems within certain problem areas. (In Washington, the Liquor Control Board has negotiated restrictions with individual retailers within designated "impact areas").

### **Recommendation 10**

***The Association recommends that consideration be given to the legislative inclusion of 'Excluded Persons'. This amendment thereby makes it an offence for these persons to possess or consume liquor, hence placing the onus of supply on the liquor suppliers.***

### **Recommendation 11**

***The Association recommends cooperation between major discount supermarket chains and the Police Service to remove from counter display the sale of methylated spirits in an effort to make it more difficult for inebriates to obtain alcohol.***

### **Conclusion**

Urgent attention must be directed by the government toward improving the condition of life for the scores of public inebriates who inhabit the cities and country towns of New South Wales, and for the communities who live with the social consequences caused by homelessness and public drinking and drugging behaviour. The starting point of change must involve several amendments being made to legislation. The *Inebriates Act 1912* in its current state acts as an empty shell, not making available to either Police or family members of inebriates, any suitable means of providing treatment to those persons who desperately require it. The opportunity costs of police resources being used to deal with public inebriates must also be considered, as resources that are being tied up with these individuals are being diverted from handling more serious criminals. The Police Service is not equipped for any role other than to provide a very short term solution for alcoholics by detaining them for their own safety (or the public's) for a period not exceeding eight hours. Police are not qualified to render suitable assistance to an individual who is suffering the effects of excessive alcohol consumption, nor should they, as that is a job that should be left to trained medical and welfare professionals.



### Example 1

One officer's involvement with the *Inebriates Act* was limited to a singular experience, approximately two years ago. This situation involved an 85-year-old lady at Castle Hill. The woman had an alcoholic son in his fifties who couldn't or wouldn't work, was constantly drinking and who would defecate throughout the house. The mother tried everything to have him removed from the house. Her efforts included asking him to leave; directing him to leave and eventually in desperation, seeking help from her doctor. It was the doctor who then contacted local police, asking for their assistance with eventual action taken under the *Inebriates Act*.

A summons was served on the inebriate. He turned up at Court on the day and a request was made that he be placed in a special ward at Cumberland Hospital. Unfortunately, there was no position available to take him and he had to volunteer to go – he could not be forced to go against his will.

As there were no positions available at Cumberland Hospital or any other similar hospitals, the officer involved made inquiries with the Salvation Army and Matthew Talbot Hostel. The Salvos informed the officer that they would take the inebriate, but again it had to be on a voluntary basis and he would have to make his own way there, or alternatively be conveyed by Police.

The officer attempted to talk the inebriate into attending the Salvation Army but was met with staunch refusal. In the end, he stayed at home with his mother.

### Example 2

A 34-year-old female from Sydney has suffered from alcoholism for the past 10 years. Her parents have recently purchased a 'weekender' on the outskirts of Goulburn and in an attempt to provide her with alternative accommodation away from the influence of her peers, have encouraged her to stay at the residence for extended periods. As a result of this, she has come under notice of Police on numerous occasions for minor offences and intoxication. About three months ago, Police placed the woman on bail conditions, one condition of which was "not to consume alcohol". Several weeks later she was

arrested for “trespass” and was subsequently charged with the matter of “breach of bail” as she was intoxicated.

At Court the following day, she was accompanied by her father who spoke with Police at length of the on-going problems, indicating that he was at “wit’s end” about what could be done. He explained to Police that his daughter had been on various programs relating to detoxification with little or no success. He stated that the reason for this was that there was no compulsion to stay on these programs – people were free to leave whenever they wished.

At Court, the issue was raised with the Prosecutor and the Magistrate. The Magistrate indicated that he was not able to refuse bail on the matter of trespass as it was in a summary jurisdiction. In this situation, he was unable to recommend treatment whilst in custody as a custodial sentence was not an option. He was very sympathetic to the needs of the woman and her father. The matter was adjourned over night with the offender in custody for the ‘breach of bail’. This alone was contrary to the legislation and was done by the Magistrate in an effort to make alternative arrangements.

That afternoon, the offender was admitted to Hospital after complaining of chest pains. She was diagnosed with an ongoing heart problem, which necessitated her being in Hospital for in excess of a week. During this time, she was also given medication to relieve the symptoms of alcoholism. Upon returning to Court, the offender presented a completely different person and subsequently, was released without conviction. She is currently residing in Sydney.

### Example 3

Approximately 4 months ago, the principal ‘offender’ of a group of inebriates from Goulburn Local Area Command was seriously injured in a fall as a direct result of his intoxication. He was admitted to Hospital and was transferred to Sydney for further treatment. He remained in Hospital for 8 weeks prior to his release, during which time he was unable to obtain alcohol and was treated for his dependency as well as his other injuries. Upon his release, he returned to Goulburn and lived for some time with family, where he had a support mechanism and was able to be kept from associating with the remaining members of the group. Recently, he recommenced his previous associations and has since returned to his old ways. He is no longer residing with family, which means there is now no support mechanism in place for him to fall back on.