

Thursday, November 20, 2003



*Centacare*

The Chairperson  
Standing Committee on Social Issues  
Legislative Council Parliament of New South Wales

Dear Ms. Burnswoods,

Please find attached a submission from Centacare Sydney to the

**INQUIRY INTO THE *INEBRIATES ACT 1912***

This Agency appreciates the opportunity to make a contribution to the inquiry. It wishes the committee every success in its deliberations on this matter which is particularly timely in relation to the recommendations of the recent New South Wales Alcohol Summit.

Yours sincerely,

Father John Usher  
Director



*Centacare*

**SUBMISSION TO  
THE STANDING COMMITTEE ON SOCIAL ISSUES  
LEGISLATIVE COUNCIL  
PARLIAMENT OF NEW SOUTH WALES**

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

**November 2003**

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## **INTRODUCTION**

The Catholic Archdiocese of Sydney, through Centacare, Catholic Community Services, offers a large range of programs to individuals and families in the city, inner Western and South Western areas of the city of Sydney. Included in these are Family Relationships Programs, Family Support Services, Financial Counselling, Men and Family Relationships. Alcoholism and substance abuse are often factors to be taken into account in service delivery to such clients.

Centacare also auspices the Holyoake program for addiction which is based on group education, therapy and support for people and children affected by someone else's drinking, drug taking or other addictive behaviour. Though not applicable to all circumstances, the Holyoake model of voluntary and supported intervention in a community and family setting is quite at variance with the provisions of the current *Inebriates Act*. As detailed in our submission to the New South Wales Alcohol Summit, such a model of service argues for increased recognition of and support for family-type systems issues in the prevention, harm minimisation and treatment of alcoholism.

## **THE *INEBRIATES ACT* AND THE PROVISION OF COMPULSORY ASSESSMENT AND TREATMENT UNDER THE ACT**

This submission strongly endorses the proposals of two peak bodies of which Centacare is a member agency, the New South Wales Council of Social Service (NCOSS) and the Network of Alcohol and other Drug Agencies (NADA).

The ninety-one year history of the Act shows clearly that both in scope and in operation, the legislation has proved to be inadequate. It has offered essentially only one model of intervention and has been applied almost universally to unemployed and indigenous men. At times, it has operated as a mechanism of social control rather than for the benefit of the inebriate and there have been several significant and well-documented attempts to have the legislation repealed, the most recent of which was by the then Minister of Health, the Hon. John Hannaford MLC in 1991.

The Act in its present form has four unacceptable characteristics:

- Firstly, it is essentially coercive, applying legal compulsion to issues of health and wellbeing, and vesting that compulsion in a legal rather than a medical judgment.

- In its application, there is reliance on police and detention, as was duly noted in the communique from the Alcohol Summit, (sections 8.60, 8.61). Intoxification is related to health, not to criminal activity, and staff of police cells or detention centres are certainly not trained to care for the health of people who are inebriated or in the process of detoxification.
- The Act has been proved to discriminate unfairly against men who are unemployed and in receipt of social security benefits. Indigenous men have also been strongly overrepresented.
- Application of the Act has resulted in the isolation of people in institutional care, when evidence suggests that intoxication is best managed in most instances in one's family and community setting. That is a particular conviction of all who are associated with the Holyoake Program

Centacare supports the position of the New South Wales Council of Social Service :

that the Inebriates Act 1912 be repealed as:

- The Act offers little benefit to the community or to those individuals who are chronically substance dependent
- The Act treats intoxication as a criminal rather than a health issue;
- Most of the provisions of the Act are rarely used;
- There are no appropriate facilities which can provide a secure environment as called for by the Act;
- The Act is used in a discriminatory manner – primarily against unemployed Aboriginal males
- The Act infringes the civil rights of individuals without providing appropriate checks and balances;
- The Act cannot be amended in a way which would allow it to be consistent with current legislation or practice

(NCOSS, **Submission to Legislative Council**, pp. 13,14)

## **COMPULSORY TREATMENT**

Though compulsory assessment and treatment is strongly opposed as a general strategy, it is accepted that in some cases it may be necessary, in the best interests of the individual.

Under the current Act, a magistrate makes all decisions leading to an order for treatment or variations to such an order. New South Wales legislation contains no clinically acceptable definition of intoxication, as was recognised in the Alcohol Summit Communique (Sections 8.1, 8.2). But beyond the definition of

intoxification, there is need for some agreed framework of assessment criteria to be used before an Order is made. Such assessment needs to be periodic and ongoing, not just summary at the time an order is made. Competent medical and health practitioners should be responsible for both the initial and the periodic assessments.

It is also clear that successful movement from a model of detention towards a more individualised range of health services is a critical challenge to Government and the community. Expanded services for intoxicated persons should be an urgent priority, especially where such services are non-existent, as in rural or remote areas of the State, or in inner city regions where existing services are inadequate.

## **A WHOLE PERSON PERSPECTIVE**

The risk is that alcoholism and drug addiction be seen as a series of problems for the community, divorced from persons with human dignity and rights. There are legal issues, medical and health issues, psychiatric and mental health dilemmas to be considered. But they exist within a human being with a more or less defined set of social relationships and it is the contention of the social welfare sector that the sole unifying perspective is that of respect for and care of all people regardless of circumstance.

It is particularly when persons present with dual or multiple diagnosis that a whole person perspective needs to be taken. Such an approach will question whether people with alcohol problems should be placed in psychiatric wards of hospitals. It will demand that detoxification be carried out under medical supervision. It will insist that detoxification is not an end in itself, but rather stage one of a much more difficult and long-term process. It will question whether treatment is best delivered in an institutional residential setting. Most of all, it will seek to associate the person with the alcohol or drug addiction with a broader context of intervention, therapy, counselling and support.

## **CONCLUSION**

Appropriate outcomes for people with problems of alcohol or other drug addictions cannot be achieved under the *Inebriates Act 1912*. In terms of current health and social welfare experience, the Act should be repealed.

The *Intoxicated Persons Act 1979* can provide an appropriate legislative mechanism, provided that it be significantly amended to include:

- Acceptable definition of intoxication

- Rigorous clinical and medical assessment, both initially and in an ongoing manner.
- Strictly defined terms and conditions of detention. This includes the place and nature of a detention facility.
- Independent visitors to ensure the rights and wellbeing of people who are in compulsory treatment.

In the final analysis, though New South Wales currently provides more than \$200 million dollars for alcohol and drug problems, it is clear that a significant increase and redirection of funding is necessary, as was recognised in the recommendations of Section 4 of the Alcohol Summit Communique. Without such a resource commitment, legislative review and change will achieve very little.