

Your Honour,

I submit that the current policies have created the perfect storm for street violence.

There must be a very careful focus on 'Street Policing' policies in this review to understand why incidents of violence inside licensed premises has decreased significantly whilst street violence has continued to be a very significant problem.

In fact, I would submit that if Licensed Venues used the same policies in their venues that Police use on the streets there would have been an increase in violence inside their venues. As an example if a Licensee used the ridiculous move on policy to tell an aggressive patron to move to another part of the venue where he can't be seen by the Licensee anymore, what would you expect the outcome to be? This is exactly what Police are currently doing in NSW.

I have been working directly with street violence and anti-social behaviour for the last 32 years.

- I joined the NSW Police Force in 1984 and worked predominantly in the CBD.
- I resigned from the NSW Police in 1989 and started Sussex Security and Pailou Bar in Chinatown Sydney.
- I established Stonewall Hotel in Oxford Street Darlinghurst in 1994 and have owned and operated it until now.
- I work on the front door of Stonewall Hotel as a Security Officer.
- I commenced a Security Risk Management consulting business, Corporate Protection Services from 1999 until now.
- I am a workplace trainer and assessor and deliver conflict resolution training to many licenced venues.
- I am currently a licensed Security Consultant and provide 'Expert Reports' to the Supreme and District Courts of N.S.W, Victoria and the A.C.T in the area of Policing, Security and Licensed Premises operations.

During my service in General Duties we were encouraged by our leaders to 'get out there and bring back some bodies'. We were taught that if we controlled the streets we controlled street crime and violence. I can remember literally hunting for aggressive and anti-social drunks on the streets and if they were assessed as too high a risk to the public they were taken into custody via the Intoxicated Persons Act and detained at Central Police Station cells.

If they committed an offence under the Offences in Public Places Act they were arrested and taken to the Police Station and charged with that offence, placed into a Police cell whilst they were finger printed, photographed and provide a sample of their handwriting. They were then kept in the cell until they sobered up and were bailed to appear in Court at a later date. This process took these high risk persons off the street for a number of hours and protected the public from being victimized by violent or anti-social behaviour.

This process reinforced what was acceptable behaviour and established street credibility for the Police. It defined 'Street Policing Culture'. There was a very clear understanding of what the consequence was for alcohol related anti-social or aggressive behaviour. Placing these people into custody from the time that they were arrested or detained until they were processed and released was a 'real' control measure that protected the public from these offenders, as apposed to 'Move On Directions' or 'On the Spot Fines' of today.

During my Police service, Hoteliers and Nightclub operators did not fear calling the Police if they needed assistance. It was generally held that it was better for the Police to attend and deal with the person causing the issue then inflicting this person onto the unsuspecting public. This was considered as a responsible Licensee operating in the best interest of the public and maintaining the good and quiet order of the neighbourhood by co-operating with Police.

Unfortunately, this issue has been hijacked by the 'Social Progressives and Academics' of our society who have caused significant Legislative and Policy changes to Licensed Premises operations and Policing resulting in a 'Perfect Storm' for 'Street Violence' and 'Alcohol Related Anti-Social' behaviour.

The existing policies have created a massive disincentive for Licensees and Police to work together. The policies have created an environment for both Licensees and Police to under report issues of violence. It is far better for a Licensee's business if he/she removes a violent person from their premises and not report it to Police. It is better for Police not to receive a report because then crime appears to be reducing in their area.

Meanwhile high risk persons are roaming the streets and preying upon unsuspecting members of the public.

### **List of Policy and Legislation Changes that have impacted adversely on Street Policing**

1. Royal Commission into Deaths in Custody 1987 determined that custody of intoxicated persons increased the risk of death whilst in custody. As a result, Police have been directed not to use the Intoxicated Persons Act and avoid taking intoxicated persons into custody.
2. The Intoxicated Persons Act. The policy was changed to where possible use the Move On Direction, if custody is required take the person to a Proclaimed Place other than a Police Station, if they are all full call a responsible adult to take custody of them or failing all of the above drive the intoxicated person home. All of the above options are generally not practical for a range of reasons so the outcome is that Police in 99% of occasions use the Move On Direction even though it is clearly inappropriate. In recent times the Sobering Up Rooms (which are the old Central Police Station Cells) were established to use for Intoxicated persons, however are never full. Yet we have a problem with Alcohol Related Anti-Social Behaviour. This demonstrates the change in Police culture from arrest and detain to move on and disperse.
3. Police powers of arrest were changed from Section 352 of the Crimes Act 1900 to the Law Enforcement (Powers and Responsibility) Act 2002 (LEPRA). This significantly changed the culture of the NSW Police force from arresting people if you had

reasonable cause to suspect (Crimes Act), to using the means of least resistance to the offender under LEPPRA. This has dramatically reduced the effectiveness of 'Street Policing' as is evident from the complete surrender of the Police Leadership in admitting that Lockout legislation was required because they could not control the streets with their existing legislation and policies.

4. Move On Directions and On The Spot Fines have destroyed the street credibility of NSW Police officers when dealing with intoxicated aggressive anti-social individuals. The issuing of an 'On The Spot Fine' or a 'Move On Direction' is not a control measure that can in anyway protect the public from these people as was demonstrated tragically when Kieran Luveridge was issued an 'On The Spot fine' for Offensive Behaviour in Kings Cross and then Moved On. He was free to assault and kill Thomas Kelly. This is an outrage and should have brought about an immediate change in policy. 'On The Spot' fines do not resonate with these individuals at the time and therefore do not change their behaviour at that time. In fact, they may cause their demeanour to deteriorate further. In particular Move On Directions are so ridiculous as a control measure that I'm surprised that any competent Law Enforcement professional is prepared to defend them as a worthwhile control measure.
5. The Richmond Report into the Mental Health sector has removed another tool which Police used to manage violent people on the streets who appeared to be suffering from a mental illness. Under schedule 8 of the Mental Health Act Police had the power to take these people into custody and transport them to a Mental Health Hospital to be assessed. Once again this tool has been taken away from Police so again they use the totally inappropriate 'Move On Direction' to deal with the mentally ill.
6. The Sobering Up Rooms have been a complete failure. The Police are not using them. They only operate during restricted hours and Police are only allowed to take persons from designated areas of the City. In addition, Police Officers have told me that they are not allowed to take aggressive drunks there because they have to be assessed by a Nurse and they cannot place the safety of the Nurse at risk. So therefore they leave the aggressive drunks on the street and 'Move them On'.

#### **List of Legislation and Policies which punish Licensees for reporting**

1. Declared Premises Legislation which imposes trading restrictions on Licensed Premises for assaults committed on their premises regardless of their size or number of patrons at the venue. This Legislation provides a massive disincentive to report incidents to Police or co-operate with Police in the interest of community safety. It encourages unprofessional Licensees to allow the offenders to avoid apprehension and convince victims not to report the crime. The legislation only allows for demerit points against a Licensee and does not provide any capacity to reward a responsible Licensee with credit points for managing an incident professionally.
2. The Three Strikes Legislation has the same impact on Licensees as the Declared Premises Legislation. There must be a system of credit points to reward professional Licensees who are focused on maintaining the good and quiet nature of their neighbourhoods. This would allow for a more accurate assessment of a Licensee or Licensed Premises.

## **Responsible Service of Alcohol Legislation**

I submit that the Responsible Service of Alcohol Legislation should be retained as it is an effective tool for Licensees to manage their venues. However, it must be recognised that no one can identify or predict when a person will become intoxicated. They are intoxicated once they show physical signs and until then you have no way of determining when they will become intoxicated during responsible consumption.

## **Pre-loading or Pre-fueling**

Pre-loading or pre-fueling is a massive problem and can only be addressed in the public. Many younger people use public transport, including buses, trains, ferries, taxis and uber cars. Many of them continue to load up on cheap alcohol whilst in transit. In addition, they will often use a nearby park or will drink as they walk towards their venue of choice. It may be time to make it an offence to drink whilst using public transport, Parks or in the street. As this would break the drinking time and allow for the alcohol to take effect before they attempt to enter licensed premises.

## **A Review of Police Actions re Thomas Kelly's Death**

A thorough and frank review must be conducted of Thomas Kelly's death, because if my information is correct it demonstrated a complete failure of existing Police policy.

It has been alleged to me that Kieran Loveridge was refused entry by four separate venues in Kings Cross because the security officers at each venue recognized that he was drunk and too aggressive to allow into their venues. He assaulted a number of people on the street until Police intervened. Because of their policies when handling drunks they issued him an on the spot fine for Offensive Behaviour and moved him on. Subsequently he then assaulted and killed Thomas Kelly. In my opinion under the previous policies he would have been detained as an intoxicated person at the first interaction and Thomas Kelly would be alive today.

## **Recommendations**

The first step is to conduct a Protective Security Risk Assessment in relation to the risk of Intoxicated Persons behaving in an aggressive and harassing manner towards others with a risk of violence occurring in 'Late Night Entertainment Precincts'.

A range of control measures would be developed in an attempt to eliminate the risk or reduce it to its lowest possible level.

I suggest these control measures would include;

Law Enforcement Agencies continuing to enforce compliance with the Liquor Act and Responsible Service of Alcohol legislation.

Create a credit system in the Declared Premises and Three Strikes Legislation to be awarded to Licensees who manage incidents professionally to allow for an accurate assessment of their operation and its impact on the amenity of the neighbourhood.

The development and application of technologies which operate on the exception as apposed to the rule. For example using 'On Body Cameras' and Apps like Whatsapp to video trouble makers and circulate to neighbouring venues and Police to identify the trouble maker to all stakeholders.

Police must be given back the tools to protect the public effectively.

- Allow the Police to use the Intoxicated Persons Act to detain aggressive drunks in the Police Cells as the first option rather than the last.
- Allow the Police to arrest and charge all offenders involved in street offences where alcohol is a factor.
- Allow offenders to be given Bail once they are sober and not before.
- Give Police the power to arrest for drinking alcohol on public transport, in Parks or in any street after 8pm.
- Allow Police to arrest people drinking alcohol in designated 'Alcohol Free Zones'.



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### **ATTACHMENTS**

1. The Oxford Street Security Initiative that was abandon by NSW Police.
2. The Kings Cross Shared Radio Network which was abandon by NSW Police.