PUBLIC DRUNKENNESS

DECRIMINALIZATION AND THE EXERCISE OF POLICE DISCRETION IN THE NORTHERN TERRITORY

by

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PREFACE

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INTRODUCTION

In 1974,following trends within Australia and overseas, the Northern Territory Government legislated to decriminalize the offence of public drunkenness, but did so without providing an alternative system to cope with the serious drunkenness problem that existed there. In the result, very little changed for either the drunk or the police under the decriminalized provisions except that the apprehended person was subject to the exercise of a broad police discretion and had lost protections which he had enjoyed under the criminal provisions. This discretion was broadened even further by an amendment to the legislation in 1983 which again provided that simple drunkenness could be grounds for apprehension and detention. Despite the rhetoric of decriminalization it seemed that the public drunk was now in a worse situation than he had been prior to 1974.

In July, 1983, however, the Northern Territory's first sobering-up facility was established in Darwin. This centre provides an alternative means of dealing with drunks and has the potential to achieve some of the objectives of decriminalization. Experience overseas would indicate, however, that upon the implementation of such a scheme, the number of apprehensions by police will drop and alternative dispositions not in accord with policy will be adopted. This means that not only is there the possibility of drunks being ignored by police and left in the street, but also that if they are apprehended,there is a likelihood of continued disposal to the police cells regardless of official instructions or policy. The recognition of disincentives to continued police

co-operation within such a scheme must be recognised so that steps may be taken to avoid a repetition of that situation in Darwin.

Chapter One

DECRIMINALIZATION

Historical Aspects

If the history of the administration of criminal justice systems in Western Europe is examined, it is possible broadly to identify factors which have contributed to the recent and current trends toward general decriminalization of "victimless" crimes and those described as of a moral nature only. The criminal justice systems of the European countries were originally influenced by the then prevailing liberal and utilitarian views of society. Within these perspectives, where a man deliberately committed a crime of his own free will, he was adjudged to have intentionally contravened a provision which had been formulated to enable the effective exercise of free will by all members of that society. This being so, he was thought to be personally responsible for his actions and subject to the criminal sanctions of the law.(1) As the prevailing philosophies and perceptions of society changed, so did the appropriateness of existing criminal sanctions. Thus, during the Enlightenment period which marked the coming of the scientific and industrial revolutions, some of the existing penal provisions were seen to be incompatible with a rational concept of society. With the development of the social and medical sciences, behaviour previously considered solely within the province of the criminal law came to be seen as, perhaps, having a root in areas removed from the individual's control. This being so, punishment coupled with treatment was identified as a necessary recourse for society. With the advent of the 1960's, a new liberal impulse was felt around the world, being manifested in the debate upon such issues

as abortion, homosexuality and other offences of a moral character. An attitude of tolerance developed and, at the same time, there was a recognition of the stigmatizing effect of the enforcement of criminal laws. There was also a recognition of the practical difficulties caused by the overloading of the criminal justice system caused by the enforcement of such victimless and trivial offences. Such overloading diverted resources from much more serious problems.(2)

Modern Argument

> "...the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant."(3)

It is in regard to criminal laws which do not approach this ideal of J.S.Mill and encroach upon "victimless" crimes, or which relate to activities which are only of a morally offensive character, that the recent trends toward decriminalization have been directed. It is argued by Kadish,(4) et al, whose discussion centres on the "crimes" of extra-marital and abnormal sexual intercourse, that the traditional function of the criminal law is "to curtail socially threatening behaviour through the threat of punishment and the incapacitation and rehabilitation of offenders". This function, he asserts, is not being accomplished

when a law is retained which is not enforced and only appears on the statutes for the purpose of salving our collective moral conscience. Such laws are seen by Kadish to be positively harmful in that conduct is seen to be condemned in words only; the will of the legislature is perceived to be of no practical importance; laws intended to promote security in fact promote the reverse by holding the threat of prosecution over those it is not intended to prosecute; and, discriminatory enforcement is invited.(5) In addition, Kadish cites the degradation of the image of law enforcement, the tendency to discriminatory enforcement against the poor, opportunities for official corruption, the encouragement of illegal means of law enforcement and the diversion of police resources as additional disadvantages. It is readily apparent that not all of the disadvantages cited would apply to the criminalization of public drunkenness, not least because the law in that regard has been enforced with some vigour. Morris and Hawkins have also examined the disadvantages flowing from enforcement of such offences and have added to the list of victimless or moral crimes, those of gambling, drunkenness and narcotics abuse.(6) They also see the enforcement of such laws as "improper, impolitic, and usually socially harmful".(7) The prime function, they assert, of the criminal law is the protection of person and property. Any extension of this function into areas of private morality is not only criminogenic and ineffective, but also costly.(8) It is concern with these three disadvantages cited by Morris and Hawkins that is consistently echoed throughout discussion of the issue.(9)

As has already been mentioned, not all of the disadvantageous factors cited above are applicable to the inclusion of the public

drunkenness offence within the criminal law. The major disadvantages present with reference to this behaviour are the cost of handling such offenders, the burden placed upon the criminal justice system and the lack of deterrent effect of such inclusion.(10) It could be added that there is also present the opportunity for discriminatory enforcement. Thus,in 1968 the United States Congress declared that:

> The handling of chronic alcoholics within the system of criminal justice perpetuates and aggravates the broad problem of alcoholism, whereas treating it as a health problem permits early detection and prevention of alcoholism and effective treatment and rehabilitation, relieves police and other law enforcement agencies of an inappropriate burden that impedes their important work, and better serves the interests of the public. (11)

It was this concern with the load placed upon the criminal justice system that provided the motivating force for the establishment of the first non-criminal sobering-up facilities in Prague in 1951 and in Warsaw in 1956.(12) It was this same concern coupled with notions of decriminalizing victimless crimes and acceptance of drunkenness as an illness which led to further inquiry in many jurisdictions into the human and financial cost of the existing treatment of public drunkenness under the criminal justice system.(13)

One objection to the inclusion of such behaviour within the criminal justice system is, as mentioned by Kadish, that the offence attaches to status rather that behaviour. It bears upon the least affluent members of any community.(14) This was recognised by the Deputy Commissioner of the New South Wales

Police Department in a letter he wrote to the Commissioner for Law and Poverty when he stated that persons arrested for drunkenness are almost invariably "homeless, unemployed and penniless".(15) Indeed, the Second Main Report of the Commission of Inquiry into Poverty determined that the drunkenness provisions of the criminal law do bear most heavily upon the poorest and most vulnerable groups in the community, those who lack the resources to shield their intoxication from police scrutiny.(16) That this was also the case in the Northern Territory was recognised in the Report on Restructuring the Criminal Justice System in the Northern Territory-the "Hawkins-Misner Report".(17) In that Report it was asserted that the reason for high aboriginal detention rates under the then existing public drunkenness legislation could be explained by reference to their greater degree of conspicuous drunkenness caused by their inability to drink in their homes and also by their lack of private transport to get there if they had one.(18) It could be added from observation that many publicans manage to exclude aboriginals from their premises by use of dress regulations thereby forcing the aboriginal to drink in open public places.

A second objection to the criminal treatment of public drunkenness offenders is, as detailed earlier, that the offence and its inherent penalties have no significant deterrent or rehabilitative effect.(19) Indeed, it has been asserted that enforcement of such provisions reinforces deviant behaviour.(20) It has been recognised that the very process of enforcing the public drunkenness laws could lead the offender deeper into the realms of criminality, for often during the process of arrest further charges such as resisting arrest, assaulting police and use of

offensive language follow. Thus, if the original arrest had not been made, the other charges would not have followed.(21)

As mentioned earlier,one basis for the decriminalization of public drunkenness rests upon the financial costs of dealing with such behaviour within the criminal justice system. Use of this system impinges heavily upon the available police, court and prison resources when these could be better used for more important tasks.(22) This is a universal problem and forms a very practical motivating factor towards decriminalization. In the United States it was estimated that one in every three arrests in that country was for the offence of "public drunkenness".(23) Prior to "decriminalization" in the Northern Territory similar claims could be made. In 1973 one person in every fourteen in the Northern Territory was charged with a drunkenness offence compared with an average of one in every twenty eight nationally or one in seventy in the United Kingdom. In that same year, forty percent of all convictions in the Northern Territory Magistrates Courts were for public drunkenness.(24)

In 1974, the Hawkins-Misner Report and its recognition of such factors was able to exert an influence which, together with recommendations contained in another report (25), moved the Northern Territory Government to legislate for the decriminalization of the existing public drunkenness legislation. This Report recognised the failure "from every perspective - medical, economic, humanitarian and legal" of the criminal justice system to cope with the public drunkenness problem in the Northern Territory. It also recognised the discriminatory nature of the legislation as discussed above.(26) Debates on the reforming

legislation recognised that simple drunkenness was, by nature, a social or medical problem not fitted to the strictures and compulsions of the criminal justice system.(27)

The legislature then embarked upon its process of decriminalization, a process that for nine years could be seen as decriminalization in name only, a process that only now is beginning to achieve its objectives.

Chapter Two

THE PROCESS OF DECRIMINALIZATION

With the passage of legislation in 1974, the Northern Territory Government attempted to respond to that Territory's drunkenness problem in a more rational and compassionate manner then had been attempted in the past. The existing criminal provisions were replaced with legislation which enabled the retention of public drunks in protective custody in certain situations. With minor amendment, the same provisions continued until 1983 when the legislation was changed so that simple public drunkenness was sufficient to allow apprehension by the police. That same legislation was, however, sufficiently flexible to enable the introduction of an alternative to incarceration without further change. It is in this latter development that the ideals of decriminalization have been more closely approached.

Apprehension under the Criminal Provisions

Prior to October, 1974, it was provided by s.46 of the Police and Police Offences Ordinance 1923, as amended,that any person found drunk in a public place was liable to a fine or imprisonment with subsequent offences attracting a greater penalty. Section 56(1)(f) of the Ordinance provided that if a person was convicted under the above section four or more times within a period of twelve months, then he was deemed an habitual drunkard and subject to a term of imprisonment of two months.(1) When arrested under the firstmentioned provision, a person was usually held in custody for a period dependent upon his level of intoxication. When sober, he was bailed if not considered an habitual drunkard. This police bail was usually forfeited because of non-appearance at court.(1)

The First Stage of Decriminalization

On 21 October 1974, this Ordinance was amended. Sections 46 and 56(1)(f) were repealed and drunkenness *per se* was no longer considered an offence. Instead, s.33A of the *Police and Police Offences Ordinance* now provided that a member of the Police Force could apprehend and take into custody any person whom he reasonably believed to be so drunk as to be incapable of having proper control of himself where apprehension was seen as necessary for his own or another's safety or welfare.(2) The amendment further provided for the detained person's release as soon as the above grounds no longer existed. If this period continued beyond a period of six hours, the drunken person had to be taken before a Justice of the Peace for detention to continue.(3)

The Second Stage

In 1976 s.33A was amended (4) so that where a member of the Police Force now had cause to believe a person was intoxicated and that person was in a public place or trespassing on private property and because of his condition was within one of eight categories listed under s.33A(1)(b), then that member could take that person into custody. Broadly, before being apprehended it was required that the drunk be likely to commit an offence, intimidate, alarm or cause annoyance to another, expose himself to having an offence committed against him, disrupt the privacy of another or be unable to care for himself. Further, s.33A(3B) provided that the member in whose custody the drunk was held could release him into the care of another. It was this provision which was later used to facilitate the use of "sobering-up" centres.

In 1979 the provisions contained in s.33A were transferred to s.128 of the Police Administration Act 1978. Section 131(1) of that Act provided for the release of the drunk into the custody of another as detailed above and s.131(2) prevented such release if the drunk objected to it.

The Third Phase

In 1983 the Police Adminstration Amendment Act 1983 repealed s.128(1) of the Police Administration Act 1978,thereby removing the legislative guidelines mentioned above. The two criteria for apprehension under s.128 are now the possession of reasonable grounds for belief on the part of the apprehending member that a person is intoxicated and that that person is in a public place or trespassing on private property. The Act now provides a definition of 'intoxicated'(5) whereby a person is regarded as intoxicated if he is "seriously affected" apparently by alcohol or a drug.

The Current Phase

Since July, 1983, an alternative to the placement of drunks in the 'drunk tank' has been provided by a government-financed sobering up facility operated by the Salvation Army in a house close to the city. The major objective of the scheme is the provision of a supervised shelter on an overnight basis for those drunks who are normally accommodated in police cells after being apprehended under s.128 and who are assessed by police and shelter staff as being suitable for accommodation there. Once admitted to the shelter,these persons are then provided with a clean bed, shower and basic meal. Shelter 'clients' can be referred on a voluntary basis to treatment agencies where appropriate.(6)

The objective of this study is to examine each of the foregoing stages of development of the law relating to public drunkenness in the Northern Territory and, by so doing, decide if the objectives of decriminalization, upon which such legislation is premised, have been achieved. In relation to the current phase of development the prospects for success are discussed with particular emphasis upon the role of the police in the administration of the law. It is asserted that there are present within the current administrative system many disincentives to continued police involvement. Without attention to these factors, there is a real possibility that the potential of this development will never be achieved.

Chapter Three

METHODOLOGY

During the month of February, 1984, the writer travelled to both Darwin and Alice Springs with the objectives of observing the newly instituted scheme for the disposal of public drunkenness offenders in Darwin, to ascertain the existence of disincentives to continued police involvement within that scheme, to observe the exercise of police discretion in relation to such offenders and to observe the system used for apprehending public drunkenness offenders in Alice Springs.

A questionnaire, as appears at Appendix 'A' was prepared for circulation to all general duties police officers in Darwin at the patrol level. This would have assisted in the ascertainment of attitudes towards the scheme and the principal actors within it. However, upon inspection of the questionnaire, it was decided by the Police Commissioner that distribution would not be allowed as "public servants should not question government policy". A revised questionnaire in very basic form was agreed upon and appears at Appendix 'B'. This served to establish attitudes towards the scheme, priorities in enforcement, perception of the nature of the public drunkenness 'offender', existence of peer pressure and also gave valuable leads to areas of dissatisfaction with either the scheme or the shelter. In Darwin at that time were 60 policemen of the target group and there was a return of 42 completed questionnaires, representing a 70% response.

It was possible for the writer to confirm questionnaire response by personal interview. Twenty two general duties police officers

at street level were interviewed in Darwin and five in Alice Springs. At first each officer was very cautious in his response but after preliminary discussion and intervention by other officers who had known the writer during his period of service as an active police officer in the same police force, discussions became very frank. The officers interviewed were prepared to be critical of the system and of senior officers in their administration of the scheme. Factors in addition to those covered in the questionnaire were canvassed and others volunteered.

Direct observation of the scheme and the exercise of police discretion was made possible by accompanying police on patrol. Ten encounters with suspected public drunks were observed in Darwin and forty two in Alice Springs. In addition, one evening was spent observing in the police watchhouse and one evening in police communications.

Interviews were also conducted with senior officers in the police force, police of supervisory rank,staff of the police training school, shelter staff and the officers responsible for the operation of the pilot scheme attached to the Drug and Alcohol Bureau of the Department of Health.

Chapter Four

THE PROCESS OF DECRIMINALIZATION

APPREHENSION UNDER THE CRIMINAL PROVISIONS

Prior to the decriminalization of public drunkenness in 1974, section 46(1) of the Police and Police Offences Ordinance 1923, as amended, provided:

> Any person found drunk in any road, street, thoroughfare, or public place shall for the first offence be liable to a penalty not exceeding ten dollars, or to imprisonment for any period not exceeding fourteen days, and for any subsequent offence to a penalty not exceeding twenty dollars, or to imprisonment for any period not exceeding twenty eight days.

Further, s.56(1)(f) provided that:

> Any person who being an habitual drunkard, has been thrice convicted of drunkenness within the preceding twelve months...

is liable to a penalty of imprisonment for two months.

In practice, patrolling police whilst on normal duties would apprehend a drunk and convey him or her to the police watchhouse, normally, by caged van. There, the drunk would be admitted using normal admission routines including the taking of fingerprints. The drunk would then be placed in the 'drunk tank' - a large cell which formed part of the cell complex. His period of detention would normally depend on his level of intoxication but on reaching a suitable state of sobriety, he would be released on police bail

for a nominal amount, usually of two dollars, to appear in the Court of Summary Jurisdiction. This bail was usually forfeited because of the drunk's non-appearance in court and that was the end of the matter. If he did appear, however, he was normally fined a similar amount, two dollars.(1) The bulk of those appearing before the court were chronic homeless alcoholics without means of support who were not bailed by police. As the penalty was usually a monetary one, these 'offenders' often served short terms of imprisonment for non-payment of their fines(2). Very few persons were charged with the offence of being an habitual drunk under s.56(1)(f). In the year ending 30 June, 1973, for example, only 11 charges under that provision were laid.(3)

The apprehending officer did not normally attend court and was able to complete a pro-forma court brief which took little time,and which would normally be done whilst his prisoner was being processed at the watchhouse.

Prior to decriminalization the number of drunks apprehended by police throughout the Northern Territory were:(4)

year ending 30 June	Number
1971	6198
1972	6360
1973	6932
1974	8606

No statistical information is available which provides an estimate of the amount of police time expended per apprehension under the criminal provisions. It has been stated by the Northern Territory Police, however, that the average expenditure of police time per apprehension under the decriminalized provisions is twenty minutes. When it is realized that this figure relates to modified

admission and release procedures which place a slightly lesser burden upon police, it is apparent that considerable resources were needed to enforce this area of the criminal law. A corollary of this was that less time could be spent on other areas of police duties which may have been considered by some to be of greater importance.

Chapter Five

THE PROCESS OF DECRIMINALIZATION

THE INITIAL PHASE

As indicated by Giffen and Lambert there are "degrees" of decriminalization.(1) One could see the choices available as being on a continuum extending from the then existing criminal structure to the complete abolition of the drunkenness offence and withdrawal of the criminal justice machinery. This latter extreme would remove any role for the police, courts or prisons.

The minimum degree of decriminalization appears to be that adopted in Finland in 1969.(2) This involved a retention of the offence but removal of all later criminal procedures and penalties. Thus it was left to the police to continue to arrest the inebriate and simply to hold him until sober.(3) The most common form of decriminalization, however, is to retain the offence but allow the police to exercise a discretionary choice between options which may include the processing of the drunk through the criminal system as before, holding the drunk without charge until sober, conveying the drunk to a detoxification centre and not laying a charge, or so conveying him but laying a charge in some circumstances.(4)

When it was decided that drunkenness was to be decriminalized in the Northern Territory, a measure approximating the Finnish scheme was decided upon.

On 21 October 1974, the Police and Police Offences Ordinance 1923, was amended. Sections 46 and 56(1)(f) were repealed and

drunkenness per se was no longer considered an offence. Instead, s.33A of the Police and Police Offences Ordinance 1923, as amended, was inserted and provided:

> Where a member of the Police Force has reasonable grounds for believing that-
>
> (a) a person is in such a drunken condition as to be physically or mentally incapable of having proper control of himself; and
>
> (b) the apprehension of that person is necessary for the safety or welfare of that person or of any other person,
>
> the member of the Police Force may, without warrant, apprehend and take that person into custody.

Sub-sections (2) and (3) provided for the release of the detained person as soon as he was no longer in that condition.
Sub-section (5) provided for the continued detention of a drunk beyond the period of six hours if his condition so warranted:

> If, after a period of 6 hours after a person has been taken into custody under sub-section (1), it reasonably appears to the member of the Police Force in whose custody he is held that the grounds for the apprehension and taking into custody continue, the member of the Police Force shall bring the person, as soon as practicable, unless sooner released under sub-section (3), before a Justice.

Sub-section (6) provided for a Justice to make various orders on such appearance including those for the release or the continued

detention of that person but, in that case, only for as long as it reasonably appeared to the member of the police force that the grounds for such detention continued.

A supposed protection was given by s.33A(4) which provided:

> A person shall not be charged with an offence while he is in custody after apprehension under this section, but nothing in this section prevents a person from being apprehended and charged with an offence after his release from custody under this section.

Presumably this was designed to prevent the use of s.33A as a "holding" charge whereby police could keep a suspect in custody whilst further inquiries were being made. Any benefit this protection may have had was lost, however, because of the provision for apprehension and charging after release. It is not hard to imagine the temptation that this would provide to police given the fact that there is no need to prove the initial fact of drunkenness if the suspect is later released without further charges being laid. A major disadvantage of the legislation, therefore, is the lack of protection provided for the apprehended person in that as long as he was released within the period of six hours there was no appearance before any tribunal whereby the grounds for detention could be challenged. Perhaps when balanced with the anticipated advantages of the legislation this disadvantage could be accepted. As discussed below, however, an examination of the situation following decriminalization does not lead to any such conclusion.

As mentioned above, one of the primary reasons for

decriminalization was the saving of police resources. It is not possible to make a direct comparison of police resources expended per apprehension prior to and after the amendment as statistics for the average time expended per apprehension under the previous legislation are not available. It is asserted, on the basis of a comparison of procedures, that any savings were minimal. The apprehending police officer was still required to apprehend the drunk and transport him to the cells. The drunk was held in the police "drunk tank" as before and cared for by police watchhouse staff. The apprehending officer was still required to supply certain details regarding the apprehension. Before the amendment a "pro-forma" court brief was available in checklist form and it is doubtful whether measurable time was saved in this respect. Apprehending police were not required to attend court,as a normal rule, prior to the amending legislation and so police resources were not saved in this regard either. There is a further complicating factor. Prior to decriminalization the number of drunks apprehended by police throughout the Northern Territory were:(5)

year ending 30 June	Number
1971	6198
1972	6360
1973	6932
1974	8606

Figures for apprehensions after decriminalization in 1974 are not available for any year prior to 1979. However, a remarkable increase in drunkenness apprehensions is shown by these figures when available:(6)

Calendar Year	Number
1979	17766
1980	12736
1981	13969
1982	16217

The increase of 9160 between the years 1974 and 1979, as shown above, represents an increase in apprehensions of approximately 106%. During this same period the population of the Northern Territory increased by only 14667 or approximately 14.5%.(7) The increase in apprehensions cannot be explained on the basis of increased police strength, either, as during the same period police strength increased by 177 or 49%.(8) There was no ascertainable change in police patrol practices which related to drunkenness offenders. Thus, it can be asserted that given the possible slight saving, if any, of police resources per apprehension subsequent to decriminalization and the increased number of drunkenness apprehensions, overall more police resources were in fact devoted to the problem. When one recalls that an expenditure of twenty minutes of police time per drunk has been calculated, it is possible to appreciate the huge drain on police resources still present within the system.

This mentioned increase in the number of apprehensions is not a phenomenon peculiar to the Northern Territory. Daggett and Rolde (9), in their study of drunkenness detentions in Massachusetts after decriminalization also noted a paradoxical increase given the assumptions made upon decriminalization. They found that the protective custody provisions, similar to the initial form of Norther Territory decriminalized public drunkenness legislation, were used more frequently than the drunkenness arrests.(10) The

order of the increase there was 19%, somewhat less than that in the Northern Territory, but they also noted an increase of 27% in disorderly conduct charges. Such an increase, except for the first year after decriminalization, was not seen in the Northern Territory.(11) By 1977, the number of disorderly conduct arrests had dropped to well below the pre-decriminalization levels. The increase immediately after decriminalization could be explained by the peculiar social conditions present in the Northern Territory in the reconstruction period following cyclone "Tracy". Alternatively it may have been that the police were unsure of the protective custody provisions and reverted, as in Daggett's study, to the use of the disorderly behaviour charge. The subsequent fall in the number of arrests for this charge could be linked to the increase in the number of protective custody apprehensions but, unfortunately, statistics for such apprehensions were not kept in those years. Daggett found that the reason for such an increase in the number of drunkenness apprehensions was that police at street level found the protective custody provisions helpful in disposing of a situation which was not of such a serious nature as to make worthwhile the additional expenditure of time and effort involved in the preferring of other charges which would involve a court appearance. The provision enabled a police officer to defuse a heated situation by removing one of the actors and providing secure gaol cell detention and yet did not hamper that person with a criminal record.(12) This appreciation of the benefit of the protective custody provision was also echoed by many police spoken with in the Northern Territory.

As regards the other motivating factor behind decriminalization - recognition of a medical or social problem - little changed. The

drunk was still apprehended by police and detained in the same drunk tank for about the same period. Any stigma that may have been present or any factors that may have reinforced the deviant behaviour were still present. It was decriminalization in name only. Without further provision of facilities for both the long and short-term care of drunks little could change. Indeed this was recognised by Milner when he asserted in his report published after the amendment, that for decriminalization to be successful there must be a development of sobering-up and treatment facilities.(13) Such sobering up facilities only appeared as a pilot project in Darwin in 1983, some nine years after the so-called decriminalization of public drunkenness.

Given the lack of substantial benefit to either the drunk or the police flowing from decriminalization in the Northern Territory, one must be particularly critical of the costs of the scheme. As has been mentioned above, there was a loss of valuable protection for the apprehended person in that there was no longer any court appearance necessary under the provisions. Great discretionary power was left in the hands of the police. This discretion could be the subject of misuse and little recourse was available to the aggreived person.

Chapter Six

THE PROCESS OF DECRIMINALIZATION

THE SECOND PHASE

In 1976 s.33A of the Police and Police Offences Ordinance 1923 was amended.(1) Section 33A(1) was repealed and substituted by:

> (1) Where a member of the the Police Force has reasonable grounds for believing that a person is intoxicated with alcohol or a drug and that that person is -
>
> (a) in a public place, or trespassing on private property; and
>
> (b) because of his intoxicated condition, likely to-
>
> (i) commit an offence;
>
> (ii) use physical force against another person;
>
> (iii) cause damage to the property of another person;
>
> (iv) intimidate, alarm or cause substantial annoyance to another person;
>
> (v) unreasonably disrupt the privacy of another person;
>
> (vi) cause bodily harm to himself or expose himself to bodily harm;
>
> (vii) expose himself to having an offence committed upon or against him; or
>
> (viii) be unable to adequately care for himself and is not likely to be adequately cared for by any other person,
>
> the member may, without warrant, apprehend and take that person into custody.

This provision was inserted by the Government as it was felt the grounds for apprehension under the original s.33A(1), as detailed in the preceding chapter, were too narrow.(2) Whether this was the situation with the earlier legislation cannot be verified for there are no figures available which show the number of apprehensions under those provisions, statistics of this type not being kept after decriminalization in 1974 until 1979. However, these listed categories did provide some measure of guidance to the officer as to the exercise of his discretion and also provided some assistance to the apprehended person who could, at a future time should he so desire, show an unreasonable or improper exercise of the police power by reference to these criteria. A further amendment of importance was provided by the insertion of s.33A(3B) and (3C) which provided:

> (3B) The member of the Police Force in whose custody a person is held under this section may, at any time, without any further or other authority than this sub-section, release that person or cause him to be released without his entering into a recognizance or bail, into the care of a person who the member reasonably believes is a person capable of taking adequate care of that person.
>
> (3C) A person in custody shall not be released under this sub-section (3B) into the care of another person if the person in custody objects to being released into the care of that person.

It was argued during debates on the matter that the main import of this provision was the ability to release an apprehended drunk into the custody of family or friends who could then take him home.(3) As will be shown later, the real importance of the provision became the facilitation of the drunk's release to the staff of a sobering-up facility.

In 1979 this provision was transferred to s.128 of the Police Administration Act 1978. Section 131(1) of that Act provided for the release of the drunk into the custody of another as detailed above and s.131(2) prevented such release if the drunk objected to it. A further provision was supposed to provide a protection from abuse of the discretionary power that resided with police and which was now not normally subject to review by the courts. This provision, s.133, provided:

> (1) A person apprehended under s.128 may, at any time after such apprehension, request a member to take him before a justice in order that the person may make an application to the justice for his release.
>
> (2) Where a request is made of a member under sub-section (1) he shall, if it is reasonably practicable for the person to be brought before a justice forthwith, bring the person, or cause the person to be brought, before the justice forthwith.

This provision was, and remains, useless. If one has regard to the type of person normally taken into custody under s.128 (4), it can be seen as readily apparent that such a provision is of no benefit

unless the apprehended person is aware of its existence or its meaning. No statistics are available as to the frequency of use of that "protection" or of the rate of success of such applications. However, it should be noted that no police officer interviewed nor the Chief Stipendiary Magistrate had any recollection of it being invoked. A further problem with this so-called protective mechansism is that it depends on the bona fide exercise of police discretion. A decision that it is "reasonably practicable" to go before a justice is needed.

Chapter Seven

THE PROCESS OF DECRIMINALIZATION

THE THIRD PHASE

The importance of a protective mechanism as discussed in the previous chapter cannot be over-emphasized given the latest legislative development. In 1983, the Police Administration Amendment Act 1983 repealed s.128(1) of the Police Administration Act 1978, thereby removing the legislative guidelines discussed in the previous chapter. Section 128(1) now provides:

> Where a member has reasonable grounds for believing that a person is intoxicated with alcohol or a drug and that that person is in a public place or trespassing on private property, the member may, without warrant, apprehend and take that person into custody.

No longer are there legislative guidelines to assist the officer. No longer must there be some reason for apprehension other than simple intoxication. Rhetoric at the time of initial "decriminalization" would indicate that with the demise of the criminal justification for apprehension, the sole reason for continuing to intervene was to safeguard the drunk or others at risk because of his intoxication.(1) The situation now is that an intoxicated person who poses no threat to himself or any other person may be apprehended simply because of his intoxication alone and yet have no normal recourse to the courts. When debating this amendment the Chief Minister, Mr Paul Everingham, justified the amendment of the protective custody provisions on the basis that the existing grounds for apprehension under s.128(1) were too

restrictive and had presented difficulties in application.(2) As indicated by the Leader of the Opposition in the same debate, however, this would seem to be a difficult assertion to substantiate given the fact that under the unamended provisions 14,149 persons were apprehended throughout the Northern Territory between 1 August, 1979 and 31 July 1980.(3) The Chief Minister did recognize that the removal of the guidelines placed a discretionary power in the hands of the police (not that one was not possessed before). A safeguard, he asserted, was provided by the provision mentioned in the previous chapter, whereby a person could request to be taken before a justice.(4) As also noted in the previous chapter, this protection is, in practice, illusory.

The Act does now provide a definition of 'intoxicated' in s.127A:

> In this Division 'intoxicated' means seriously affected apparently by alcohol or a drug.

Despite the presence of this definition, it is still the subjective judgement of the officer concerned which is the determinant of the loss of liberty and this is not normally subject to review. From observation, although the great majority of drunks apprehended under these provisions are indeed "seriously affected", the test remains one of common sense for the policeman on the street. In practice, the drunk is asked to stand on his feet so that his balance may be observed.

It should be clearly stated that despite the failures of the legislation, the enforcement of it was seen by the writer to be generally carried out in a most humane and sensitive manner. Fifty two apprehensions were witnessed in both Darwin and Alice Springs

and on only one occasion was it observed that an apprehended person did not appear to be 'seriously affected'. On that occasion, he protested strongly to a sergeant at the cells and was immediately released. This does not mean, of course, that abuses do not or will not occur and the present good intentions of existing police officers should not be allowed to mask the inadequacy of the legislation. As has been recognised by Goldstein, Radelet, and others (5), it is absolutely necessary to leave a degree of discretion with the street level officer so that the exercise of his duties can be performed in diverse situations far removed from the quiet and rational atmosphere of the court or the legislative chamber. It is imperative, however, to provide safety mechanisms and legislative guidelines to protect the liberty of the individual. There is no real protection now and, up until July 1983, no real compensating benefits flowed from the legislation. As indicated bythe European Committee on Crime Problems, the volume of criminalised behaviour is not established by simply examining the statutes and counting those forms of behaviour liable to legal penalty or carrying the liability to prosecution. Rather, one should have regard to the powers of the police and the extent of legal safeguards of the individual.(6) Looked at from this perspective, the increased number of apprehensions and the lack of practical legal safeguards indicate an increase in criminalised behaviour rather than the reverse.

Chapter Eight

THE PROCESS OF DECRIMINALIZATION

THE CURRENT PHASE

In 1974 when public drunkenness was 'decriminalized', it was done with the expressly stated objective of providing an alternative to the incarceration of public drunks in police cells.(1) Almost 9 years later a pilot program has at last been embarked upon whereby those apprehended by police under s.128 of the Police Administration Act 1978, if considered suitable, are conveyed to a sobering-up facility instead of to the police cells. They are then provided with a shower, clean bed and basic meal. Shelter 'clients' can then be referred to treatment agencies where appropriate.(2)

From a police perspective, the system seems very quick and efficient. The patrolling officer, either acting on his own initiative or in response to a citizen complaint locates a suspected drunk and using 'common sense' decides if that person is intoxicated. It seems that most attention is focussed upon certain public parks in and around Darwin together with areas which have been the source of public complaint. The drunk, if considered suitable for the centre (not violent or aggressive), is then conveyed there by marked police sedan or caged utility. From the police viewpoint it is then simply a matter of handing over the drunk to the centre staff using the authority given by s.131 of the Police Administration Act:

> (1) The member of the Police Force in whose custody a person is held under this Division may, at any time,

without any further or other authority than this sub-section, release that person or cause him to be released without his entering into a recognizance or bail, into the care of a person who the member reasonably believes is a person capable of taking adequate care of that person.

(2) A person in custody shall not be released under sub-section (1) into the care or another person if the person in custody objects to being released into the care of that person.

There is no need for the police officer to record any details or formally complete any paperwork. Centre staff, however, record name, age, time of apprehension, where picked up, time booked out and comments upon the drunk's behaviour. It is then the centre's responsibility to care for the drunk for a period which is dependent upon the drunk's level of intoxication. The point was made, however, by centre staff that they could not legally detain a 'client' against his will. If a client becomes aggressive or violent, the centre staff call the police who then return and convey that person to the cells where he remains for the duration of the statutory sobering up period, unless sober before that time. Retention at the police cells is also the option if the drunk is considered too violent or abusive to be placed in the centre.

The centre represents a move closer to the original objectives of decriminalization. Saving of police time is quite dramatic. Whereas the time expended by police per apprehension prior to the

introduction of this centre has been calculated as twenty minutes (3), apprehensions witnessed by the writer within the city area have been disposed of within five minutes. This allows police to be back on patrol within a very short space of time thereby directly minimizing the diversion of police resources, one of the problems identified by Kadish(4) and Morris and Hawkins(5). Further, for those taken to the centre instead of to the cells,it could be thought that those factors reinforcing deviant behaviour, as identified by Hawkins and Misner, have been reduced(6). A humanitarian approach is adopted by centre staff and there is an opportunity for onward voluntary referral. Thus, it would also seem that steps have been taken towards recognition of the problem as one of a social or medical nature having roots otherwise than in the control of the individual.

However, with the advent of this shelter, many disincentives to continued police involvement in the scheme have been generated. It is insufficient simply to examine the law on the books and assume that this represents the state of the law as enforced. Areas such as this are of low visibility. There are usually no complainants and almost no way of determining if a lack of apprehensions is caused by a lack of public drunks or a decision of the patrolling officers to ignore such persons or concentrate on 'more important matters'. Instructions may be issued to police that drunks are to be apprehended and taken to such a shelter but if the individual officer so desires, by the purported exercise of the undoubted discretion that he possesses, he may decide that most drunks are not 'intoxicated' in accordance with the broad definition of that term supplied by the Police Administration Act,s.127A,(7) and leave the drunks in the street, or otherwise, by the exercise of

his judgement, determine that the apprehended person is not 'suitable' for the shelter and lodge him in the cells as before. In either case, the policy behind the legislation and the scheme itself will be defeated. It is, therefore, imperative that the particular situation in Darwin is examined with a view to establishing which disincentives to police action are present, thereby enabling corrective measures to be taken and ensuring the success of the scheme.

There has been considerable research in the area of police discretion including some directed specifically towards public drunkenness apprehensions (8). However, the majority of this research has been directed at what could be described as the exercise of discretion in specific situations, not at the influences which bear upon an officer's decision to enforce a particular law. It is a study of the latter type which is the purpose of this paper.

There was, however, an examination of disincentives present upon the decriminalization of public drunkenness legislation carried out by Aaronsen, Dienes and Mushena in the United States as part of the American University Law School's Project on Public Inebriation (9). This study provided a model on which an examination of those factors acting as disincentives to continued police enforcement of such laws could be made. Aaronson, et al, found that the disincentives could be usefully grouped. These groups brought together into separate categories those influences of an organizational, police role, strategic environment, strategic interaction, peer relationship, and situation specific nature.(10)

Application of Aaronson Model to Darwin

When constructing their discretionary model, Aaronson, et al, sought to test the hypothesis that "if no special ameliorative action is introduced, decriminalization produces a significant quantitative decline in the number of public inebriates formally processed by legally approved means".(11)

In his study of several police forces in the United States this hypothesis was found to be correct.(12) As mentioned earlier, however, the experience in Darwin following the initial "decriminalization" in 1974 was the reverse. There was an increase of 106% in the number of public drunkenness apprehensions between the final year before decriminalization and five years later when statistics again became available.(13) As explained below, however, this was because the decriminalization was superficial in nature. With the advent of the non-police shelter, many of the disincentives identified by Aaronson are now present, and are discussed below.

The Organizational Determinant

Under this head may be grouped official attempts to regulate police behaviour and the perceived official attitudes and priority accorded to specific duties. It includes the quantitative and qualitative nature of police training, general orders, circulars, policy statements, allocation of resources, perceived opinions of immediate supervisors regarding that law and the perceived effect of enforcing that law on the individual officer's career or promotional opportunities. This area is not one that can be completely isolated from the other variables as the nature of

training and official information also helps mould the nature of the street officer's expectations of the system and his own self-perception.

Prior to the introduction of the sobering-up centre, decriminalization made little difference to the practical exercise of police duties. The change to the law removed the need for court appearances, court briefs, fingerprinting and photographing, but in all other respects the police role remained unchanged. With the advent of the sobering up facility the police officer is now expected to liaise with a civilian organization who, by their very nature, hold a different perspective on the drunkenness problem and who lack the holding or controlling powers of police. Further, the officer now has to make a discretionary decision for which he has received no training and which is based upon uncertain criteria. He has to decide whether the apprehended drunk should be lodged in the police cells or conveyed to the shelter. Once at the shelter, the officer witnesses the drunk being given coffee, a comfortable bed and a meal. This, after the officer has had to engage in the sometimes risky and certainly unpleasant task of taking that drunk into custody. In the past, such a drunk was placed in the 'drunk tank' at the police watchhouse - placed behind bars and largely ignored. It is inevitable that without further training or at least advice on the policy, objectives and limitations of the scheme, misunderstandings, unreasonable expectations and even resentment will follow.(14) Thus, in the questionnaire discussed in chapter 3, and in personal interviews, Darwin police working at street level specifically requested further information on the shelter. There was also an expression of great resentment that drunks apprehended by police were often

released too early and that those showing even a small measure of violence were not acceptable to the centre. Two respondents even suggested the installation of cells at the centre. All of the foregoing is illustrative of a lack of understanding of the purposes and limitations of the project. This situation is perfectly understandable upon an examination of official dispersal of information.

Since the introduction of the shelter there has been no training program for those at street level- the very actors upon whom the whole project depends. When the police training school was approached for a summary of their training methods and content in relation to the centre, surprise was expressed that the centre even existed. This despite the fact that it had been in existence for seven months and that hundreds of apprehended persons had been processed through its doors.

The police general orders give no guidance whatever to the officer and the only official document to be found was an internal memorandum to watch-commanders informing them of the forthcoming opening of the facility and detailing the procedural requirements of the police. It did not give any indication of the major policy factors behind the reform of the law, nor did it detail the legal and other limitations of the centre. Further, although suggesting that all "supervisors" should call at the centre, there was no attempt to involve the officer at street level.(15)

Within this grouping of determining factors adopted by Aaronson, et al, is also present the allocation of resources and the standards established for promotion and benefits.(16) In Darwin

there has been no specific allocation of resources for the purposes of drunk apprehension. Given the number of drunks apprehended in that city and the resources available this is probably reasonable(17). All general duties officers are charged with the task amongst their other duties.

It is important that there be seen to be some recognition by senior police for the work done with drunks.(18) In the survey previously discussed, the overwhelming perception was that there was no public recognition of the task they were performing. Given the extremely distasteful and unpleasant nature of such duties and the absence of a perception of public recognition, it is of great importance that there be at least a perception of official recognition for efforts made by the patrolling officer. This is, to an extent, present because all drunk apprehensions are still recorded on each patrol's daily running sheet as 'arrests'. Despite official denial that the number of arrests has any real bearing upon the evaluation of an officer, what is important is the perception of the situation held by the officer concerned. Whilst he is able to at least show in an official form that he has worked conscientously at his duties he will feel that there is some recognition accorded to his efforts. Given that those drunks taken to the shelter are not sighted by superiors nor recorded in any other form, this measure of recognition is important in two respects. Firstly, it may have a bearing upon the actual decision to pick up the drunk rather than leaving him where he is found. Secondly, it may have a bearing upon his decision as to the appropriate method of disposal. If the officer returns the drunk to the cells because of his level of violence, there is some record of the apprehension and also peer recognition from others

involved in the incarceration procedures. If simply dropped off at the centre, then no official record is kept, other than the running sheet, and there is no other person from within the police force who may become aware of that officer's efforts except his patrol partner. Thus, by being able to record each drunkenness apprehension on the running sheet even if the drunk is dropped at the shelter, the patrolling officer feels that his supervisors are cognizant of his work level on patrol.

The 'Police Role' Determinant

The police role determinant(19) refers to that perception held by the officer himself of his proper function as a police officer. Friday asserted that police have maintained a very narrow conception of their role as crime fighters (20). Areas outside this receive scant attention in training programs and attract very little prestige. Thus, as long as drunkenness has been defined as a crime or as conduct carrying a criminal sanction, there has been no conflict with this self-perception. Upon decriminalization, however, society has indicated that this type of conduct is of a type that calls for social or medical intervention. The police officer is called upon to perform a task which conflicts with this self-perception and with his personal expectations.

It could be asserted that this factor did not have any relevance when the original steps towards decriminalization were taken in the Northern Territory as the drunk was still taken to the cells and treated very much as he had been prior to that time. The task could be rationalized as being a police function and the changes as simply being for the purpose of saving time and resources. The danger now is that as there is a non-criminal form of disposal

available which must normally be used and a more pronounced appreciation of the drunk as a victim of either sickness or society, the role conflict may now be present.(21) Friday asserts that if public drunkenness is no longer an offence and the social service function is instead emphasized, police will argue that they have more important matters to attend to.(22)

As a result of the survey and of the writer's personal observation of the Darwin general duties officer, this does not appear to be a cause for concern at this time. The survey revealed that the great majority of general duties policemen considered the apprehension of drunks as for, firstly, the prevention of annoyance to other members of the public and, secondly, for preventing further breaches of the law. Only 7% of those surveyed saw the major purpose of such an apprehension as assisting the drunk (a medical or sociological perception of the task). Importantly, the same group perceived their primary task as police as being the enforcement of law and order and not as one of community service. It can be seen that the placing of community service at the bottom of the scale of police priorities could prove troublesome as society moves towards recognition of public drunkenness as a social/medical problem.

From observation and interview, it would seem that the Darwin general duties policeman has a pragmatic appreciation of the situation. He believes that to leave such drunks wandering the streets could lead to further problems of a criminal nature and also that the task of clearing the streets of drunks is a public order function. This perception of the purpose of public drunkenness apprehensions has been reinforced by various

statements of political and community leaders. For example, in the debates of 24 Novemeber 1982, the Chief Minister of the Northern Territory stated, "Drunken persons are generally repugnant to the community in general and the sight of a drunken person should not have to be tolerated by decent law-abiding citizens.".(23) Hardly a comment sympathetic to the medical/sociological perception of the problem.

An imortant factor that could tell in the final success of the scheme is that the shelter is used solely for police referrals and, therefore, can be rationalized as being part of the police structure and not as part of a general charitable or medical institution.(24) Other social organizations are not allowed to refer drunks to the shelter and self-admissions are not permitted. Although this may appear harsh at first glance, the importance of this exclusive arrangement lies not only in perceptions held by police. It must be remembered that the purpose of this shelter is to give an alternative disposition to the cells. Although there may be very deserving cases who cannot at this time use the facility, the purpose of the centre must be rigidly adhered to. It is not an accommodation for homeless or destitute people. As deserving as they may be, shelter resources are limited and the objectives of decriminalization are an aim worthy of priority.

The Strategic Environment Determinant

This determinant includes the officer's attitudes towards the drunk, the personnel or organizations with whom he must deal when processing the apprehended drunk, and with his own conception of

the nature and seriousness of public intoxication as a social problem.(25) Aaronson,et al, has indicated that in almost all jurisdictions studied, the street level police officer held the attitude that those institutions charged with holding the drunks released them too early. This is certainly a cause for major concern in Darwin. In an open-ended question put to officers in Darwin which simply asked for any suggestions as to the way in which police/shelter relationships could be fostered, or to a similarly open-ended question regarding the convenience of taking the drunks to the shelter, a consistent complaint volunteered was that too often the same drunk was seen back on the street within a short time. This same complaint was echoed a number of times in an informal manner whilst observation of patrol techniques was being undertaken. There appeared to be little awareness of this problem at any supervisory level and such occurrences were vehemently denied at a very senior police level. During an interview with centre staff, however, it was admitted that there were occasions when a drunk would insist on walking out of the shelter a short time after the departure of police. It was asserted by shelter staff, and rightly so, that they did not have authority to hold drunks against their will. On occasion, police had been called when this occurred but subsequent interviews with street level officers revealed a disinclination to answer such calls with any urgency, their feeling being that their task within the existing system had been performed. An examination of the centre's records revealed that in the period 1 August - 31 December 1983, a total of 50,or about 9%, left the shelter two hours or less after being left there by police and 22 persons left the shelter within one hour. Nine of those apprehended by police were back on the street within twenty minutes. One can imagine the negative attitude this

engenders within the street policeman when, after engaging in a most distasteful and depressing duty, he sees the same drunk back in the old haunts. The imediate reaction of some police is either to leave the drunk where he lies or, otherwise, to assert that the drunks apprehended are so violent or offensive that they cannot be left at the shelter and so convey them to the cells where they are kept for the statutory period of six hours. One can only see this problem worsening as the drunk on the street becomes aware of the inability of centre staff to hold him when such accommodation no longer suits his purposes. It is argued by those responsible for administering the scheme that such a worsening situation is not probable given the fact that within the period July-December 1983, out of a total of 584 admissions to the shelter, there were 393 individuals represented. This gave an overall repeating rate of 1.47 with a range of 1 to 16 admissions per person. This also means that in this early stage of the scheme, 93 individuals were admitted more than once in six months.(26) Given the number of persons being so processed it would seem that it will not be long before this figure of readmissions will be extended to a sizeable portion of the drinking community, a proportion with personal knowledge of the inability of centre staff to hold them. Further, it could be thought that perhaps given the attitude of some police, there is already a certain degree of selective enforcement of the drunkenness provisions with those seen as likely not to stay either not being apprehended or being taken to the cells and being classified as too violent. This lack of holding authority would seem to be the greatest threat to the success of the program and steps, as detailed later, must be taken to either prevent such occurrences or to inform apprehending police of the policies which prevent a custodial role being adopter by the centre.

Also of great importance under this grouping of influences is the relationship developed between police and shelter personnel. Experience overseas tends to show that relationships between police and shelter staff are often quite strained and are subject to rapid deterioration. It would seem that professionals staffing such centres dislike having to deal with the hard-core public inebriates who typically form the majority of police referrals. They tend to prefer those drunks who are less "physically, economically and socially deteriorated"- those for whom a chance of rehabilitation is seen(27). Thus, in the system examined by Daggett and Rolde where a certain number of beds were set aside for police referrals, the centre gradually looked towards other sources of referrals and discontinued reserving the beds. Police found that dealing with such a centre was frustrating and continued to exercise other options in relation to public drunks.(28) This problem is not of great importance within the system developed in Darwin. As detailed earlier, the centre exists solely for police use and so there is no difficulty in beds being allocated away from police referrals to a 'better type' of drunk. Further, the object of the centre is not rehabilitation but simply to provide alternative accommodation to the police cells. It is also relevant that the personnel in the centre are such that inherent professional tendencies towards rehabilitation do not exist. On one night of observation, the staff consisted of an ex-nurse and a reformed alcoholic both of whom saw their tasks as being simply to assist the drunk on that night. Social workers or other like professionals are not employed as staff within the centre. So, it would seem, there is little chance of a clash of professional values or objectives with those of the police.

Strategic Interaction Determinant

This grouping refers to those expectations that the individual officer perceives as emanating from significant groups within the community and the assessments made of his work by such groups.(29)

The questionnaire revealed that overwhelmingly it was thought by street level officers that the public saw the apprehension of drunks as a means of keeping the streets clear of offensive and disorderly persons. There appeared to be little support for the view that the community, upon decriminalization, now saw drunkenness as a medical problem or that they saw the legislative provisions as being designed to assist the drunk. This view, as has been previously mentioned, had been echoed by the Chief Minister when he strongly declared that decent law-abiding people should not have to put up with the sight of drunken persons who "are generally repugnant to the community in general".(30) Thus it can be seen that in Darwin, despite the original assertion that one of the reasons for decriminalization was recognition of drunkenness as a social or medical problem, police have not altered their perception of what is required of them by the community.

Another significant group is that of the drunks themselves. What are their expectations? It would seem from observation that the changes have been readily accepted by them. Except for the 9% mentioned earlier who left the centre of their own accord within a short time, there is general enthusiasm for the scheme. Personally observed were two occasions when drunken persons contacted police

stating that they were drunk and requesting conveyance to the centre. One of them, a regular, was sympathetically dealt with and conveyed to the centre. The other was placed in the cells despite an absence of any behaviour that would have prevented acceptance at the centre. As one policeman revealed, "I'm not going to pick up any of them. We're not a bloody taxi service.". This response would appear to be a natural one for a policeman in whose training the emphasis has been on the public order and law enforcement functions and who has been given no training in the policies of decriminalization or in broader social issues. Without such corrective action this attitude will increase.

Peer Relationship Determinant

This factor simply refers to the effect that one's peers have on the exercise of discretion.(31) Aaronson has specifically drawn attention to the "veteran-rookie" relationship on patrol for it would seem of little advantage to engage in extensive training programs for recruits if, once in the "real world", such programs were dismissed by a senior partner as irrelevant and other views and responses substituted. Indeed, Friday concludes that in order for moves towards decriminalization to succeed it is necessary to generate support for the scheme through the command structure rather than attempt to convince recruits.(32)

In Darwin, the survey revealed that junior partners saw their senior patrol partners as placing little importance on the apprehension of drunks. This despite the result mentioned earlier of almost all officers personally viewing the apprehension of drunks as a public order or law enforcement task and then the placing of such a task at the top of their list of priorities.

This could, perhaps, be explained by the ordering of certain law enforcement functions within those categories and the placement of the enforcement of drunkenness legislation low in that order. Thus, it would seem that steps along the line indicated by Friday would be justified. Steps must be taken to educate and inform not only new recruits but also those officers already 'on the street' as to the objectives and limitations of the centre.

Situation Specific Determinant

This determinant really relates to how each officer will act at the scene in response to the peculiar factors present on each occasion. It relates to the factors that determine whether, when faced with a given situation, the individual officer will apprehend the subject and then whether that person will be taken to the cells or to the shelter. A full examination of this grouping is beyond the scope of this paper. It is this paper's objective to examine the factors determining whether the officer will participate in the scheme on a general basis, not how he will react in a specific situation once he has decided to so participate. However, some observations may be made.

A question broached by the Skolnick (33) is the relationship of prejudice or racial bias on the part of the police officer. Does this influence the decision to apprehend? One could be excused for inferring that this is the case if one examines the racial breakdown of those apprehended, this especially being the case in relation to Alice Springs where in 1982, 99.4% of all public drunkenness apprehensions were of aboriginals (34). A further factor that could lead one to expect such prejudice is the continuing lack of success in encouraging and retaining police

recruits of aboriginal extraction. On the basis of interviews and observation such a conclusion would be unwarranted. Statistics reveal that in Darwin 61% of all admissions to either the centre or cells were aboriginal. Admissions to the shelter were 62% aboriginal whilst 60% of admissions to the cells were of that race.(35) These figures concur remarkably with those of observed apprehensions in Darwin where 62.5% were aboriginal. In all cases observed in both Darwin and Alice Springs, the apprehending police were seen to approach the situation in a compassionate and "common sense"(36) fashion. As discussed earlier, the figures can be explained, in part, by the lesser ability of aboriginals to drink in private or to travel by private means. Thus, as found by Black, racial characteristics have little bearing upon the decision to apprehend.(37)

Black, however, linked the greater arrest rate of negroes with their tendency to show a greater level of disrespect to police.(38) There is no evidence to suggest that this is the case in the Northern Territory in relation to public drunkenness apprehensions. Of those apprehensions observed in both Darwin and Alice Springs (52 in all), the drunk's attitude towards police played very little role in determining whether that person was apprehended. In almost all cases observed the demeanour of those apprehended was quiet and compliant. They did not come to police attention as a result of disorderly or other behaviour but were sought out by police on an active basis. Once located, it appeared that the sole basis for apprehension was indeed the person's state of intoxication. The demeanour of the apprehended person will play some role in determining his eventual disposal in Darwin because of the official policy of not accepting violent or aggressive

persons at the shelter. The quiet demeanour of those observed and the tendency, in some cases, to still use the cells rather than the shelter could indicate that it is determinants of the organizational,police role, strategic environment, strategic interaction and peer relationship types that are critical and that the disincentives detailed are already operative. This is confirmed by figures (39) which reveal that during the hours in which the shelter is open, the number of drunks admitted to the cells is about the same as those admitted to the shelter. This indicates that some drunks are being taken to the cells regardless of the lack of behaviour which could be regarded as violent or aggressive and which, therefore, would categorise the drunk as unsuitable for the shelter. Observations in Darwin and in Alice Springs reveal a remarkable lack of violent or argumentative behaviour and it is, therefore, difficult to explain the high level of cell admissions otherwise than by reference to the disincentives detailed above. As postulated by Aaronson,et al, without attention being paid to these, police will circumvent the law on the books by either not conveying the drunk to the shelter, or if pressured departmentally to do so, by leaving the greater proportion of them on the street.

Chapter Nine

DECRIMINALIZATION

DARWIN: THE FUTURE

It is apparent that decriminalization of public drunkenness in the form now existing in Darwin has gone a great deal of the way towards the attainment of the generally accepted objectives of such reform. However, as detailed in the foregoing discussion, there are still deficiencies. Despite the objections of Goode and others (1), it seems necessary that the police have a continuing role in the implementation of the scheme. The very fact that approximately 54% (2) of those apprehended under s.128 of the Police Administration Act 1978 are lodged in the cells indicates that regardless of any civilian patrol that may operate, there will still be a need for a police component. It is difficult to see the logic in a scheme whereby only some drunks are picked up by a civilian patrol and police called for others. Given the financial strictures of the present day and the tendency for governments and communities to place the allocation of funding of programs catering for such social deviancy well down the list of their priorities (3) , it would seem very doubtful that such a dual system would be contemplated. If, then,police are to continue as the apprehendors, steps must be taken to ensure the success of the system and to bring it closer to fulfilling its original objectives.

The apprehension and conveyance of drunks is not a rewarding or enjoyable task. It is likely to be placed at the end of a policeman's priority list even in the most successful system.

Coupled with this problem is the fact that on each occasion a drunk is apprehended and conveyed to the shelter or cells, there is one less police patrol vehicle on the road. If two or three vehicles are each in the process of conveying a single drunk to a disposal point, it is apparent that there is a great deal of time expended quite inefficiently. The answer, at least for major population centres, may have been provided by Alice Springs police who have instituted a "Mall Patrol". This patrol is ostensibly for the purpose of patrolling the Alice Springs Mall, to clear the area of drunks and to enforce other statutory provisions relating to liquor. In fact, what the patrol does is to patrol the whole town area each day with the sole purpose of conveying drunks to the cells under s.128. Two officers are allocated to that duty on a continuing basis. Each drunk is not conveyed to the cells individually. Instead, the patrol continues until a reasonable number have been apprehended. The police then proceed to the cells to disgorge their cargo (4). Other vehicles on patrol do not actively seek out drunks but concentrate on other police duties. Thus, the problem as to priorities of police is solved as the mall patrol has the apprehension of drunks as its only duty and police resources are saved as there is only one vehicle occupied with the problem and this returns to the watchhouse with a number of drunks rather than individually.

The adoption of a similar system in Darwin could overcome some of the disincentives that are present within the system. Firstly, as two officers are allocated to this duty on a continuing basis, it is possible to select those officers with an appropriate understanding of the problem and resultant sympathetic outlook towards the program and towards the drunks themselves. It would be

quite practicable for them to be given specialised training so that they could become familiar with the policies, limitations and objectives of the system. Of relevance here is another factor influencing the enforcement of decriminalized public drunkenness provisions mentioned but not discussed by Aaronson,etal (5). This factor relates to the personal background of the individual officer and the correlation of his background with those of the drunks with whom he must deal. Of the respondents to the questionnaire in Darwin, detailed earlier, 60% indicated that they had lived most of their lives in places other than the Northern Territory. Not one respondent indicated that he had an aboriginal racial background. The policeman arriving in Darwin after living most of his life in the somewhat different environment of the southern cities can hardly be expected to have an understanding of the problems or characteristics of the predominantly aboriginal clientele with whom he must deal when enforcing the public drunkenness laws. If a specialized patrol unit was introduced, there is every opportunity for that patrol to become familiar with the problems of the aboriginal community in relation to liquor. Further, with a restricted number of police constantly interacting with shelter staff, it is also more probable that a good working relationship could be developed between those groups.

It has been recognised that one other factor leading to police disinterest in drunks is the distance needed to be travelled to convey a drunk to the shelter(6). This factor would seem to pose no problem in Darwin except in relation to Darwin's northern suburbs. An apprehension there can remove a patrolling vehicle from the streets for up to 30 minutes. The specialised drunk

patrol advocated above would also be of value in reducing this problem. A drunk apprehended by a normal patrol in the northern suburbs could be left at a collection point, say Casuarina police station, and picked up when convenient by the drunk patrol and conveyed to the shelter.

Another possibility is for all apprehended drunks to be conveyed to the police cells as usual and a requirement to be introduced that staff of the police station must notify shelter staff when apprehensions have been made. Shelter staff could then attend either on a regular basis or only when called to convey those considered suitable to the shelter. The obvious disadvantage of this arrangement is that the police are once again required to carry out at least some processing of the apprehended drunk and there is, therefore, a consequent reduction in the police resources saved. If continuing difficulties are encountered with police response to the existing scheme and a specialised patrol is not thought viable, perhaps this alternative could be considered as although perhaps moving back along the continuum towards criminalization, most of the advantages to the drunk are preserved.

Regardless of the system adopted, it is essential that a program be embarked upon whereby all street level officers be given at least a rudimentary understanding of the scheme and its limitations. This training should include a visit to the centre so that staff could be introduced and facilities inspected.

It is necessary that shelter staff embark upon a deliberate program of fostering good relationships with the street level

police officer so that the disposal of drunks at the shelter is a not unpleasant interlude in the police officer's period of duty. Coffee and biscuits should always be available for police so that the disposal of drunks could almost be seen as an opportunity for a welcome break. Presumably the occasion could also be one in which information could be exchanged in a friendly and informal atmosphere.

Finally, it is essential that attention be given to the problem of drunks leaving the shelter shortly after police departure. It is recognised that part of the philosophy of such a centre is the lack of coercive powers over the client. It is also recognised that the centre staff are not equipped to act as custodial officers. It is crucial, however, that steps be taken to correct the existing situation. Better training could at least apprise the police officer of the limitations inherent within the system. Perhaps, however, legislative attention could be given to the problem so that any person leaving the centre of his own accord could be considered to have committed an offence and then be liable to a small fine. It is appreciated that a very real objection to this is that once again the drunk is being brought within the criminal system solely because of his intoxication. It is the same argument again, that except for his apprehension for being drunk in a public place, he would not have been charged with this further offence. An alternative to this could be that when next apprehended, an absconder would not be acceptable to the centre and his disposal would be to the cells where he could spend the statutory sobering up period. This policy could be made known to all expressing a desire to leave the centre prior to the time considered appropriate by centre staff.

If consideration is given to the points raised and the above or other solutions adopted so that the disincentives present are reduced, there is every chance that the concept of a non-police sobering-up facility will work. It is not enough to legislate and give instructions to police or to rely upon instructions and disciplinary measures within the police force to ensure compliance with policy.If one accepts that the individual officer at street level must have discretion in order to exercise his duties effectively, then one must also accept that the officer will be able to circumvent any directions by the use of that discretion. It is important that his co-operation is actively sought and his complaints recognised and acted upon.

CONCLUSION

The "decriminalizaton" of the public drunkenness offence in 1974 achieved little for either the drunk or the criminal justice system. For the escalating number of persons apprehended under the reforming legislation little changed. They still found themselves apprehended by police and conveyed to the watchhouse where they were placed in cells and released when sober. Certainly the legislation provided for other factors to be present in addition to simple drunkenness before apprehension could take place but this appears to have had little effect upon the numbers so apprehended. In any case, an amendment to the public drunkenness legislation in 1983 removed these additional requirements so that once again for one's freedom to be taken away, it was sufficient that one was simply intoxicated in public.

In July, 1983, however, a pilot scheme of apprehension and conveyance to a sobering-up facility was commenced. This scheme has the potential to achieve most of the objectives of decriminalization, but will not do so unless attention is paid to certain disincentives which now exist to continued police involvement in the enforcement of the decriminalized provisions at street level. If steps are taken to overcome these disincentives there is no reason to suppose that the scheme will not succeed.

FOOTNOTES

Chapter One

1. Denis Szabo, Criminology and Crime Policy (Toronto: Lexington Books, 1978) p.159.

2. European Committee on Crime Problems, Report on Decriminalisation (Strasbourg: Council of Europe, 1980), pp.56-57.

3. John Stuart Mill, Utilitarianism Liberty Representative Government (London: J.M.Dent & Sons Ltd, 1964)pp.72-73.

4. Sanford H. Kadish, "The Crisis of Overcriminalization" in S.H. Kadish and M.G. Paulsen, Criminal Law and its Processes: Cases and Materials (Boston: Little, Brown & Company, 1969) pp.21-22.

5. Id., pp.22-23.
Particular emphasis is given to the diversion of police resources by the European Committee on Crime Problems, op.cit, p.10.

6. Norval Morris and Gordon Hawkins, The Honest Politician's Guide to Crime Control(Chicago: University of Chicago Press, 1970) p.5.

7. Ibid.

8. Id., p.2

9. See also: Denis Szabo, op. cit,pp.160-1, who is particularly critical of the lack of success in the dissuasion of such conduct achieved by the criminal law or in the reform of the individual achieved by the penal system.

10. Morris and Hawkins, op.cit., pp.6-7.

11. The Alcoholic Rehabilitation Act, 42 U.S.C. 2681, s.240(a),1968.

12. P.J. Giffen and S. Lambert, "Decriminalization of Public Drunkenness", in Yedi Israel and others, Research Advances in Alcohol and Drug Problems (vol.4) (New York: Plenum Press, 1978) p.395.

13. Id.,pp.395-396.

14. Kadish,op.cit.,pp.22-23.

15. Commission of Inquiry into Poverty (Second Main Report,Professor Ronald Sackville,Chairman)Law and Poverty in Australia(Canberra:AGPS,1975)p.251.

16. Id., p.254.

17. Gordon J. Hawkins and Robert L. Misner, Report on Restructuring the Criminal Justice System in the Northern Territory: Submissions to the Minister for the Northern Territory(July, 1973).

18. Id.,p.3

19. Gordon J. Hawkins and Robert L. Misner, Some Specific Proposals: Third Report on the Criminal Justice System in the Northern Territory (March,1974)p.6.
See also: Morris and Hawkins, op.cit.,pp.6-7.

20. Ibid

21. Id.,p.3.

22. Id.,p.6.
See also: European Committee on Crime Problems, op.cit., pp.56-57. Also: Kadish, op.cit.,pp.22-23.

23. R.R.Deming, "Statutory Diversion of Drunkenness Offenders", Journal of Criminal Justice 5,1977,p.30.

24. Dr Gerald Milner, Darwin 'Drunks':A Report for the Department of the Northern Territory, (1973) p.10.

25. Department of the Northern Territory, Report of the Board of Inquiry Appointed to Inquire Concerning the Liquor Laws of the Northern Territory,(1973).

26. Hawkins and Misner, "Report on Restructuring the Criminal Justice System in the Northern Territory",op.cit.,p.2.

27. Northern Territory Legislative Council Debates, 24 September 1974, pp.1149,1151.

Chapter Two

1. Chief Inspector Owens, "Drunkenness: A Discussion Paper.", in Northern Territory Department of Health, Proceedings of the Conference on Alcohol Policies for the 1980's (Darwin: February 1980)p.78.

2. Police and Police Offences Ordinance 1923, as amended, s.33A(1).

3. Police and Police Offences Ordinance 1923, as amended, s.33A(2) and (5).

4. Police and Police Offences Ordinance (No.2) 1975.

5. Police Administration Act 1978, as amended, s.127A.

6. Northern Territory Drug and Alcohol Bureau, "Proposal to Implement Government Policy on the Establishment of a Sobering-up Shelter in Darwin", Internal correspondence, 11 March, 1983.

Chapter Four

1. Chief Inspector Owens, op.cit.,p.78. Also based on personal observation of the administration of the law at that time.

2. Ibid.

3. Northern Territory Police,Annual Report, 1972-73 (Darwin: Northern Territory Government Printer,1973)p.14.

4. Northern Territory Police,Annual Report, for the years 1972-73, 1973-74 (Darwin: Northern Territory Government Printer).

Chapter Five

1. Giffen and Lambert, op.cit., p.398.

2. This bears a remarkable resemblance to the factual level of decriminalization first adopted in the Northern Territory.

3. Giffen and Lambert, op.cit.,p.400.

4. Ibid.

5. Source: Northern Territory Police Annual Reports.

6. Ibid.

7. Australian Bureau of Statistics,Northern Territory Statistical Summary(Darwin:Government Printer of the Northern Territory, 1981)

8. Source: Northern Territory Police Annual Reports.

9. L.R. Daggett and E.J. Rolde, "Decriminalization of Drunkenness: Effects on the Work of Suburban Police", Journal of Studies on Alcohol 41, 9, (1981), pp.819-827.

10. Id., p.821.

11. DISORDERLY BEHAVIOUR ARRESTS

Year ending June	Number
1973	592
1974	891
1975	1531
1976	986
1977	646
1978	383
1979	447

Source: Northern Territory Police Annual Reports.

12. Daggett and Rolde,op.cit.,pp.822-823.

13. Dr Gerald Milner, op.cit.,p.5.

Chapter Six

1. Police and Police Offences Ordinance(No.2) 1975.

2. Debates of the Northern Territory Legislative Council, 16 October 1975, p.595.

3. Id.,p.596.

4. Supra, pp.6-7.

Chapter Seven

1. See, for example: Gordon J.Hawkins and Robert L.Misner, Some Specific Proposals:Third Report on the Criminal Justice System in the Northern Territory,(March, 1974)pp.6-7.

2. Debates of the Northern Territory Legislative Assembly, 24 November, 1982, pp.3462-3463.

3. Debates of the Northern Territory Legislative Assembly, 23 March, 1983, pp.226-227.

4. Debates of the Northern Territory Legislative Assembly, 24 November, 1982, p.3462.

5. Joseph Goldstein, "Police Discretion not to Invoke the Criminal Process: Low Visibility Decisions in the Administration of Justice", in George G. Killinger and Paul F. Cromwell Jr., Issues in Law Enforcement (Boston: Holbrook Press Inc., 1975) pp.77-78,86.
Louis A. Radelet, The Police and the Community (Beverly Hills: Glencoe Press, 1973)p.82.

6. European Committee on Crime Problems, op.cit., p.55.

Chapter Eight

1. Debates of the Northern Territory Legislative Council, 24 September, 1974, p.1150.

2. Northern Territory Drug and Alcohol Bureau, op.cit.

3. Supplied by the Northern Territory Police statistics officer.

4. Kadish,op.cit.,pp.21-22.

5. Morris & Hawkins,op.cit.,p.5.

6. Gordon J. Hawkins and Robert L. Misner, Some Specific Proposals: Third Report on the Criminal Justice System in the Northern Territory (March,1974)p.6.

7. Supra., p.31.

8. See, for example: Donald Black, "The Social Organization of

Arrest" in Richard J Lundman (ed.), Police Behaviour: a Sociological Perspective(New York: Oxford University Press, 1980),pp.151-162.
Richard J. Lundman, "Routine Police Arrest Practices: a Commonweal Perspective, Id.,pp.182-200.

Paul A. Pastor, "Mobilization in Public Drunkenness Control: the Legal Approach",Id.,pp.200-211.

Jerome H. Skolnick, Justice Without Trial: Law Enforcement in Democratic Society(New York: John Wiley and Sons, 1966.)

Louis A. Radelet,The Police and the Community(Beverly Hills:Glencoe Press, 1973)

Kerry L. Milte and Thomas A. Weber, Police in Australia: Development, Functions, Procedures(Sydney:Butterworths,1977).

9. David E. Aaronson, C.Thomas Dienes, and Michael Musheno, "Policing Public Inebriates in Decriminalized Cities: a Summary of Methods and Findings",Contemporary Drug Problems,1977,pp.607-627. (Hereafter referred to as "Policing Public Inebriates".)

David E. Aaronson, C. Thomas Dienes, and Michael Musheno, "Improving Police Discretion Rationality in Handling Public Inebriates", Part 1, (1977)29Administrative Law Review, 447; Part 2, (1978) 30 Administrative Law Review 93. (Hereafter referred to as "Improving Police Discretion (Part 1) and (Part 2)).

10. Aaronson and others,"Policing Public Inebriates", op.cit.,pp.616-619.

11. Id.,p.609.

12. Id.,p.613.

13. Supra., pp.22-23.

14. Giffen and Lambert, op.cit.,p.395.

15. Undated Northern Territory Police Internal Memorandum directed to all Watch Commanders and headed "Darwin Sobering-up Centre".

16. Aaronson and others, "Improving Police Discretion" (Part 2),op.cit.,p.97.

17. But seeinfra,p.53 re. the possibility for improving the efficiency of the apprehension of drunks by the use of a specialised patrol.

18. See also: Giffen and Lambert, op.cit.,p.412.

19. Aaronson and others, "Improving Police Discretion" (Part 2),Op. Cit, p.98.

20. Paul C. Friday, "Issues in the Decriminalization of Public Intoxication", (1978) Federal Probation 3,p.36.

21. Id.,pp.35-36.

22. Id.,p.36.

23. Legislative Assembly Debates, 24 November 1982, p.3463.

24. For a further discussion on the relevance of exclusive police use of the shelter, see Infra, p.46.

25. Aaronson and others, "Policing Public Inebriates", op.cit.,p.617.

26. Northern Territory Department of Health, Drug and Alcohol Bureau Research, Monitoring and Evaluation Unit,Darwin Sobering-up Shelter:Usage Data (Preliminary): 11 July 1983 to 31 December 1983.(January, 1984).

27. Daggett and Rolde,op.cit.,p.825.

28. Ibid.

29. Aaronson and others,"Policing Public Inebriates",op.cit.,p.618.

30. Legislative Assembly Debates, 24 November 1982,p.3463.

31. Aaronson and others, "Improving Police Discretion" (Part 2), op.cit.,p.99.

32. Friday, op.cit.,p.37.

33. Skolnick, op.cit.,pp.80-83.

34. Figures supplied to the writer by the Northern Territory Police.

35. Northern Territory Department of Health,op.cit.

36. Quoted as the basis for apprehension by an interviewed patrolling officer.

37. Black,op.cit.,pp.159-161.

38. Id.,pp.158-159.

39. Northern Territory Department of Health,op.cit..

Chapter Nine

1. M.R. Goode, "Public Intoxication Laws: Policy, Impolicy and the South Australian Experience.",7(2) Adelaide Law Review 253, at 258.

2. Northern Territory Department of Health,op.cit..

3. Friday,op.cit.,p.35
See also: Goode,op.cit.,p.267.

4. This is similar to the police wagon patrol in Kansas City as detailed by Aaronson and others in "Improving Police Discretion" ,op. cit.,(Part 2),p.102.

5. Id.,p.99.

6. Id.,p.124.

Appendix A

POLICE QUESTIONNAIRE

The purpose of this questionnaire is to help establish the prevailing police attitudes towards the public intoxication legislation and possible changes. Your answers will only be used as part of a statistical summary and your name should not appear on any part of the form. Please circle the appropriate answer where provided

age [years]

sex [m / f]

length of service [years]

rank [ ]

where have you lived most of your life?

.....

Do you think that the number of protective custody apprehensions that you make has any bearing on how you are judged by senior officers?...yes/no

Do you think that the apprehension of drunks is considered important by the senior officers?...yes/no

How do you know this?.....

Is the apprehension of drunks considered important by your shift sergeant?. yes/no

How do you know this?.....

What do you see as your main role as a police officer?.....

.....

Does the apprehension of drunks fit in with this role?...yes/no
Would your answer be different if public drunkenness was still an offence?..yes/no

Do you think that enforcement of the protective custody provisions should be a police concern?...yes/no

Indicate, by numbering, what priority you give to the following police tasks:

[ ] traffic duties

[ ] emergency and rescue services

[ ] crime prevention and investigation

[ ] enforcement of protective custody provisions

[ ] child welfare

Do you think that the protective custody provisions are serving a worthwhile function?...yes/no

What are the main purposes of the protective custody legislation? (indicate the order of importance by numbering):

[ ] [a] to deal with a public nuisance by clearing the streets;

[ ] [b] to minimize the expenditure of scarce criminal resources;

[ ] [c] more humane handling of drunks;

[ ] [d] improve longer term rehabilitation or socialization of drunks;

[ ] [e] to prevent crime by and against drunks;

Which of the above purposes do you think the public sees as most important?....

Which of the above purposes do you think the business community considers most important?....

Which of the above purposes do you think the politicians consider most important?....

Do you feel that any pressure is being placed upon the police by the public, business community or politicians to perform your duties in relation to drunks in any certain way?...yes/no

If so, which of these groups seem to be exerting that pressure?....public/business community/politicians.

How do you know that this pressure is being exerted?.....
.....

In which way does this group, if any, want your duties performed?.....

Do you see public drunkenness as a criminal or a medical/social problem?.....

Do you think your partner on tonight's patrol places much importance on the apprehension of drunks?...yes/no

Would you be willing to serve in a unit whose sole duties were the apprehension of drunks and the conveyance of them to a suitable place?....yes/no

Would you think any less of an officer who did volunteer for such duties? yes/no.

Do you think that you could perform your duties to a higher standard if you did not have to worry about the apprehension of drunks?...yes/no

What proportion of your duty time do you estimate that you spend on the apprehension, conveyance and paper work associated with drunks?.....

Do you think that drunkenness should still be an offence?...yes/no

If it were decided that all drunks should be taken to detox or sobering up facilities run by other organizations and not to police cells, do you think that their apprehension should then be a police function?....yes/no

Are there any other comments that you wish to make?.....
.....
.....
.....
.....

Appendix B

Personal Details

Age.... Sex: M/F race.....
Where have you lived most of your life?.....
Length of Service..... rank.....

1. Since the introduction of the sobering up centre at McLachlan Street, do you think that the work you are doing with drunks receives adequate recognition from the community?

yes/no.

2. Number the following police tasks in their order of importance to the community:

[ ] order maintenance
[ ] law enforcement
[ ] community service

3. Do you see the apprehension of drunks as mainly for the purpose of: (please tick one)

[ ] preventing breaches of the law
[ ] preventing an annoyance to other members of the public
[ ] to assist the drunk

4. Do you find it more convenient to take drunks to McLachlan House than to the cells?

yes/no
Why?

5. When deciding which drunks to pick up, has your attitude changed since McLachlan House was opened?

yes/no
How?

6. Can you think of any way in which Police/McLachlan House relationships could be fostered?

7. Would you volunteer to work solely with drunks?

yes/No

8. Has your partner on today's patrol more or less service than you?

more/less

9. Does he place much importance on the apprehension of drunks?

yes/no

10. Which purpose do you see the community holding as most important in the apprehension of drunks:

[ ] to protect and assist the drunk

[ ] to keep the streets clear of offensive and disorderly persons

[ ] to prevent offences being committed.