



## Royal Commission into Aboriginal Deaths in Custody Recommendation

### 80. Establish non-custodial facilities for care of intoxicated persons

*That the abolition of the offence of drunkenness should be accompanied by adequately funded programs to establish and maintain non-custodial facilities for the care and treatment of intoxicated persons.*

<b>Background<sup>1</sup></b>	The Royal Commission into Aboriginal Deaths in Custody (RCIADIC) emphasised that in conjunction with the decriminalisation of public drunkenness <sup>2</sup> , care and treatment programs should be provided in place of police intervention and time spent in custody. The Commission highlighted that the decriminalisation of public drunkenness alone, was not enough to reduce how many people encounter the criminal justice system or how much time they spend in police custody.
<b>Intent</b>	Establish and fund non-custodial facilities for the care and treatment of intoxicated persons when decriminalising public drunkenness.
<b>Responsibility</b>	All state and territory governments.
<b>Key contacts</b>	Department of Health.

#### Key action taken

<b>2005 Review<sup>3</sup></b>	<p>The Department of Human Services (DHS) and Department of Justice assessed Recommendation 80 as <b>partially implemented</b>.</p> <p><b>Department of Human Services</b></p> <p>Drugs Policy and Strategy advised that the offence of public drunkenness had not been repealed. However, seven sobering-up centres (called Koori Community Alcohol and Drug Resource Centres) were established in Victoria in the early 1990s in response to the RCIADIC. Only three centres operated 24 hours, seven days a week; the remaining centres operated during normal day time hours.</p> <p>The DHS was part of a working group formed to look at the implications of repealing the offence of public drunkenness, according to the recommendations made by the Drug and Crime Prevention Committee: Inquiry into Public Drunkenness in 2001. Recommendation 12 stated that, where appropriate, sobering-up centres be established specifically for Aboriginal people. Recommendation 13 suggested consideration should be given, wherever possible, to sobering-up centres established for Aboriginal people forming part of a holistic ‘treatment service’ or ‘healing centre’.</p>
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<sup>1</sup> Royal Commission into Aboriginal Deaths in Custody (Final Report, 1991) 14 - 17 ('RCIADIC').

<sup>2</sup> We recognise Aboriginal community concerns with the use of this terminology and its potential to reinforce harmful stereotypes, so have only included it where it reflects the language included in legislation or quotations. Wherever possible we use ‘public intoxication’ instead.

<sup>3</sup> Aboriginal Justice Forum (Vic), Department of Justice (Vic), *Victorian Implementation Review of the Recommendations from the Royal Commission into Aboriginal Deaths in Custody* (Review Report, October 2005) vol 1, 382-4 ('2005 Review').

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Based on the Drug and Crime Prevention Committee recommendations about sobering-up centres, DHS were considering the most appropriate type of facility to respond to the recommendations and their resource implications.

### Court Diversion

Diversion programs, such as the Court Referral and Evaluation Drug Treatment or the Rural Outreach Diversion Worker, were available from magistrates' courts across Victoria at the point of bail for non-violent offenders with a substance misuse issue. Clients underwent drug assessment and treatment as a condition of bail. Treatment progress was considered when the matter was heard.

Koori Alcohol and Drug Diversion Workers were also available at specialist Koori Courts to link Aboriginal clients coming before the court who had substance misuse issues with drug assessment and treatment in a mainstream agency or with a Koori Alcohol and Drug Worker at their local Aboriginal Co-operative.

### Evaluation of Koori Community Alcohol and Drug Resource Services

A 2001 evaluation of the Koori Community Alcohol and Drug Resource Services conducted by Turning Point Alcohol and Drug Centre found clients were mostly males, in their late twenties and using alcohol and/or cannabis. Other service users included young people at risk of alcohol or drug misuse, and women and children escaping domestic violence. Police were an essential source of referrals, and most services reported good relationships with police.

The facilities were usually family homes with minimal alterations to accommodate male and female clients and live-in coordinators. Issues identified in the evaluation included:

- The need for operational guidelines that included principles of good practice, service standards, criteria for client-intake and appropriate use of premises.
- Clients often had a broad range of issues other than drug and alcohol misuse, but referral options were limited as most of the services were regionally based without access to adequate withdrawal and residential rehabilitation services.
- Funding for staffing and operational costs required review.

### **Department of Justice**

The Drugs and Crime Prevention Committee Inquiry into Public Drunkenness recommended that public drunkenness be decriminalised but not until adequate sobering-up centres were established and comprehensive training provided for police officers and sobering-up centre staff. The report made further detailed recommendations in relation to sobering-up centres. These recommendations were being considered by the Victorian Government.

### **Victoria Police**

Victoria Police advised that there was one sobering-up centre in the Metropolitan region and five regionally. The Victoria Police Manual stated that if Aboriginal people were arrested for being 'drunk' then the sobering-up centre must be notified. The Aboriginal Affairs Unit supplied contact details of sobering-up centres to stations.

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	<p>Regionally, Aboriginal Community Justice Panels played an important and effective role in assisting police with intoxicated clients. The Department of Justice were seeking to support regional community night patrol services to also assist people intoxicated in public.</p>
<p><b>2018 Review<sup>4</sup></b></p>	<p><b>Victorian Government</b></p> <p>Deloitte concluded that Recommendation 80 was <b>fully implemented</b> as the Victorian Government had established seven Koori Community Alcohol and Drug Resource Services, including sobering-up centres tailored to support Aboriginal people.</p>
<p><b>Since then</b></p>	<p><b>Victorian Government</b></p> <p>In 2019 the Victorian Government announced it would ‘decriminalise public drunkenness and replace it with a health-based response, in order to provide vulnerable Victorians with appropriate help and support’. An Expert Reference Group (ERG) was established to provide advice to government about development of a public health-based response. The ERG undertook broad consultation with a range of stakeholders which included Aboriginal organisations, first responders and health professionals as well as community and legal peak bodies. The ERG delivered its report, ‘Seeing the Clear Light of Day’, with 86 recommendations, to the government in August 2020.</p> <p>The government considered the ERG’s report and recommendations as it worked towards implementing a health model to meet the immediate and long-term health needs of people who are intoxicated in public. (The ERG’s report and the Victorian Government’s response are available at <a href="http://www.justice.vic.gov.au/public-drunkenness">www.justice.vic.gov.au/public-drunkenness</a>.)</p> <p>Consistent with the ERG’s recommendation, the public health model was to be trialled in four areas (City of Yarra, Shepparton, Dandenong and Castlemaine) for 24 months and then established across the state. While the government acknowledged that the reforms were long overdue, this implementation period was considered critical to creating a well-designed, collaborative and culturally safe system consistent with the ERG’s vision.</p> <p>The government provided \$16 million in the 2020-21 Budget to begin implementation of these reforms. During the implementation period, government consulted with the Aboriginal community, first responders, health services and other communities to ensure the health model design was culturally safe and met community needs.</p> <p>The Victorian Government recognised that the requirements of a public health response would also strengthen Victoria’s response to RCIADIC Recommendation 80.</p>

<sup>4</sup> Deloitte Access Economics, Department of Prime Minister and Cabinet, *Review of the Implementation of the Recommendations of the Royal Commission into Aboriginal Deaths in Custody* (Report, August 2018) 161 ('2018 Review').

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### Department of Health<sup>5</sup>

The Department of Health's 2023 update on the establishment of a health-based response to public intoxication in Victoria noted:

#### Service Model

Police will not be given any new powers to address public intoxication. Instead, a health-based model will be adopted across metropolitan Melbourne, outer metro areas, and regional locations. This model will include outreach teams and sobering services, with a particular emphasis on serving Aboriginal and Torres Strait Islander clients.

#### Secondary Response

When a dedicated health response is unavailable, emergency service providers will offer a secondary response. This response will prioritise community safety, emergency health risks, and interventions based on consent.

#### Service Providers

The Victorian Aboriginal Health Service (VAHS) will provide centralised services for Aboriginal and non-Aboriginal people. Co-health will provide general population outreach services and a sobering centre in Collingwood. Ngwala Willumbong will provide Aboriginal services in metropolitan Melbourne, Wyndham, and Frankston, Rumbalara Aboriginal Co-operative services Shepparton, and Bendigo & District Aboriginal Co-operative services Bendigo. Working with Aboriginal-led organisations is the preferred approach with further locations and providers to be announced.

#### Children and young people

Children and young people under 18 found intoxicated in public will receive assistance from outreach teams. These teams will prioritise child safety and may help young people contact a parent or responsible adult to ensure their safety. The model emphasises culturally appropriate responses for Aboriginal young people.

### Victoria Police<sup>6</sup>

The Victorian Department of Health has primary responsibility for developing and delivering adequately funded programs to establish and maintain non-custodial facilities for the care and treatment of intoxicated individuals. Victoria Police support the decriminalisation of public drunkenness and will support alternative facilities under a health-led response model. Recommendation 80 is not for Victoria Police.

## Evidence of impact

### Authorising documents

#### Public Intoxication Reform Service Framework

The Public Intoxication Reform Service Framework in Victoria aims to provide a health-based response to public intoxication, prioritising the health, safety, and wellbeing of individuals

<sup>5</sup> Department of Health (Vic), *Aboriginal Justice Forum 67* (13 October 2023) 22 ('Aboriginal Justice Forum 67').

<sup>6</sup> David Jones and Tyler McRae, 'Victoria Police Review of Recommendations from the Royal Commission into Aboriginal Deaths in Custody' (Response to AJC Request, Tranche Two).

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	<p>who are intoxicated in public. The framework includes outreach services, sobering centres, and culturally safe supports for Aboriginal and Torres Strait Islander people.</p>
<p><b>Outputs</b></p>	<p><b>Department of Health<sup>7</sup></b></p> <p>Funding to implement the health-based response which includes sobering-up centres:</p> <ul style="list-style-type: none"> <li>• \$16 million in the 2020-21 Budget to begin implementation of public intoxication reforms</li> <li>• an extra \$50 million over two years (2022-23 and 2023-24) to continue and expand the trial site program, including establishment of standalone Aboriginal service responses in the City of Yarra and Shepparton; an expansion of the Custodial Notification Scheme which provides support to Aboriginal community members detained in custody; evaluation of trial sites to inform the state-wide rollout; and implementation planning for the state-wide rollout including staffing and training costs</li> <li>• \$88 million from the 2023-24 Budget to cover three years of funding until 2025-26.</li> </ul> <p><b>Sobering facilities and places of safety</b></p> <p>In metropolitan Melbourne, fully staffed sobering-up centres operating 24 hours per day, seven days per week will provide a supervised place for people who are intoxicated to stay while they recover from the immediate effects of intoxication. They are dignified and safe environments that help to reduce the risk of harm to the intoxicated person. These facilities include:</p> <ul style="list-style-type: none"> <li>• one centre for the general population in Collingwood</li> <li>• one centre for Aboriginal and Torres Strait Islander people in St Kilda</li> <li>• on-demand places of safety in regional locations where outreach teams can support Aboriginal people if they cannot safely return home or to the home of family, friends, carers or kin, and require ongoing supervision.<sup>8</sup></li> </ul>
<p><b>Outcomes</b></p>	<p><b>Department of Health</b></p> <p>At the 68<sup>th</sup> Aboriginal Justice Forum the Department of Health provided an update on public intoxication services as of July 2024. Sobering-up services for Aboriginal people (places of safety) were operating in St Kilda and Shepparton but were yet to be established in other regional locations.</p> <p>The Department of Health stated that over 10,000 people have been supported by outreach services and over 600 at sobering-up centres across the regions below.<sup>9</sup></p>

<sup>7</sup> Department of Health, 'Public Intoxication Reform', *Alcohol & other drugs* (Web page, July 2024) <<https://www.health.vic.gov.au/alcohol-and-drugs/public-intoxication-reform>> ('Public Intoxication Reform').

<sup>8</sup> Department of Health (Vic), 'New public intoxication response services', *Health.vic* (Webpage, 03.12.2024) <<https://www.health.vic.gov.au/alcohol-and-drugs/new-public-intoxication-response-services>> ('New public intoxication response services').

<sup>9</sup> Aboriginal Justice Caucus, 'Aboriginal Justice Caucus Report to Aboriginal Justice Forum 68' (Agenda Paper) 284-285.

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Location	Aboriginal organisation	Service	Operating hours
East Gippsland (Bairnsdale)	Ngwala Willumbong	Outreach	On demand outreach 12pm Thursday – 6am Sunday.
		Place of Safety	Local search underway.
Bendigo	Bendigo & District Aboriginal Co-operative	Outreach	On-demand outreach 9am – 5pm Monday – Friday.
		Place of Safety	Location identified. Yet to commence.
Greater Shepparton	Rumbalara Aboriginal Co-operative	Outreach	Assertive outreach 9am Thursday – 9am Monday. On-demand outreach all other times.
		Place of Safety	Open 9am Thursday – 9am Monday.
Swan Hill	Ngwala Willumbong	Outreach	On-demand outreach 12pm Thursday – 6am Sunday.
		Place of Safety	Local search underway
Ballarat	Ballarat and BADAC	Outreach	On-demand outreach 9am-5pm Monday to Friday and 5pm -9am Thursday to Monday.
		Place of Safety	Location identified, yet to commence.
Geelong	Wathaurong Aboriginal Co-operative	Outreach	On-demand outreach 5pm – 9am Thursday to Monday
		Place of Safety	Location identified. Yet to commence.
Latrobe (Traralgon)	Ngwala Willumbong	Outreach	On-demand outreach 12pm Thursday – 6am Sunday.
		Place of Safety	Location search underway.
Mildura	Ngwala Willumbong	Outreach	On-demand, outreach 12pm Thursday – 6am Sunday
		Place of Safety	Location search underway.

### Ngwala Willumbong Aboriginal Corporation <sup>10</sup>

Ngwala updated the Aboriginal Justice Forum (2024) on their outreach services to the St Kilda and Frankston areas. Ngwala were successful in securing funding to provide additional public intoxication response services in other areas including Wyndham, Latrobe, Bairnsdale, Mildura and Swan Hill. Work is underway to establish sobering-up services for Aboriginal people in these locations. The team highlighted that they have around 160 engagements per week with their outreach coffee van which includes providing community with rough sleeping packs where required.<sup>11</sup>

### Community views

#### The Expert Reference Group Report on Public Drunkenness<sup>12</sup>

*The ERG's vision is that those who are intoxicated in public and at risk to themselves or others will be safe, will have access to culturally appropriate care, will have minimal contact with the criminal justice system, and that the safety of the community and first*

<sup>10</sup> Aboriginal Justice Forum 67, 118.

<sup>11</sup> Ngwala Willumbong Aboriginal Corporation, *Public Intoxication Response Program* (2024) ('Public Intoxication Response Program').

<sup>12</sup> Justice and Community Safety Victoria State Government, 'The Report of the Expert Reference Group on Public Drunkenness, The Victorian Government's response to the report' 22/11/2023 ) <<https://www.justice.vic.gov.au/node/1819/the-report-of-the-expert-reference-group-on-public-drunkenness#report>>.

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*responders will be protected. A key aim of the model is to reduce incarceration and prevent deaths in custody.*

### **Nerita Waight, CEO at the Victorian Aboriginal Legal Service (2023)**

*The state government is establishing health services to support people who are intoxicated in public. It is essential that these services are established as quickly as possible and that Aboriginal organisations are empowered and supported to operate these services in the way that they see fit for their communities.<sup>13</sup>*

### **Related recommendations**

#### **2005 Review<sup>14</sup>**

#### **Recommendation 54**

That the Victorian Government:

- (a) proceed, as a matter of urgency, to abolish the offence of public drunkenness, and
- (b) establish appropriately resourced Aboriginal run Sobering-Up Centres, which operate twenty-four hours, seven days a week.

That the Victorian Government implement and monitor recommendations 79 and 80 through any monitoring process established as a consequence of this Review.

#### **Drugs and Crime Prevention Committee Inquiry into Public Drunkenness (2001)<sup>15</sup>**

#### **Recommendation 1**

Decriminalisation of public drunkenness offences shall take effect but not until the following requirements are met:

- Legislation regarding civil apprehension and detention of intoxicated persons is enacted
- Adequate numbers of sobering-up centres and associated services are established
- Comprehensive training for police officers and sobering-up centre staff with regard to the new legislation and any protocols and guidelines associated with it is undertaken.

#### **Recommendation 2**

Recommendations 79–84 of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC) should generally be implemented.

#### **Recommendations 10-25 about sobering-up centres**

10. Substantial numbers of sobering-up centres must be established before decriminalisation takes effect.

11. Substantial numbers of sobering-up centres should be strategically established in Melbourne and regional Victoria, particularly in locations of high demand.

12. Where appropriate, sobering-up centres should be established specifically for Indigenous people.

<sup>13</sup> Victorian Aboriginal Legal Service, 'Public Intoxication to Finally Be Decriminalised' (Media Release 3 November 2023) <<https://www.vals.org.au/public-intoxication-to-finally-be-decriminalised/>>.

<sup>14</sup> 2005 Review.

<sup>15</sup> Drugs and Crime Prevention Committee, Parliament of Victoria, *Inquiry into Public Drunkenness* (Final Report No 86 Session 2000-2001, June 2001) xi.

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13. Consideration should be given wherever possible to sobering-up centres established for Indigenous people forming part of a holistic 'treatment service' or 'healing centre'.
14. Where appropriate, Indigenous Community or Night-Patrols run in conjunction with sobering-up centres should be established.
15. A separate Indigenous patrol staffed by women and for women should be established.
16. Where appropriate, sobering-up centres should be established specifically for young people.
17. Where appropriate, sobering-up centres should be established specifically for women.
18. Where this is not possible, at least one female staff member should be in attendance at the sobering-up centre at all times.
19. Appropriate protocols need to be established between Victoria Police and the government departments or agencies responsible for funding and administering sobering-up centres.
20. Sobering-up centres must establish partnerships with appropriate rehabilitative, support and treatment services, including hospitals and community health centres, as part of a coordinated approach to drug and alcohol service delivery.
21. Sobering-up centres' services should be regularly reviewed and monitored to determine their effectiveness and adequacy.
22. Comprehensive guidelines should be published to assist staff in the running of sobering-up centres.
23. Funding for sobering-up centres should be coordinated by one central authority and allocated on a triennial basis.
24. Funding for Community or Night Patrols be allocated on a separate basis.
25. A thorough costing analysis be undertaken regarding the establishment of sobering-up centres and associated services prior to decriminalisation.

### Assessment summary<sup>16</sup>

The intent of Recommendation 80 was to establish and fund non-custodial facilities for the care and treatment of intoxicated persons when decriminalising public drunkenness.

*The establishment of sobering-up centres was to keep our mob out of the system and there were several of those established across the state way back when in the 90s, and then for some reason or other they were stopped and nobody seems to know how, why or when? They just seemed to vanish off the face of the earth... (Marion Hansen, Co-chairperson, AJC).*

The Department of Health was allocated \$88 million in the 2023-24 Budget to support the establishment of non-custodial facilities for the care of intoxicated persons following the decriminalisation of public drunkenness. In July 2024, Cohealth was operating a general sobering-up service in Collingwood to assist people found intoxicated in public in the Melbourne metropolitan area. Ngwala Willumbong was operating a sobering-up service in St Kilda and Rumbalara Aboriginal Co-operative was operating one in Shepparton. Ngwala was also

<sup>16</sup> Meeting with Aboriginal Justice Caucus Working Group (Project Team, Online, 10 October 2024) ('Working Group Meeting (10 October 2024)'); Meeting with Aboriginal Justice Caucus (Project Team, In Person, 11 December 2024) ('AJC Meeting (11 December 2024)').

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operating outreach services in Swan Hill, Mildura, Latrobe, and East Gippsland with the aim of establishing sobering-up centres in these locations (once appropriate facilities had been identified). The Victorian Aboriginal Health Service provide a 24/7 centralised phone service for Aboriginal and non-Aboriginal callers.

*The state government is establishing health services to support people who are intoxicated in public. It is essential that these services are established as quickly as possible and that Aboriginal organisations are empowered and supported to operate these services in the way that they see fit for their communities.*  
(Nerita Waight, CEO, VALS)

Actions taken partially align with the intent of the recommendation, but limited resources allocated for sobering-up centres means that they are not accessible to every Aboriginal community across the state.

*Even once all the sobering-up sites are up and running they're not going to service everyone. The funding needs to be flexible and able to move with cohorts of people. Because the data is based on previous years, the model doesn't account for growth or changes where Aboriginal people are moving, especially in the city where families move because of affordable housing. The model needs to be flexible to accommodate these changes.* (Chris Harrison, Co-chairperson, AJC and Chairperson, Aboriginal Community Justice Panels)

There are still Aboriginal people who are affected by alcohol being held in police custody due to other charges. They remain at risk.

Recommendation 80 remains highly relevant and full implementation has the potential to reduce incarceration, increase safety in custody and progress Aboriginal self-determination.

### Assessment of Recommendation 80

**Is the intent of the recommendation accurately described?**

Yes  No

**Does the action taken align with the intent of the recommendation?**

0 – No action taken

1 – Action taken is of little relevance to the intent of the recommendation

2 – Action taken partially aligns with the intent of the recommendation

3 – Action taken fully aligns with the intent of the recommendation

2

(Score out of 3)

**Is there evidence of the desired impact or outcome/s?**

0 – No evidence

1 – Evidence of output rather than outcome

2 – Some evidence action contributed to outcome/s

3 – Clear link between action and impact or outcome/s

2

(Score out of 3)

**How relevant is the recommendation in the current context?**

0 – No relevance – refers to practices, agencies or laws that no longer exist

1 – Low – some relevance, but most aspects of the recommendation no longer apply

2 – Moderate – remains relevant, but some aspects of recommendation no longer apply

3 – High – entirely relevant to current context

3

(Score out of 3)

**Does full implementation have the potential to reduce incarceration, increase safety in custody and/or progress Aboriginal self-determination?**

0 – No potential to improve Aboriginal justice outcomes

1 – Low – potential to improve Aboriginal justice outcomes, but none of the three identified

2 – Moderate – potential to progress one or two of the outcomes identified

3 – High – potential to reduce incarceration AND increase safety in custody AND self-determination

2

(Score out of 3)

**Potential actions for further work**

**Ongoing funding and establishment of more sobering up facilities**

Ensure that Aboriginal people across Victoria have access to health-based responses implemented under the public intoxication reforms, particularly those delivered by ACCOs. This includes the Victorian Government supporting Ngwala to obtain more properties to establish facilities in the Gippsland and Mallee regions. In addition, there needs to be adequate ongoing funding beyond budget cycles and further sobering up facilities established in larger catchment areas.

**High priority for further work**

**Relevance and potential impact**

		Low (0-2)	Moderate (3-4)	High (5-6)
Extent of action taken and evidence of outcomes	High (5-6)			
	Moderate (3-4)			<i>Rec 80</i>
	Low (0-2)			

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