



## RIGHTS IN PUBLIC SPACE ACTION GROUP

A Coalition Promoting the Rights of Marginalised People in Queensland's Public Spaces

CRIME AND MISCONDUCT

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### Submission to the CMC Review of Police Move-On Powers

The Rights in Public Space Action Group (RIPS) is a coalition of legal professionals with an interest in promoting the rights of marginalised people in their use of public spaces. The RIPS membership consists of community agencies that provide support services to marginalised people, as well as academics. RIPS engages in both research and lobbying activities, pooling the collective expertise of its representatives in working to address the systemic issues that impact upon marginalised groups (including Indigenous people, young people, and people who are homeless) who frequent public space.

RIPS members contributed both written submissions and oral comments to the CMC in its review of public nuisance between 2005 and 2007. RIPS members have expressed disappointment at some of the recommendations that emerged from the public nuisance review (see article by Tamara Walsh, enclosed). It is the belief of RIPS members that any review of police move-on powers must **consider the interplay between move-on, public nuisance and broader issues of police accountability.**

In particular, RIPS is concerned at the **lack of accountability** of the Queensland Police Service to the public in the exercise of its powers. The fact that public nuisance has become a ticketable offence is of concern to RIPS, as this means that most public nuisance cases will be removed from the scrutiny of the courts, and thus the public. In relation to move-on powers, there is **no publicly available data** to enable an independent evaluation of the exercise of these powers to be conducted. RIPS therefore believes that a **reporting system must be introduced**, whereby police are required to make a record of every move-on direction issued, including the characteristics of the person moved on, the reasons for the direction and the nature of the direction. This data should be annually reported to the public.

Research conducted by RIPS members suggests that a **significant proportion of vulnerable people are subjected to move-on directions on a regular basis for behaviour they consider to be innocuous.** This is particularly the case for Indigenous people, street dwellers and young people. We refer the CMC to the *Nowhere to Go* report (enclosed) for further information.

RIPS members are concerned at the (apparent) continuing increase in public order offending in Queensland. Unlike other forms of criminal activity, the Queensland Police Service does not appear

to be committed to reducing the rate of public order crime. RIPS believes that the Queensland Police Service should undertake to focus on **de-escalation in the policing of public space**. Formal directions, and criminal charges, should only be used to deal with public nuisance type behaviour as a last resort. This is particularly the case where an incident can be traced to a person's mental illness or cognitive impairment. If police officers feel they lack the skills to deal with such incidents, RIPS recommends that a multidisciplinary approach be taken to policing in Queensland, and that the role of social workers and other support workers in the policing of public space be enhanced.

RIPS further notes that in some circumstances, **move-on directions are issued in a manner which is unlawful**. This may be because the move-on direction is issued in a manner which does not comply with the *Police Powers and Responsibilities Act 2000*, for example, the person may be told to leave a particular place for a period of time which exceeds 24 hours (see *Nowhere to Go*). Move-on directions may also be issued in a discriminatory matter, contrary to anti-discrimination legislation. We refer the CMC to the article written by Tamara Walsh and Monica Taylor and published in the *University of New South Wales Law Journal* on this subject.

RIPS believes that a person's presence should never form the basis for a move-on direction. RIPS members are therefore of the view that **section 47 (when power applies to a person's presence) should be repealed**. Further, RIPS believes that the possibility that a person may be **causing mere anxiety to another person is too low a threshold** for the powers to be exercised. RIPS believes that the threshold should be raised such that a person may only be subject to a move-on direction if they are engaging in behaviour that **constitutes harassment or intimidation**. We refer the CMC to the equivalent power in the *NSW Law Enforcement (Powers and Responsibilities) Act 2002* (section 197) as a reasonable alternative to the Queensland provision.

Thank you for the opportunity to contribute to the review.

Yours sincerely,



Dr Tamara Walsh (for and on behalf of RIPS)