

Chapter 1

Introduction

Referral and conduct of the inquiry

1.1 On 25 June 2015, the Senate referred an inquiry into personal choice and community impacts to the Senate Economics References Committee (committee) for inquiry and report by 13 June 2016.¹

1.2 The committee's terms of reference require it to report on:

The economic and social impact of legislation, policies or Commonwealth guidelines, with particular reference to:

- a. the sale and use of tobacco, tobacco products, nicotine products, and e-cigarettes, including any impact on the health, enjoyment and finances of users and non-users;
- b. the sale and service of alcohol, including any impact on crime and the health, enjoyment and finances of drinkers and non-drinkers;
- c. the sale and use of marijuana and associated products, including any impact on the health, enjoyment and finances of users and non-users;
- d. bicycle helmet laws, including any impact on the health, enjoyment and finances of cyclists and non-cyclists;
- e. the classification of publications, films and computer games; and
- f. any other measures introduced to restrict personal choice 'for the individual's own good'.

1.3 In accordance with usual process, the committee advertised the inquiry on its website and wrote to relevant persons and organisations inviting submissions to the inquiry.

1.4 To date, the committee has received 485 public submissions and two confidential submissions. The public submissions are available on the committee webpage.

1.5 The committee has held seven public hearings. At its first public hearing, on 11 September 2015 in Canberra, the committee heard evidence on personal choice and the theoretically underpinnings of the terms of reference. At its second public hearing, on 3 November 2015, in Parramatta, the committee heard evidence on proposed restrictions on the activities of fans of the Western Sydney Wanderers Football Club. At its third public hearing, on 16 November 2015, in Melbourne, the committee heard evidence on mandatory bicycle helmet laws, and at its fourth public hearing, on 20 November 2015, in Sydney, the committee heard evidence relating to the sale and service of alcohol, with particular reference to NSW's 'lockout' laws. A fifth public hearing in Sydney on 9 March 2016 focused on the sale and use of tobacco and

¹ *Journals of the Senate* No. 102, 25 June 2015, p. 2832.

nicotine and e-cigarettes. The committee's sixth public hearing considered the sale and use of marijuana on 11 March 2016 in Sydney. At its seventh public hearing on 22 April 2016, the committee heard evidence regarding the classification of publications, films and computer games.

1.6 This report focuses on the evidence in relation to the second public hearing. The witnesses who appeared at the second public hearing are listed at Appendix 1.

1.7 The committee thanks all those who have participated in the inquiry so far.

Relevance to inquiry

1.8 This interim report considers an issue under inquiry term of reference (f) concerning any measures introduced to restrict personal choice for 'the individual's own good'. It explores the approach taken by New South Wales (NSW) Police to policing fans of the Western Sydney Wanderers (WSW) Football Club, particularly members of the club's organised fan association, the Red and Black Bloc (RBB). The report considers the justification and effectiveness of the approach, raising questions that are pertinent to the committee's inquiry into personal choice and their community impacts.

1.9 Restrictions on the behaviour of members of the RBB highlight the tension between the demands of community safety and individual rights and responsibilities.

1.10 The restrictions placed on RBB members reflect the boundary between ensuring community safety and enforcing a particular (and arbitrary) standard of behaviour. Ensuring community safety is a police responsibility. Enforcing standards of behaviour is not generally a police function though there are exceptions (e.g. ensuring dress standards in licensed venues).

1.11 An attempt to impose a standard of behaviour, such as a restriction on swearing at matches, may or may not enhance public safety, but arguably limits the freedom of individuals to regulate their own behaviour.

1.12 The extent to which the 'nanny state' or 'hard paternalism' comes to depend on law enforcement was also a matter of interest to the committee, something also raised in the committee's first interim report.

1.13 Blurring the division between ensuring community safety and enforcing standards of behaviour may have additional and dangerous consequences. In particular, the restrictions imposed on members of the RBB may have the unintended effect of escalating conflict with the police, rather than promoting public order.

1.14 By restricting the rights of RBB members at WSW matches, the police may be engaging in a form of hard paternalism, founded on the assumption that the RBB – and soccer crowds more generally – are inherently irrational and dangerous. On this logic, public safety is supposedly safeguarded by heavy restrictions and sanctions.

1.15 The assumption that the source of violence lies within the dangerous and irrational nature of large crowds risks overlooking the possibility that violence could result *from* the interaction between police officers and crowds. The actions of police, such as enforcing restrictions on RBB members, may therefore contribute to an escalation of conflict.

1.16 This interim report examines the arguments and evidence surrounding policing of the RBB, along with outlining criminological and sociological insights into differing approaches to the maintenance of public order.

Overview of events

1.17 The WSW was founded in April 2012, and currently plays its home matches at Pirtek Stadium in Parramatta, Sydney. The RBB was established in June 2012. It remains the club's main supporters' organisation.

1.18 Although the RBB has been praised for its active and passionate support for both the club and the sport, it has attracted some negative media attention as a result of the behaviour of a minority of its members.

1.19 Since 2012, the RBB has been involved in a number of incidents, some of which have gained mainstream media attention, including, for instance, a violent confrontation between WSW fans and Melbourne Victory supporters in December 2013.²

1.20 In April 2015, during an ANZAC Day match between the WSW and Perth Glory, a flare gun was ignited by an individual in the stadium. This was followed by a fight between supporters of the WSW and Perth Glory, which led to an intervention by police.³

1.21 Members of the RBB later claimed that the police response was unjustifiably harsh. In a statement posted on Facebook, the RBB claimed one 'task force member aggressively pushed a supporter in the back who happened to be in his way'.⁴ The RBB further claimed that the police used pepper spray 'in a 180 degree motion, with little care or regard for children and women who were present'.⁵

1.22 On 24 September 2015, after talks between representatives of the RBB, NSW Police, Parramatta City Council, Pirtek Stadium and the WSW, the RBB suggested, in a post on its Facebook page, that additional restrictions on fans' behaviour were under consideration, including banning the traditional supporters' march to the stadium, clapping hands above one's head, the use of loud-hailers, standing in corridors, and a

2 'Victory, 'Wanderers at loggerheads over brawl'', *SBS*, 31 December 2013, <http://theworldgame.sbs.com.au/article/2013/12/31/victory-wanderers-loggerheads-over-brawl> (accessed 4 December 2015).

3 'A-League violence: NSW police pepper spray fans at match between Western Sydney Wanderers and Perth Glory', *ABC News*, 27 April 2015, <http://www.abc.net.au/news/2015-04-26/pepper-spray-used-at-a-league-violence-perth-glory-western-sydney/6422580> (accessed 8 December 2015).

4 Red and Black Bloc, <https://www.facebook.com/RedAndBlackBloc/posts/631552830279805> (accessed 3 November 2015).

5 Red and Black Bloc, <https://www.facebook.com/RedAndBlackBloc/posts/631552830279805> (accessed 3 November 2015).

general prohibition on any form of swearing.⁶ The RBB rejected these proposed restrictions outright, arguing that they would unnecessarily penalise law-abiding and passionate fans.

1.23 On 2 October 2015, following sustained criticisms of the proposed restrictions by WSW fans, the club's CEO, Mr John Tsatsimas, announced that a new set of restrictions, based on the stadium's existing conditions of entry, would govern fans' behaviour before, during and after matches. It was unclear whether these new regulations were developed in consultation with NSW Police.

1.24 According to Mr Tsatsimas, the new restrictions were designed to meet public safety demands, while also ensuring that fans' enjoyment of matches were not needlessly restricted:

- There is no ban on the pre-match march based on the continued adherence to protocols that apply for any organised public gathering;
- There is no ban on standing, clapping, singing or jumping up and down within the venue;
- All approved concession items, including flags and banners, will still be allowed in the venue as per the pre-existing venue terms of admission;
- There is no ban on the approved capo stand or the use of loud hailers based on pre-existing terms of admission;
- Overcrowding of bays, standing on seats, blocking aisles, repetitive offensive language will be managed in accordance with established terms and conditions of entry. These terms of entry have been in place since their first ever match.⁷

1.25 Apart from maintaining its zero tolerance policy towards the use of flares and other forms of anti-social behaviour, Mr Tsatsimas announced that the WSW would take further steps to enhance fans' safety and enjoyment at matches, including:

- The appointment, by the WSW, of Supporter Marshalls;
- The appointment, by NSW Police, of Fan Liaison Officers; and
- All home matches will be policed by regular and familiar officers, in an effort to build greater trust between fans and police.⁸

1.26 Following the club's announcement, the NSW Police issued a statement welcoming the changes, especially in relation to the introduction of specially-trained

6 Red and Black Bloc, https://m.facebook.com/story.php?story_fbid=684967498271671&id=265593933542365&ref=bookmarks (accessed 3 November 2015).

7 *CEO Statement*, Western Sydney Wanderers, <http://www.wswanderersfc.com.au/article/ceo-statement-1/luanqo2f1191mr7x7zi7ev8u> (accessed 3 November 2015).

8 *CEO Statement*, Western Sydney Wanderers, <http://www.wswanderersfc.com.au/article/ceo-statement-1/luanqo2f1191mr7x7zi7ev8u> (accessed 3 November 2015).

Supporter Marshalls. According to the police, these officials will help to ensure that safety conditions are met on the traditional supporters' march and at the stadium itself.

1.27 The North West Metropolitan Region Commander, Assistant Commissioner Denis Clifford, praised the club's new measures as a win for soccer fans and community safety, saying: 'This issue has only ever been about safe-guarding the fans and the wider community.'⁹

1.28 On 24 October, clashes broke out between WSW supporters and fans of Sydney FC, which led to a total of 18 people being removed from the stadium. NSW Police brought charges against three fans. According to the police, somewhere between 50 and 60 WSW supporters broke away from the main body of a marching group, before running towards a group of Sydney FC fans. A brawl then broke out between the rival clubs' supporters.¹⁰

1.29 During altercations between fans during the match, some stadium seats and railing were damaged. A total of 12 flares were ignited outside of the stadium. Following the match, police intervened when a fight erupted between two groups of supporters on Foveaux Street.¹¹

1.30 Speaking after the disturbances, Mr Tony Crandell, Acting Assistant Commissioner of the Central Metropolitan Region, described the behaviour of some fans as unacceptable, saying that violent and anti-social behaviour had been a particular problem at the event.¹²

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- 9 NSW Police, 'Police welcome positive outcomes over Wanderers safety concerns', *Media Release*, 2 October 2015, http://www.police.nsw.gov.au/news/media_release_archive?sq_content_src=%2BdXJsPWh0dHBzJTNBJTJGJTJGZWJpenByZC5wb2xpY2UubnN3Lmdvdi5hdSUyRm1lZGhhJTJGNDk0MDMuaHRtbCZhbGw9MQ%3D%3D (accessed 4 November 2015).
- 10 NSW Police, 'Police investigate anti-social behaviour amongst supporters at soccer match – Sydney', *Media Release*, 25 October 2015, http://www.police.nsw.gov.au/news/latest_releases?sq_content_src=%2BdXJsPWh0dHBzJTNBJTJGJTJGZWJpenByZC5wb2xpY2UubnN3Lmdvdi5hdSUyRm1lZGhhJTJGNDk0NjkuaHRtbCZhbGw9MQ%3D%3D (accessed 4 November 2015).
- 11 NSW Police, 'Police investigate anti-social behaviour amongst supporters at soccer match – Sydney', *Media Release*, 25 October 2015, http://www.police.nsw.gov.au/news/latest_releases?sq_content_src=%2BdXJsPWh0dHBzJTNBJTJGJTJGZWJpenByZC5wb2xpY2UubnN3Lmdvdi5hdSUyRm1lZGhhJTJGNDk0NjkuaHRtbCZhbGw9MQ%3D%3D (accessed 4 November 2015).
- 12 NSW Police, 'Police investigate anti-social behaviour amongst supporters at soccer match – Sydney', *Media Release*, 25 October 2015, http://www.police.nsw.gov.au/news/latest_releases?sq_content_src=%2BdXJsPWh0dHBzJTNBJTJGJTJGZWJpenByZC5wb2xpY2UubnN3Lmdvdi5hdSUyRm1lZGhhJTJGNDk0NjkuaHRtbCZhbGw9MQ%3D%3D (accessed 4 November 2015).

