



Commissioner's Circular

CC95/75

25 September 1995

Enquiries:

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OFFENSIVE BEHAVIOUR AT 'BEATS'

This circular relates to the policing of public places colloquially known as 'beats' (public toilets, parks or the like), where men may attend for the purpose of sexual or social contact with other men. It is specific to the policing of these locations when responding to incidents of offensive behaviour, crime and violence.

When targeting offensive behaviour at 'beats', the first operational consideration should be given to using marked police vehicles and uniformed police officers to achieve a high-profile prevention and apprehension role. This should always be the preferred policing method and in the majority of cases is a sufficient response to these complaints.

There is little evidence to suggest covert operations carried out in 'beats' are an effective type of policing practice. Evidence suggests police may instead be faced with allegations of entrapment and agent provocateur, particularly when an arrest has been made of a person who claims they have been encouraged to make a sexual advance to the arresting plain-clothed officer.

Complaints of assaults at 'beats' may, however, necessitate covert operations. Offenders have been known to target these locations for assaults, harassment and murders. An important consequence of professional police conduct when responding to complaints regarding offensive behaviour at 'beats,' will be an increase in the level of confidence and trust in reporting crimes of violence, and the subsequent apprehension of assailants who might otherwise go undetected.

Approval for Covert Operations (Offensive Behaviour)

Covert operations in these circumstances will now only be conducted with the prior written approval of the patrol commander in the designated area. The patrol commander will authorise in writing specific operational orders or other suitable documents which clarify the need for covert operations over the preferred operational method.

Before approval is given for covert operations patrol commanders will:

- consider the use of uniformed patrols and marked police vehicles
- consider the number and nature of complaints received in relation to a location

Entrapment/Agent Provocateur

On each occasion where a covert operation is to be conducted, patrol commanders are to ensure police are specifically instructed on the dangers associated with entrapment and agent provocateur. Evidence obtained by such methods will inevitably be excluded by the courts.

Legally, the concept of entrapment involves the suggestion that an accused person has been induced to commit a crime which they otherwise would not have committed or would have been unlikely to commit.

Allegations of entrapment or agent provocateur can be avoided by adopting a more professional approach to performing this type of duty.

Patrol Commander's/Commander's Responsibility

Commanders have a responsibility to ensure all operations are conducted in a professional manner, and:

- consideration is given to the use of high visibility uniform patrols in preference to covert operations
- police are clearly instructed not to incite or encourage any person to engage in unlawful behaviour
- police under their command are aware of the need for integrity when policing public toilets/parks etc. to alleviate allegations of police misconduct
- liaison, where appropriate is conducted with local Police Gay/Lesbian Liaison Officers or with the Police Gay/Lesbian Client Consultant at Police Headquarters. These personnel can arrange consultation with appropriate groups to assist in a joint problem-solving approach to these matters, for example the AIDS Council of NSW, Beats Outreach Workers, Health Department Outreach Officers or the Gay & Lesbian Anti-Violence Project Officers.

To implement these procedures

Commissioner's Instruction 36 is amended by inserting the following at the end of the instruction:

Police operations at 'beats' (public toilets, parks and like places) 36.10

Police generally

Do not conduct covert operations to investigate complaints concerning the use of 'beats' by men who may attend for the purpose of sexual or social contact with other men, unless you have the written approval of your patrol commander.

Patrol commander

Give priority to using marked vehicles and uniformed officers when investigating complaints or carrying out an enforcement operation concerning men using 'beats.'

Where appropriate, liaise with your Police Gay/Lesbian Liaison Officer or the Police Gay/Lesbian Client Group Consultant, Police Headquarters, to arrange a joint

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problem-solving approach with interested groups (eg. Health Department, AIDS Council of NSW).

Where appropriate (eg. complaints of assaults) you may authorise, in writing, a covert operation. Consider the number and nature of the complaints before making a decision.

Ensure operational orders are prepared for covert operations and police involved are:

- instructed not to incite or encourage unlawful conduct or behaviours
- aware of the ramifications of entrapment/agent provocateur (evidence so obtained will be excluded by courts)

- aware of the need for integrity to alleviate allegations of misconduct
- aware professional police behaviour at 'beats' will lead to an increase in reporting of violent crimes in these locations and the subsequent apprehension of otherwise undetected assailants

A R Lauer
Commissioner

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NEW INSTRUCTION

PERFORMANCE MANAGEMENT SCHEME

The Performance Management Scheme emphasises the development and support of all employees by commanders and managers in an effort to contribute effectively to the mission of the Police Service.

Some of the objectives of the scheme are to:

- ensure staff are aware of their key tasks and supervisor expectations
- provide information about the achievement of the organisation's goals
- provide regular communication and constructive feedback to staff on performance
- help create a positive working environment where praise, encouragement and support for a person's effort are part of the normal management process

The Scheme has been operating for some time and to give effect to it a Commissioner's Instruction has been developed: Commissioner's Instruction 35.

For further information on the Scheme, refer to the Performance Management Scheme Information and Guidelines book.

Performance Management Participation 35.01

The following personnel will participate in the performance management scheme:

- police (sergeant to superintendent inclusive)
- administrative officers (clerks grades 5 to 12 or equivalent inclusive)

Prior to entering into a personal achievement plan undergo training provided in respect of the scheme.

Commanders/managers

Ensure scheme processes are carried out at the appropriate time and have in place systems to monitor them.

Negotiating a personal achievement plan

Commander/managers

Use discretion in relation to the length of planning cycles. Determine what is best for the work group or for the individual concerned. Do not make personal achievement plans retrospective.

Personnel generally

Negotiate a plan within six weeks of taking up a new duty.

Ensure the targets of your plan reflect the priorities of the current command plan.

Negotiate a new plan within four weeks of the expiry of your last plan.

Ensure your plan is signed by you and your commander or manager to signify it is a correct statement of your agreed position.

Ensure you receive a copy of your plan.

Confidentiality

Commanders/managers

Keep all documents relating to plans in secure storage.