

Is Gladys Berejiklian more daring than she dares have us believe? – Bill Bush

In the October newsletter I had a go at the New South Wales Premier's summary dismissal of pill testing following the death of two young people at a music festival in Sydney. The panel she established to advise the government about keeping people safe at festivals was effectively told not to recommend pill testing so, predictably enough, with an election looming next year, it recommended a tough law and order approach with the creation of a new offence that means drug dealers will be held responsible for any deaths they cause.

For all that futile hairy chestedness, the New South Wales government included a surprising and welcome gesture to harm reduction, namely the trial of an expiation notice system for those caught with cannabis at music festivals. In the words of [her media release](#) the premier stated that: the NSW Government will also trial on-the-spot fines for people who are caught in possession of illegal drugs at music festivals, rather than issuing a court attendance notice.”

This is a significant alleviation of the exposure of music festival patrons to the harmful rigours of the criminal law. I am obliged to Will Tregoning of Unharm for drawing this well camouflaged announcement to my attention. He tells me that it is the government's intention that people receiving an on the spot fine will not accrue a criminal record.

This step is not enough because it still implicitly treats young festival patrons as delinquents. Even so it must be acknowledged as a small but significant step forward.

The [report of the panel](#) that advised the government to adopt this course is worth a read:

6.1 A proposal to issue on-the-spot fines for drug possession

Recommendation 6: Trial the use of Criminal Infringement Notices (on-the-spot fines) instead of Court Attendance Notices for drug possession offences at or in the vicinity of music festivals.

Strengthened penalties (**Recommendation 7**) need to target drug suppliers. Advice was received from stakeholders about festival attendees' behaviour in relation to police enforcement methods, including anecdotes of people hurriedly consuming drugs to avoid detection. Provision of on-the-spot fines for possession of prohibited drugs at music festivals provides for a harm reduction approach. This could be strengthened by exploring the feasibility of Police offering referral to individuals issued with on the spot fines to suitable NSW Health services. This would help young people who use substances to access treatment and harm reduction programs.

Under the Criminal Procedure Act, Police can already issue on-the-spot fines for selected offences, including: offensive language; offensive conduct; and continuation of intoxicated and disorderly behaviour following a move-on direction. The NSW Government also recently announced it would extend on-the-spot fines to low range drink driving first offences.

Currently, 'possession of prohibited drug' (small quantity) is a summary (low level) offence under the *Drug Misuse and Trafficking Act* (DMTA). The penalty is \$2,200 (20 penalty units), imprisonment for two years, or both. However, according to BOCSAR, in 2017 there were 11,077 offences of possession of illicit drugs (principal offence). Of those, 6,005 (54%) were provided a fine; 2,539 were given a bond (without supervision); and 699 were given section 10s (no offence recorded).

The Panel is satisfied that the community would generally consider a trial for on-the-spot fines a reasonable sanction for illicit drug possession at music festivals. Police are similarly able to convey the seriousness of this offence. Examination of ticket prices for major music festivals shows that attendees are willing to pay, on average, over \$200 for an event. An on-the-spot fine together with high visibility policing at music festivals will continue to send a strong message to music festival attendees.