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SOUTH AUSTRALIA POLICE
SAFER COMMUNITIES

South Australia Police

Submission into the Review of the Late Night Trading Code of Practice

Prepared by Licensing Enforcement Branch

February 2023



Government of
South Australia

Service Integrity Leadership Collaboration Courage Respect



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1. INTRODUCTION

South Australia Police (SAPOL) welcomes the opportunity to provide a submission as part of the review into the Late Night Trading Code of Practice (the Code).

Alcohol-related crime and associated violence cost the community dearly. As the primary agency responsible for policing crime and disorder in South Australia, SAPOL is accountable to the community to reduce the harms associated with alcohol consumption through a prevention first mindset.

Adopting innovative practices to respond to alcohol-related harm is a key priority in the *SAPOL Corporate Business Plan 2020-23* as we strive towards SAPOL's vision of 'Safer Communities'. As such, SAPOL supports the Code as an initiative that aligns with SAPOL's vision and contributes to public safety.

SAPOL supported the implementation of the Code in 2013 which was created in response to a number of high profile incidents of alcohol-related violence in the Adelaide CBD.

During the 2015 government review of the Code by Internal Consultancy Services Group SAPOL provided a submission supporting the retention of the Code. The final report (page 17) published SAPOL data which showed a decline in late-night CBD incidents reported to police since the introduction of the Code (**12.2 %** lower in October 2013 to September 2014 compared to the previous year), as well as a reduction in glassings (**48.8%** lower in October 2013 to September 2014 compared to the previous year {from 31 down to 16})

It is SAPOL's expectation that if the Code is removed or substantially altered there is a risk that alcohol-related violence and disorder in the Adelaide CBD would likely increase to levels witnessed before the Code's introduction.

SAPOL notes that in regulating the supply and service of liquor, the *Liquor Licensing Act 1997* (the Act) balances competing priorities broadly categorised as reducing the harms arising from liquor consumption while simultaneously facilitating the socially acceptable commercial economic development of various industries associated with liquor consumption – including live music, tourism and the hospitality industry.

It is SAPOL's position that the Code strikes a reasonable balance between these competing priorities and should be retained.

This submission provides a response to the request on 6 December 2022 by the Liquor and Gambling Commissioner to the Commissioner of Police and provides:

- Statistical information and analysis for the period 1 January 2015 to 31 December 2022
- Comments on the Code
- Comments on unintended consequences of the Code
- Recommendations for amendments and additions to the Code

2. SUMMARY OF STATISTICAL INFORMATION

2.1 Key points

Data recorded on the decommissioned Police Incident Management System (PIMS) prior to the implementation of SHIELD in November 2018 is considered to be historical data and is no longer updated. When statistical data has been reported on prior to November 2018, best efforts have been made to utilise similar reporting fields between PIMS and SHIELD.

As the Code was implemented 14 months prior to the data range covered by this report, it is a possibility that patron behaviour had already changed to accommodate the 3.00 am lockout, resulting in limited fluctuations year on year since 2015.

There is a noticeable and consistent peak in offences, including offences linked to licensed premises, around midnight to 1.00 am which gradually reduces over the subsequent hours. This behavioural pattern is mirrored in the trends for arrests, reports and expiations.

There has been a significant increase in the prevalence of knives detected in the Adelaide CBD between midnight and 7.00 am since 2019.

The significant drop in offences and incidents in 2020 is very likely linked to the impact of the COVID-19 restrictions applied to licensed premises during the pandemic.

2.2 Current statistical summary

This statistical summary examines offending within the suburb of Adelaide between 1 January 2015 to 31 December 2022, in order to assist in evaluating the impact of the Code.

Data is sourced from:

- Specific offences reported/committed in the suburb of Adelaide
- Offences against the person
- Offences against good order
- Offences against property
- Expiation notices issued for disorderly behaviour, urinating or defecating in public
- Pre November 2018 - Alcohol Incident Reporting (AIR) Data (linked to licensed venues or events in Adelaide)
- Post November 2018 – Alcohol, Drugs, Subject intoxication (ADS) Stats Classification Data (linked to licensed venues or events in Adelaide)

AIR data and ADS Stats Classification are both non-mandatory fields in SAPOL reporting systems where the investigating officer records specific information relative to

- Whether the subject consumed alcohol
- Whether the subject consumed their last alcoholic drink at a licensed venue or event (which is identified by the 'last drink location' nominated by the victim/offender)

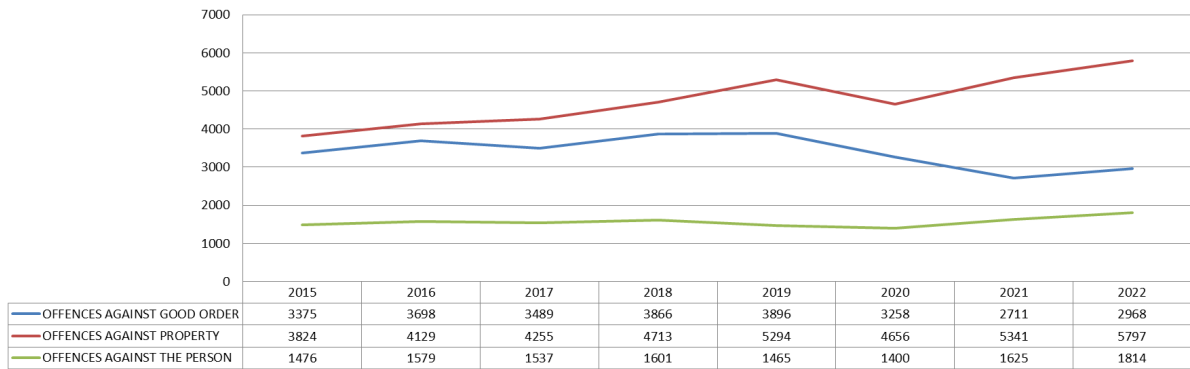
Due to the request for specific data sets (midnight to 7:00 am) provided in this submission the data provided will not necessarily match SAPOL's public corporate reporting.

2.3 Assessment

The data contained within this report has been classified as per nationally recognised standards from the Australian and New Zealand Standard Offence Classification (ANZSOC); refer Appendix A for a list of included offence types.

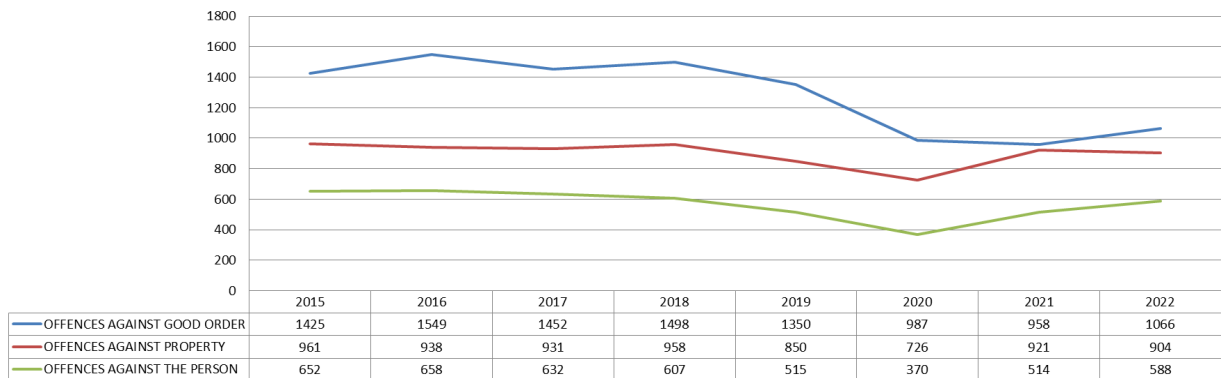
Offences against the person and offences against good order in Adelaide have remained similar since the first reporting period in 2015. There was a drop in good order offences in 2020 and 2021 but this directly relates to the impact of COVID-19. Property offences have been increasing year on year with a decline in 2020.

Figure 1. Offence by Year in Adelaide (24 hours)



Offences against the person between midnight and 7.00 am mirror the total incident offence counts year on year noting the dip in 2020 which is highly likely to be linked directly to the impact of COVID-19 on licenced premises. Offences against good order are higher than offences against property between these times.

Figure 2. Offences by Year in Adelaide (between midnight and 7.00 am)



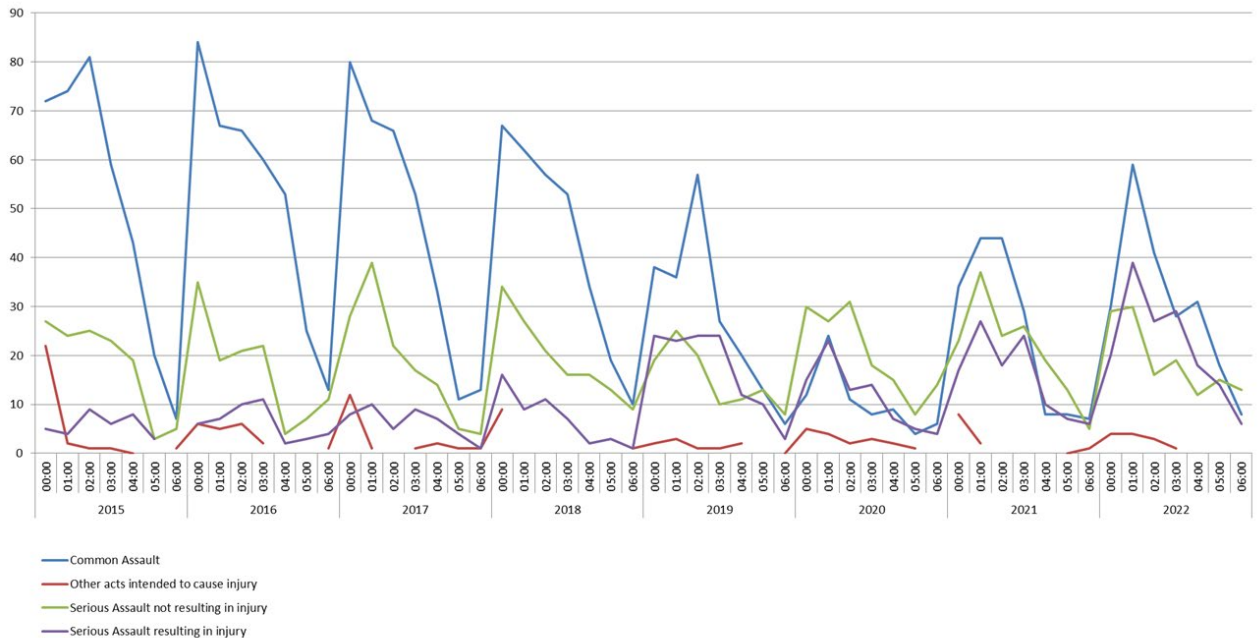
Offences from Figure 2 are broken down further into whole hours between midnight and 7.00 am. Data was not able to be accurately reported on prior to 2019 due to the limitations of PIMS where offence times were not a mandatory field when completing an Apprehension Report: this would default the offence time to 0000 hrs and yielded extremely disproportionate results for the midnight to 1.00 am category.

Figure 3. Offences by Year in Adelaide (between midnight and 7.00 am)



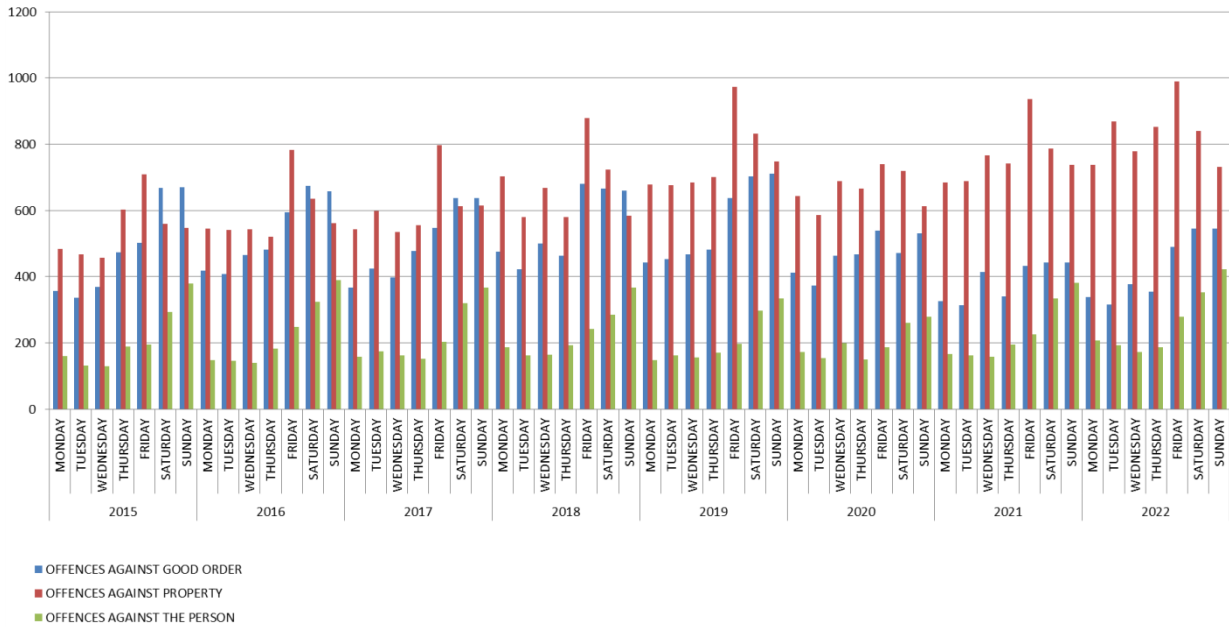
In the graph below, recorded offences against a person between midnight and 7.00 am are further broken down into the categories of: common assault; other acts intended to cause injury; serious assault not resulting in injury; and serious assault resulting in injury. The overall trend within each of the specific offence categories shows a similar pattern to Figure 3. Common assault is the most often reported offence against the person between midnight and 7.00 am.

Figure 4. Selected Offences against a person by Year in Adelaide (between midnight and 7.00 am)



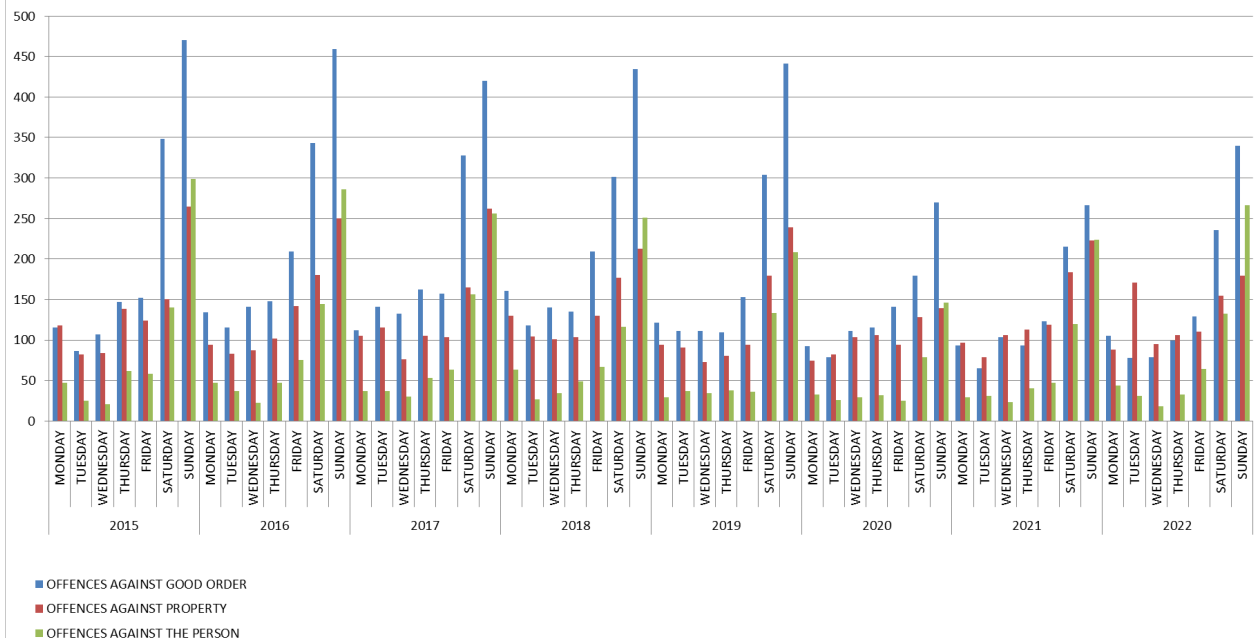
Offences by year and day of the week indicate a higher number of offences against the person and good order occurring on the weekend (Saturday/Sunday). Since 2018 Friday has started to feature more with regards to offences against good order, and since COVID-19 there has been a decline in the number of incidents across all days for offences against good order. Offences against the person have shown little change.

Figure 5. Offences by Year and Day in Adelaide (24 hours)



With the offence count filtered to include only those incidents that occurred between midnight to 7.00 am the pattern is very similar with weekend peaks across all years.

Figure 6. Offences by Year and Day in Adelaide (between midnight and 7.00 am)



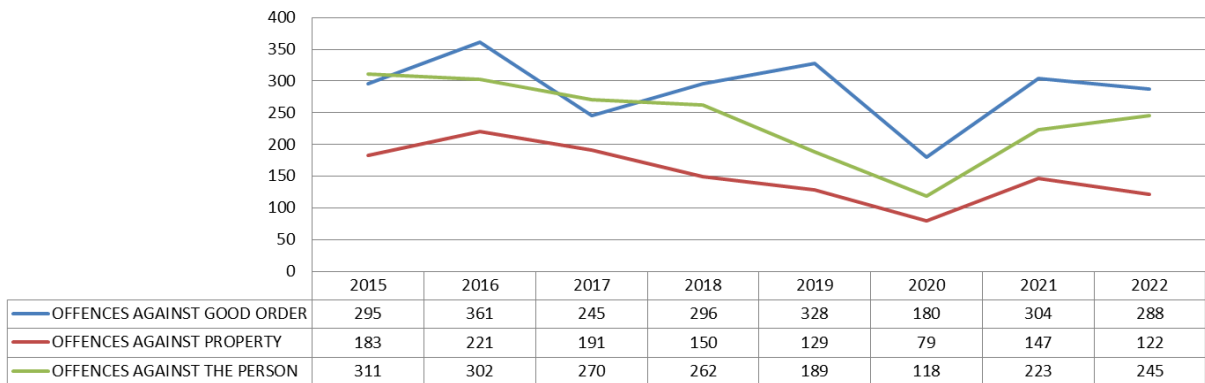
Licensed Premises

Offences linked to licenced premises in Adelaide by year and by hour from midnight to 7.00 am highlight that the peak of incidents occur prior to the 3.00 am lockout and then decline post 3.00 am through to 7.00 am. While there was a decrease in offences against good order and offences against the person related to licenced premises in 2020, this was most likely due to the impact of COVID-19. The trend is showing an overall decrease in these offence types since 2019. This could be partly due to these offences not yet returning to pre-pandemic levels.

The downward trend can be attributed to the effect of COVID-19 on the operations of licenced premises over the past three years. Offences linked to licenced premises now appear to be returning to post COVID-19 levels.

Figures 6 and 7 utilise AIR and ADS Stats Classification in order to extract the information from SHIELD. This is an optional reporting field in SHIELD which includes the option of: last drinks consumed at; occurred on licenced premises; and occurred in the vicinity of a licenced premise.

Figure 7. Offences linked to Licenced Premises in Adelaide (between midnight and 7.00 am) by year¹

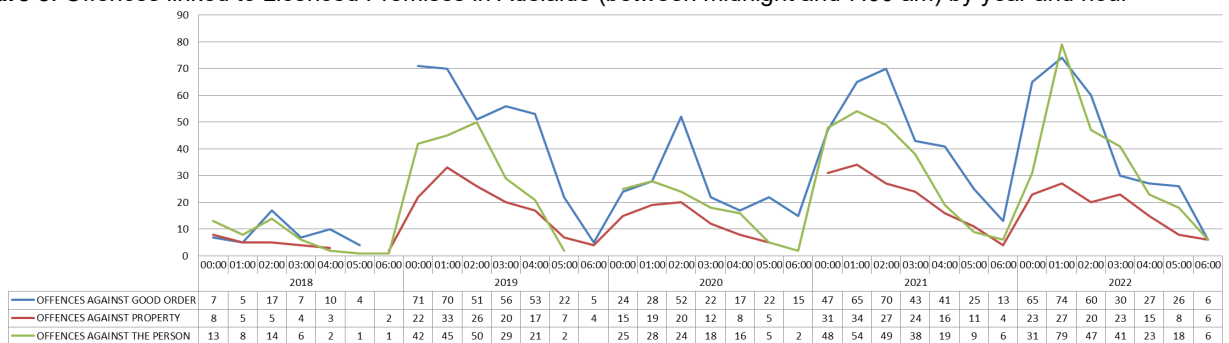


¹Related to licenced premises is an optional field in SHIELD that includes the option of last drinks consumed at, occurred on licenced premises and occurred in the vicinity of licenced premises.

*Note: Incidents prior to SHIELD implementation in late 2018 are recorded at licenced premises but not in the vicinity of

2019 through to 2022 show a consistent trend with the peak of offences occurring prior to the 3.00 am lock out.

Figure 8. Offences linked to Licenced Premises in Adelaide (between midnight and 7.00 am) by year and hour¹



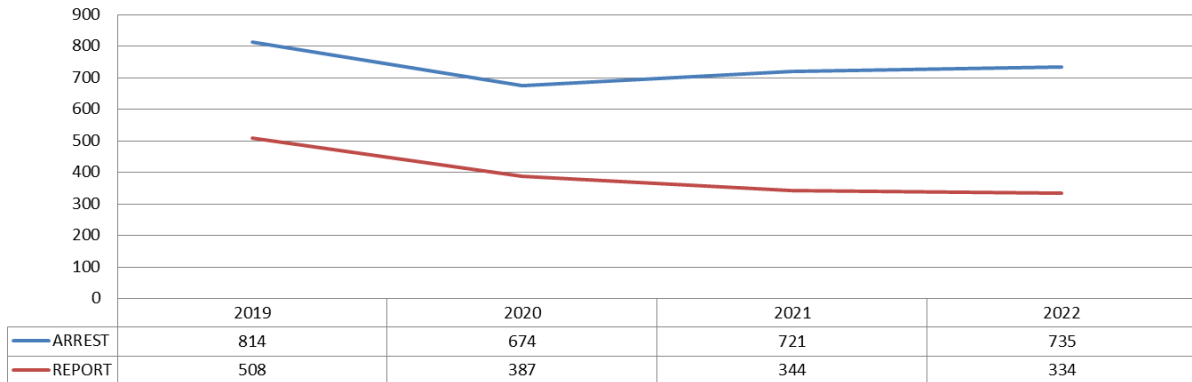
¹Related to licenced premises is an optional field in SHIELD that includes the option of last drinks consumed at, occurred on licenced premises and occurred in the vicinity of licenced premises.

*Note: Data prior to November 2018 is historical and was not able to be accurately reported on by time and is therefore not included. 2018 contains data for November and December only.

Arrest and Reports

Figures 8 and 9 report on the offence time where the offence occurred in Adelaide between midnight and 7.00 am and which has resulted in an arrest or report. This is not to be confused with an arrest or report time. The data below was not able to be discerned into offences against a person, good order or property and is therefore reporting on all crime (e.g. includes traffic offences etc.)

Figure 9. Arrests and Reports where the incident occurred in the suburb of Adelaide (between midnight and 7.00am)*



*Note: This information is based on the count of Charge Sequencing Reports in SHIELD and includes all offence types – not limited to offences against the person, offences against good order and offences against property.

Figure 10. Arrests and reports where the incident occurred in the suburb of Adelaide between midnight and 7.00 am by hour*



*Note: This information is based on the count of Charge Sequencing Reports in SHIELD and includes all offence types – not limited to offences against the person, offences against good order and offences against property.

Weapons

Knives, bottles and glassware involved in incidents between midnight and 7.00 am in Adelaide have remained relatively consistent across the reporting period. The prevalence of knives linked to incidents increased significantly in 2019 and, after a likely COVID-19 related decrease in 2020 and 2021, have now returned to pre-COVID levels. The increase in knives for 2019 can be directly related to two proactive policing initiatives targeting weapons in Adelaide.

Figure 11. Incidents in Adelaide (between midnight and 7.00 am) where the most serious weapon involved was a bottle, glass or knife

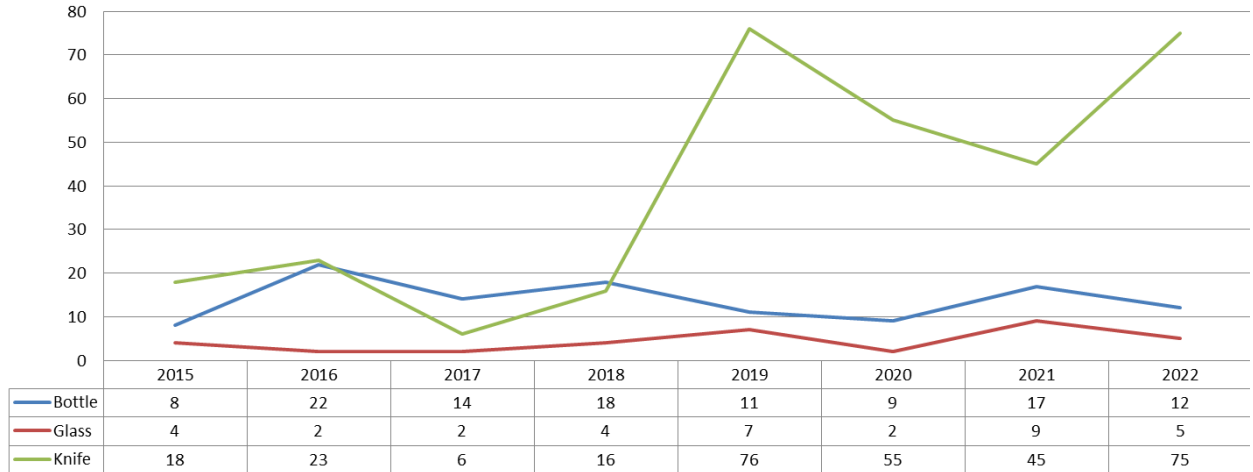


Figure 12. Incidents in Adelaide (between midnight and 7.00 am) by day where the most serious weapon involved was a bottle, glass or knife

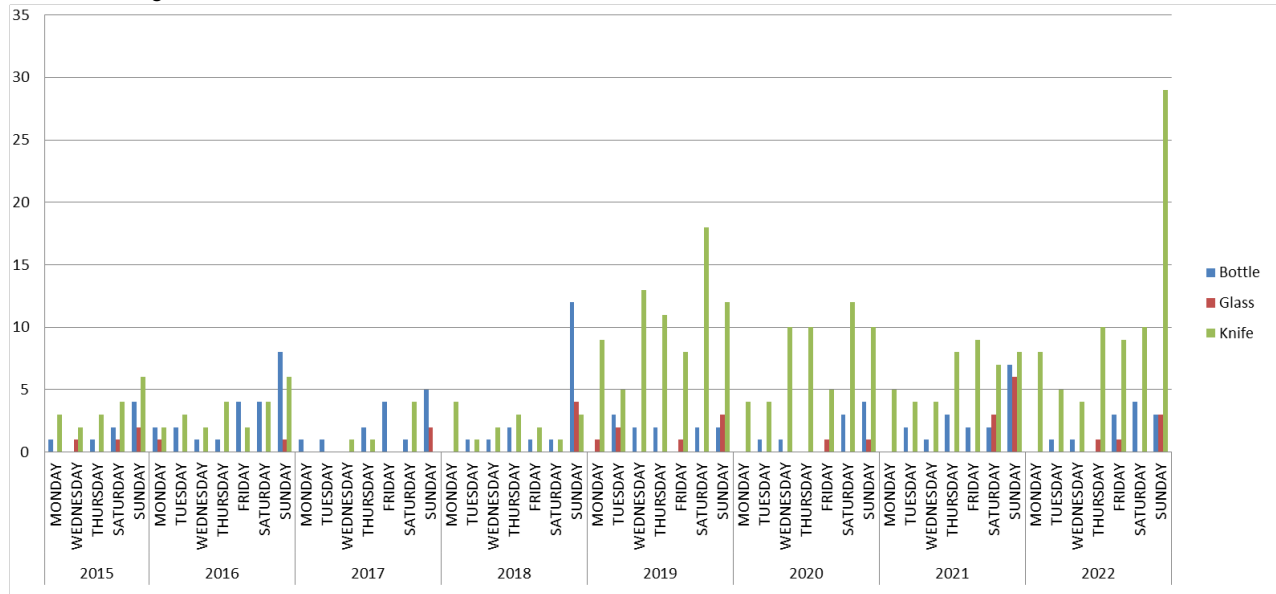
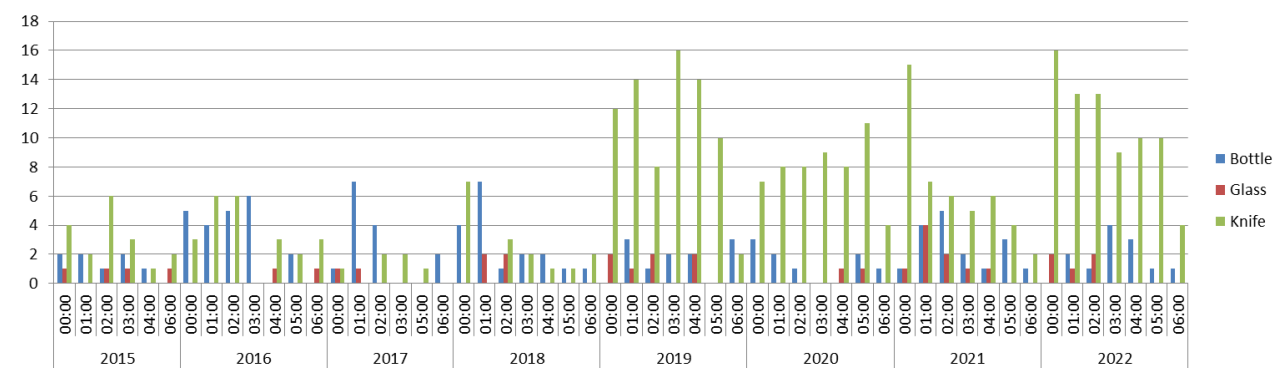


Figure 13. Incidents in Adelaide (between midnight and 7.00 am) by whole hour where the most serious weapon involved was a bottle, glass or knife



Incidents linked to licenced premises where the most serious weapon involved was a bottle, glass or knife saw a spike in knife related incidents in 2019. This coincides with the overall increase in knives being linked to an incident in Adelaide for that year. COVID-19 saw these numbers drop in 2020 and gradually increase for the past two years. Bottle and glass incidents linked to licenced premises have remained relatively low.

Figure 14. Incidents in Adelaide (between midnight and 7.00 am) linked to a licenced premises where the most serious weapon involved was a bottle, glass or knife

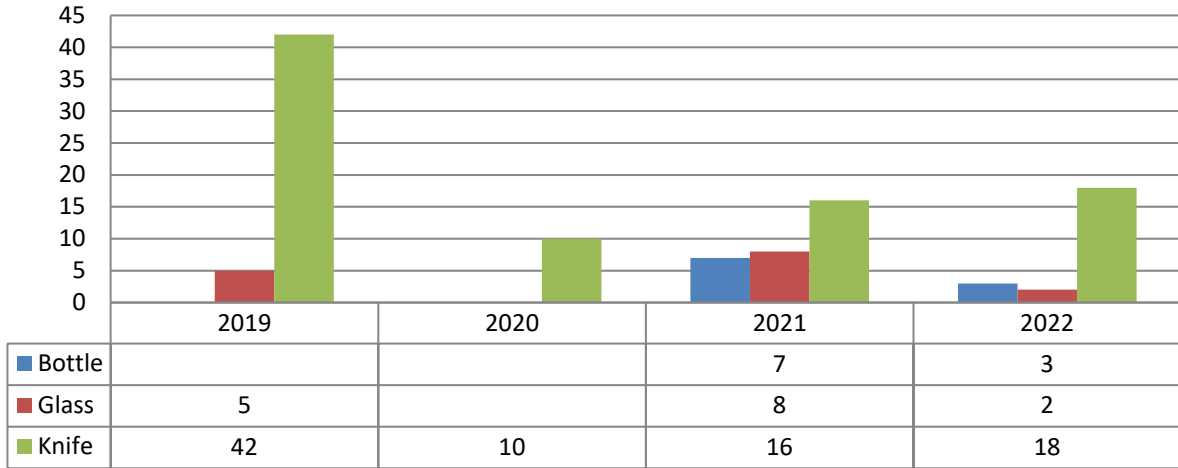


Figure 15. Incidents in Adelaide (between midnight and 7.00 am) by day linked to licenced premises where the most serious weapon involved was a bottle, glass or knife

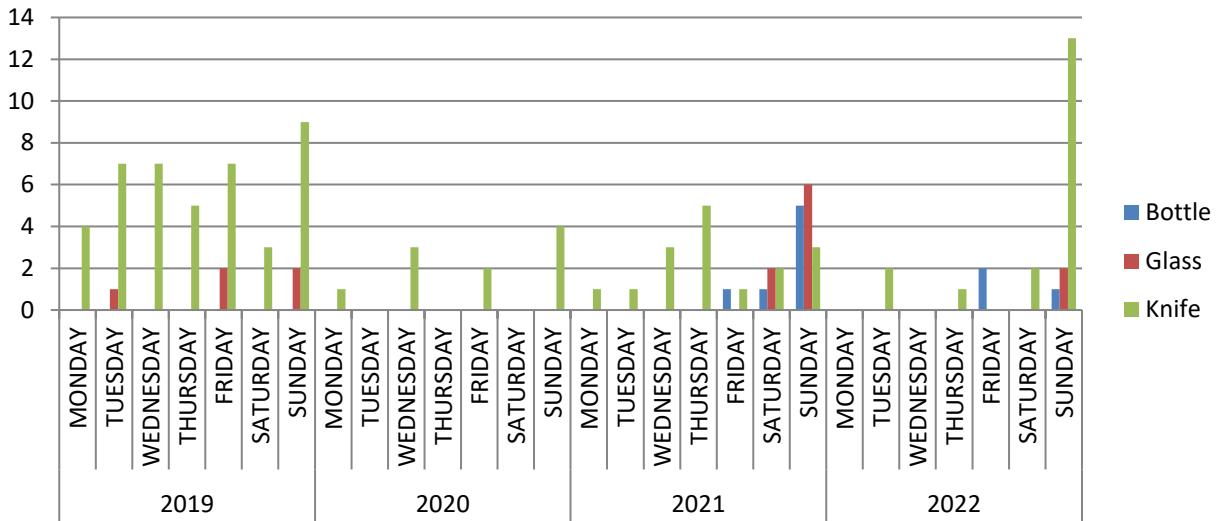
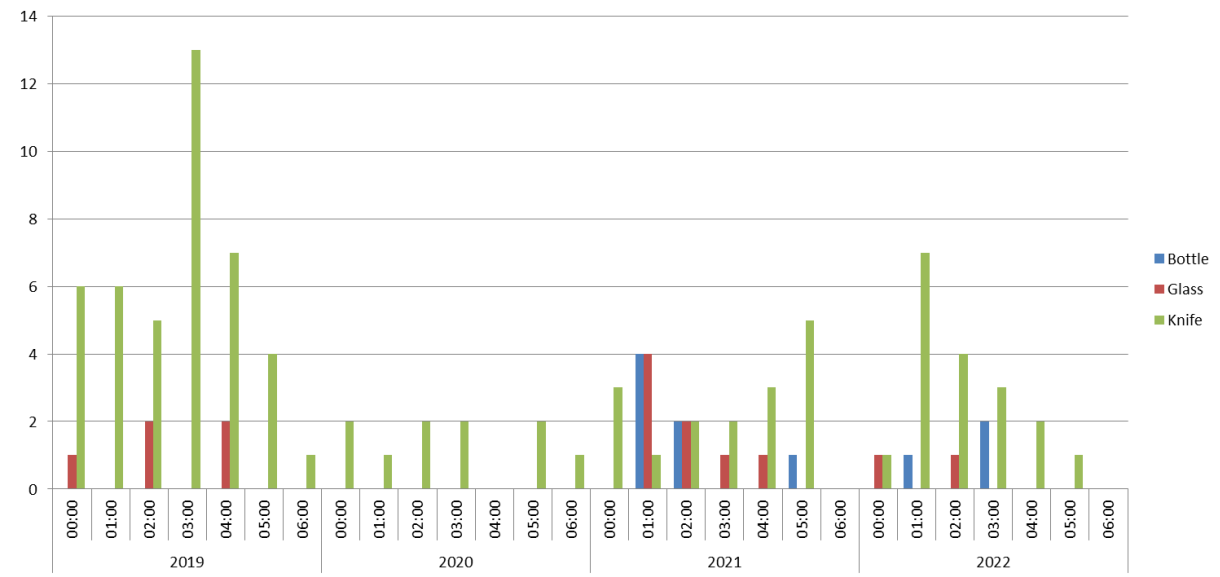


Figure 16. Incidents in Adelaide (between midnight and 7.00 am) by whole hour linked to licenced premises where the most serious weapon involved was a bottle, glass or knife



Expiations and Disciplinary Action

There was a significant decline in expiations issued for offensive/disorderly manner in or near licenced premises and urinate or defecate in a public place in 2020. This can be directly linked to the impact of COVID-19. There was also a decline reported in 2018 and 2019. On 18 November 2019 amendments were made which allowed breaches of the Code to be expiated, prior to this date, detected breaches were dealt with through Disciplinary Action in the Liquor Licensing Court.

Table 1. Selected expiation offences by year (between midnight and 7.00 am in Adelaide)

	2015	2016	2017	2018	2019	2020	2021	2022
G142 Offensive/Disorderly in or near licenced premises	385	356	445	305	212	112	108	99
G714 Failure to comply with the Commissioner’s COP-A¹						1	5	9
G715 Failure to comply with the Commissioner’s COP-B²								5
M040 Urinate or defecate in a public place	525	356	339	315	173	69	87	89

¹COP-A : Codes of Practice-Category A

²COP-B : Codes of Practice-Category B

Figure 17. All Disciplinary action submitted to the Liquor Licensing Court for detected breaches of the Code

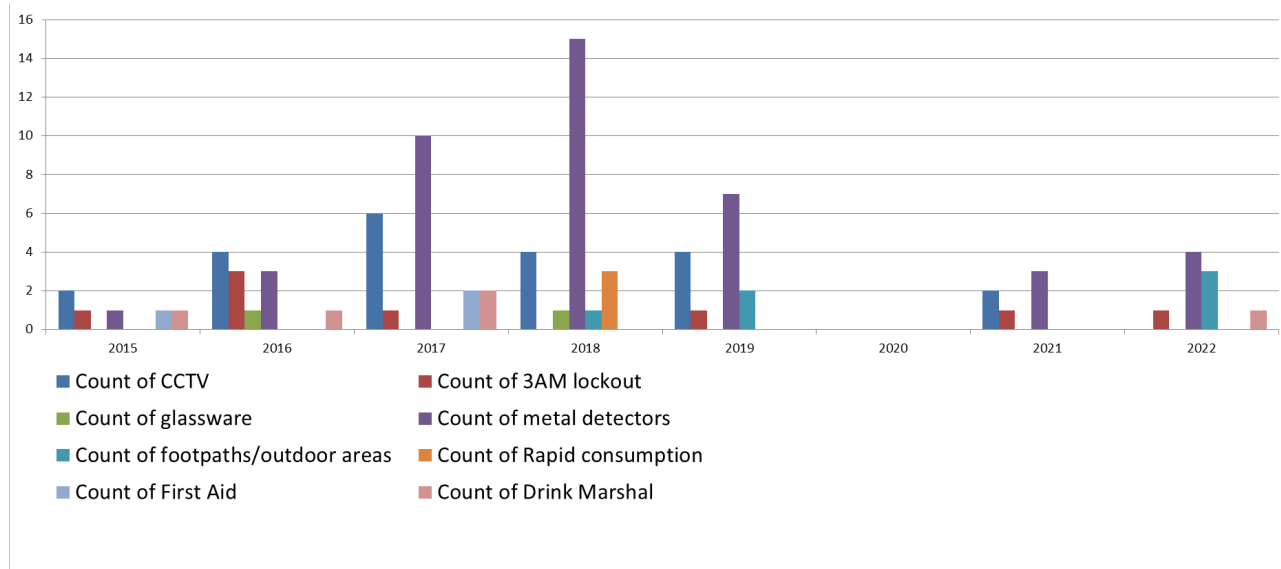
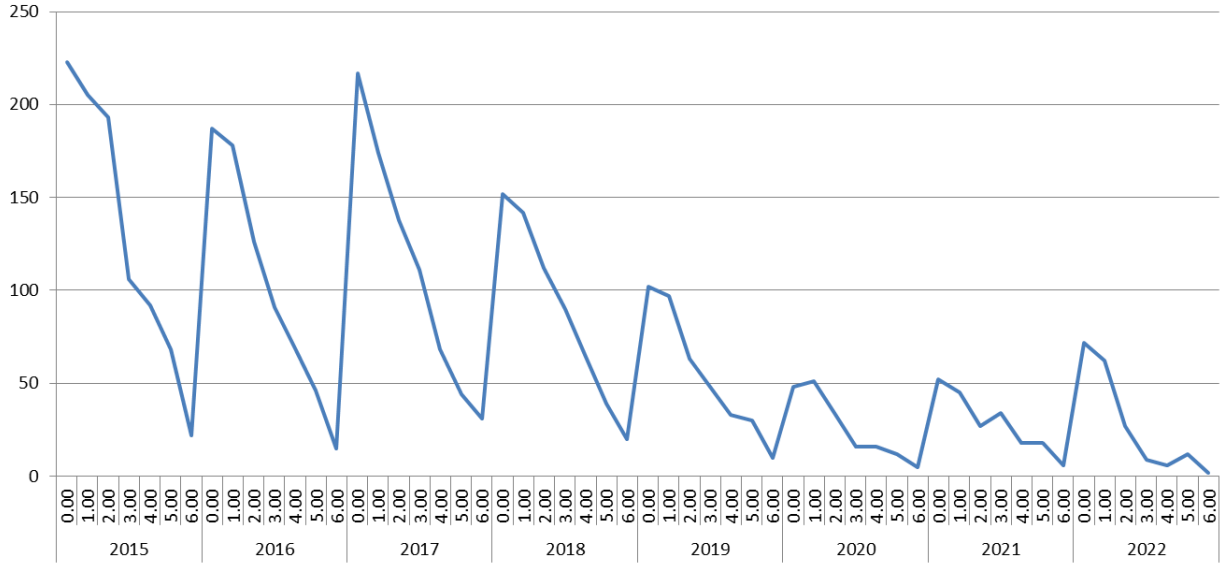


Figure 18. Selected expiation offences (from Table 1) by year by hour (between midnight and 7.00 am in Adelaide)



3. COMMENTS ON THE CODE

3.1 Drink marshal (Clause 7)

“Between 2.01 am and 7.00 am at all times while open for trade, the licensee must ensure that at any given time, at least one person who is approved as a Responsible Person under the Liquor Licensing Act 1997 is performing the duties of a drink marshal.”

SAPOL supports the clause on drink marshals. The responsible service of alcohol is a key component of reducing alcohol-related violence. Licensees already have an obligation under the Act to ensure that liquor is not to be sold or supplied to intoxicated persons. However, ensuring venues have a Responsible Person allocated to these duties places an additional onus on the licensee to ensure that the service of liquor in the higher-risk environment after 2.00 am is conducted appropriately.

3.2 First aid (Clause 8)

“Between 2.01 am and 7.00 am at all times while open for trade, the licensee must ensure that at least one staff member is on duty who has been approved as a Responsible Person under the Liquor Licensing Act 1997 and successfully completed nationally accredited first aid training.”

SAPOL supports the clause on first aid. Having a trained person on duty providing an initial response to an incident requiring first aid before the arrival of the ambulance service in the higher-risk period after 2.00 am is a sensible precaution.

3.3. Restrictions on the sale and supply of beverages promoting rapid or excessive consumption (Clause 9)

“Between 2.01 am and 7.00 am at all times while open for trade, the licensee must not advertise the sale, offer for sale, or permit the sale or supply of any alcoholic beverage that may encourage the rapid or excessive consumption of liquor...”

SAPOL supports the clause restricting beverages promoting rapid or excessive consumption after 2.00 am. Measures that restrict the number of drinks sold to a customer at any one time, and the volume and alcohol content of those drinks are proven strategies to reduce alcohol-related violence, committing to the responsible service and sale of alcohol.

3.4 Footpaths and other outdoor areas (Clause 10)

“Between 2.01 am and 7.00 am at all times while open for trade, the licensee must not permit the service or supply of liquor for consumption on any part of the licensed premises comprised of a footpath or other outdoor area to which the general public has access (not including beer gardens, balconies, enclosed courtyards or similar that are only accessible from within the licensed premises).”

SAPOL supports the clause on footpaths and other outdoor areas. The limitation on the consumption of liquor on footpaths reduces the chance of a disturbance between patrons of the venue and those using the footpath, creating a safer environment.

SAPOL notes that the clause on queue management, which was previously in the late Night Trading Code of Practice before being moved to the General Code of Practice, still applies to late night venues. Queueing is an on-going issue on Hindley Street. Prohibiting the use of footpath and other outdoor areas to consume liquor after 2.00 am reduces issues of overcrowding due to queuing and reduces the risk of fights and other alcohol-related offending occurring. If queue management issues are identified, SAPOL address the matter with the venues at the time.

3.5 Entry onto licensed premises and use of metal detectors (Clause 11)

“Between 12.01 am and 3.00 am at all times while open for trade the licensee must ensure that suitably trained employees are operating a metal detector to screen all patrons upon entry onto the licensed premises, to detect persons who may be carrying weapons or other potentially dangerous objects.”

SAPOL supports the clause on metal detection. Statistics provided in this report indicate the increased detection of knives in the Adelaide CBD over the reporting period. Knife-related crime, in particular the use of knives during altercations, can have fatal consequences. The scanning of every patron after 12.00 am is a deterrent to any person carrying a knife and attempting to enter licensed premises. The clause acts as a proactive preventative measure as an individual knows they will be scanned if attempting to enter a licensed venue. As identified in Figure 13 there are a large number of knives linked to licensed which strongly supports the argument to retain this clause.

3.6 Restriction on the use of Glassware (Clause 12)

“Between 3.01 am and 7.00 am at all times while open for trade the licensee must: (a) not allow any drink (whether it contains liquor or not) to be sold or supplied for consumption on the licensed premises in glassware unless it is tempered or polycarbonate glassware; and (b) ensure that all empty non-tempered and/or non-polycarbonate glassware receptacles are removed from all areas of the licensed premises to which patrons have access.”

SAPOL supports the clause as a tool to reduce glassing's in licensed premises. Glass is a common weapon used in assaults at licensed venues because of its availability. Unfortunately broken glass can easily inflict severe and sometimes fatal injury.

As the statistics in this report show, bottle and glass incidents linked to licenced premises have remained relatively low. While it is difficult to solely attribute the low levels of glassing incidents to the implementation of the Code, it would be SAPOL's contention that this clause

should be retained as an effective harm-minimisation measure. SAPOL also notes that the implementation of tempered or polycarbonate glassware has been generally accepted by the venues which trade after 3.00 am and compliance with this clause has generally been high.

3.7 Late night restricted entry (Clause 13)

“Between 3.01 am and 7.00 am at all times while open for trade the licensee must not permit a patron (other than a resident) to enter or re-enter the licensed premises.”

SAPOL supports the clause on late night restricted entry.

As previously identified, there is a noticeable and consistent peak in offences and offences linked to licensed premises around midnight to 1.00 am which gradually reduces over the subsequent hours. This is mirrored in the trends of arrests, reports and expiations. The statistics in this report show a marked decline in offences after 3.00 am and it could be argued that the implementation of the Code has been a significant contributing factor to this decrease.

SAPOL’s experience over the years since the introduction of the Code is that the late night restricted entry clause has had a positive effect on reducing alcohol-related violence and disorder in the Adelaide CBD.

SAPOL notes that while patrons cannot move between venues after 3.00 am, licencees have the ability to continue to serve alcohol and trade until the time authorised on their licence – which for some venues could be until 6.00 am in the morning. In comparison, other jurisdictions, such as the NSW Sydney CBD precinct, have a ‘last drinks’ time of 3.30 am. The ‘last drinks’ regime can result in a large number of intoxicated patrons existing venues around the same time as the venues close.

SAPOL believes the current clause on late night restricted entry strikes a balance in keeping with the objects of the Act:

- It allows licensees to continue to trade and receive an economic benefit while supporting night time economies and city vibrancy.
- Consumption of liquor occurs in a controlled environment making it easier for venue staff and security to monitor the intoxication levels and behaviour of a single group. If the Code did not apply, patrons could and would move freely between venues after 3.00 am, making it more difficult for venues to effectively monitor patron intoxication levels and behaviour.
- There is less incentive for persons to loiter and remain in the CBD after 3.00 am. The lockout thus reduces the chance of conflict and antisocial behavioural issues.

3.8 Digital closed circuit television (Clause 14)

“At all times while open for trade, the licensee must have a digital CCTV system in place to take visual recordings at all entry and exit points, the footpath immediately adjacent to the premises and all other internal and external licensed areas of the premises (excluding toilets) to which patrons have access.”

SAPOL supports the clause on digital CCTV as a valuable crime prevention tool and one which assists in the investigation of incidents in and around licensed premises.

SAPOL suggests amendments to the clause in section 5 - ‘Recommendations for amendments and additions to the Code’

4. UNINTENDED CONSEQUENCES OF THE CODE

SAPOL supports the intention of the Code to reduce alcohol-fuelled violence and disorder.

SAPOL is unaware of any unintended consequences as a result of the Code's introduction.

5. RECOMMENDATIONS FOR AMENDMENTS AND ADDITIONS TO THE CODE

5.1 Digital closed circuit television (CCTV)

The current wording of the clause at 14(1) states:

“At all times while open for trade, the licensee must have a digital CCTV system in place to take visual recordings at all entry and exit points, the footpath immediately adjacent to the premises and all other internal and external licensed areas of the premises (excluding toilets) to which patrons have access.”

SAPOL requests clarification as to whether the reference to “...all other internal and external licensed areas of the premises (excluding toilets)...” means only the entry and exit points of those internal areas or to **all of those areas where patrons have access** (i.e. the entire venue).

Similarly, clause 14(5) states:

*“The licensee must ensure that while the digital CCTV system is in use, **the level of lighting at all entry and exit points** is adequate so as to allow clear visual recordings to be taken.”*

SAPOL requests clarification as to the required adequacy of lighting internally within a venue for the purpose of clear visual recordings of CCTV in all areas captured by clause 14(5). Specifically, if the clause applies to all internal and external areas to which patrons have access – does the level of lighting in all areas (not just entry and exit points) have to be of requisite sufficiency to allow for clear visual recordings to be taken?

Recommendation 1 - SAPOL recommends amendment to the wording of Part 5, clause 14 – Digital closed circuit television (CCTV) to clarify the required coverage of CCTV within a venue (excluding toilets) as well as the definition of ‘adequate lighting’.

SAPOL is aware of advances in CCTV technology, such as infrared technology which allows identification of persons and clear visual recordings in low light conditions where a traditional light source is not required.

SAPOL notes the current CCTV technical specifications issued by the Liquor and Gambling Commissioner for the Code are as follows:

- 1. The picture quality and detail must be sufficient to enable the visual identification of a person.*
- 2. The CCTV system achieves frame rates of 25 frames per second or greater, regardless of the number of cameras connected to the system.*
- 3. The CCTV system has a watermarking feature.*

4. Cameras and recording devices should be connected to the essential services power supply of a building or a designated uninterrupted power supply.

Recommendation 2 – Taking into account advances in technology since the Code was initially written, SAPOL recommends a review of the CCTV technical specifications to ensure they reflect best practice and/or the regulations which apply in similar liquor licensing jurisdictions within Australia.

5.2 Noise complaints

SAPOL would also seek to have the Code address excessive noise being emitted from external speakers of licenced venues, whether through prohibiting outright or prohibiting from a specific time if a venue has council approval for external speakers. There have been numerous complaints made about the excessive noise being emitted from speakers in Hindley Street, including by emergency services who have trouble communicating over the radio due to noise generated by licensed premises, including by externally facing speakers.

SAPOL notes that the Liquor and Gambling Commissioner is aware of the issue and is working with affected stakeholders to find a solution to the issue of noise pollution.

Other jurisdictions, such as Queensland, have strict limits on the noise which can be generated from licensed entertainment venues (such as nightclubs) and require, for example, reports from a certified acoustic engineer to assist in determining sound levels. There are also restrictions on external speakers.

Recommendation 3 – SAPOL recommends a new clause be inserted into the Code to regulate the external noise generated by venues covered by the Code.

6. CONCLUSION

The Code has been operating for almost 10 years. SAPOL's experience is the Code has been generally well-accepted and implemented by the affected licensees.

Since its introduction, SAPOL has indicated its support for the Code during subsequent reviews of the Code.

Societal reduction in the consumption of liquor combined with changing social attitudes towards drinking and violence (including domestic violence) provide an environment of greater acceptance of liquor restrictions. The restrictions in the Code reflect the objects of the Act, insofar that the sale and supply of liquor be consistent with the expectations and aspirations of the broader community.

It is SAPOL's view that the Code is an important contributing factor to the reduction of violence and anti-social behaviour in the Adelaide CBD when viewed in context with societal attitudinal shifts and other influencing factors.

If the ultimate determination is made that the Code remains, SAPOL makes three recommendations:

- SAPOL recommends amendment to the wording of Part 5, clause 14 – Digital closed circuit television (CCTV) to clarify the required coverage of CCTV within a venue (excluding toilets) as well as the definition of 'adequate lighting'
- SAPOL recommends a review of the technical specifications to ensure they reflect best practice and/or the regulations which apply in similar liquor licensing jurisdictions within Australia

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- SAPOL recommends a new clause be inserted into the Code to regulate the external noise generated by venues covered by the Code.
- SAPOL support a further review of the LNTCOP at some pre-determined point to make any adjustment or amendment to align the intent of the Code with community standards and expectations