

# *Police party powers have wider impacts*

New police powers for Queensland, aimed at curbing 'out-of-control' parties, are very broad and could result in ordinary Queenslanders being punished for a criminal offence. These six examples show how simply celebrating with friends and family, engaging in community work, or just doing their jobs could get Queenslanders into trouble.

## *Greg and Alison's engagement party*

While leaving Greg and Alison's engagement party at a local church hall, Greg's cousin Scott does a burnout with three friends in the car, almost hitting a stop sign as they leave. About thirty party attendees see this, shake their heads and call Scott a bogan. Alison organised the party.

Under section 53BB, Greg and Alison's engagement party is an out-of-control event because:

- there were more than 12 people at the engagement party;
- Scott and his friends engaged in 'out-of-control conduct' near his party (performing a burnout is 'out-of-control conduct' under section 53BC(g));
- the 'out-of-control conduct' caused a 'person at or near the event' to 'reasonably fear' 'damage to property' (the stop sign) (section 53BB(1)(c)(ii)).

Under section 53BH, Alison has organised this out-of-control event, and is guilty of an offence. Because the party wasn't at Alison's home, the maximum penalty that Alison faces is a fine of \$18,150 or three years in prison.

## *Bill's retirement party*

Bill is celebrating his retirement on a Sunday afternoon, and invites twenty people to his home. Four of his former workmates get drunk, and leave the party. In the street, they are swearing loudly as they talk about the (poor) performance of their favourite football team, which continues as they pass through a local park. Eve is at the park with her children, and she is really offended by this language and she and her children leave.

Under section 53BB, Bill's retirement party is an out-of-control event because:

- there were more than 12 people at the event;
- his friends engaged in 'out-of-control conduct' near his party (being drunk in a public place and using offensive language are both defined as 'out-of-control conduct' under section 53BC);
- the 'out-of-control conduct' has caused Eve 'substantial interference' with her enjoyment of a public place. 'Substantial interference' isn't defined, but as Eve felt she had to leave the park, there was clearly a substantial interference.

Under section 53BH, Bill has organised this out-of-control event, and is guilty of an offence. The maximum penalty that Bill faces is a fine of \$12,100 or one year in prison.

## *Sharon's 16<sup>th</sup> birthday party*

Cathy and Bruce agree that their daughter Sharon can have a sixteenth birthday party at their home, although only 20 of her friends can attend. Four of Sharon's classmates, who Bruce considers 'bad eggs', turn up at the party, and Bruce prevents them from entering. They get angry and swear and threaten Bruce. As they are leaving, one of the boys (Macca) knocks over the letterboxes of six of Bruce's neighbours. Police are called and two officers attend for an hour.

Under section 53BB, Sharon's sixteenth party is an out-of-control event because:

- there were more than 12 people at the party;
- Macca and his mates engaged in 'out-of-control conduct' near his party (damaging property is 'out-of-control conduct' under section 53BC(d));
- the 'out-of-control conduct' caused a 'person at or near the event' to 'reasonably fear' 'damage to property' (the letterboxes) (section 53BB(1)(c)(ii)).

Because Sharon is a child, Cathy and Bruce are responsible for organising this 'out-of-control' event (section 53BH(2)). Cathy and Bruce are guilty of an offence, and face a maximum penalty of a \$12,100 fine or one year in prison. Cathy and Bruce may also be ordered to pay the police for attending (sections 53BK) as they are deemed to be the event organisers; however, even if they were unaware of the party, the Court can order them to pay police costs (section 53BM). However, Cathy and Bruce may be able to defend themselves if they 'took reasonable steps to prevent the event becoming an out-of-control event' (section 53BH(3)), but the examples in the legislation (hiring security officers and ending the event) go much further than refusing entry to gatecrashers.

Macca and the other boys are guilty of an offence under section 53BI for 'causing an out-of-control event', and face a maximum penalty of a \$12,100 fine or one year in prison.

Cathy and Bruce face the same punishment as Macca.

## *Jack's 21<sup>st</sup> Birthday*

Jack is celebrating his twenty-first birthday at the local (unlicensed) cricket club, with about 80 family members and friends attending. He sensibly registers the event with police, and on the afternoon of the party, the local sergeant authorises the use of out-of-control event powers on the basis that three other parties at the cricket club have become out-of-control events this year. At 9pm, two local constables enter the party, and tell everyone to leave the party as it might become out-of-control. They also tell Jack's sister Mary to stop dancing on the stage, although Mary keeps dancing. Before he agrees to leave, Jack's mate Ben drops a stubby which smashes on the ground. People mill around the front of the cricket club, so the police stay there until everyone has dispersed.

The local sergeant has properly authorised the use of 'out-of-control event powers' under section 53BE. The constables can use these powers to 'prevent the event becoming an out-of-control event', even if it's not out-of-control (section 53BG(1)(a)). They have the power to give the partygoers directions to 'stop any conduct', 'immediately leave a place', not return to a place for up to 24 hours, and/or 'take any other steps the police officer considers reasonably necessary' (section 53BG(2)).

By failing to stop dancing, Mary has committed an offence (section 53BJ) and faces a maximum penalty of a \$12,100 fine or one year in prison.

Ben hasn't followed the police officer's direction when he drops his stubby. By 'releasing... a thing in a way that endangers ... health or safety of another person', Ben has committed an offence punishable by a \$18,150 fine or three years in prison (section 53BJ).

Under section 53BB, Jack's 21<sup>st</sup> birthday party is an out-of-control event because:

- there were more than 12 people at the party;
- there was 'out-of-control conduct' (by failing to leave, partygoers unlawfully remained in a place (section 53BC); Ben dropping the stubby is 'out-of-control conduct' (section 53BC(i));
- a large group of partygoers hanging around outside a cricket club may meet the criterion of causing 'substantial interference' with others' 'enjoyment' of a public place, or their 'rights and freedoms'. Neither 'rights and freedoms' or 'substantial interference' are defined in the law.

Under section 53BH, Jack has organised this out-of-control event, and is guilty of an offence. Because the party only became 'out-of-control' after the police intervened, it's unlikely that Jack can defend himself on the basis that he took reasonable steps to prevent the becoming an out-of-control event (section 53BH(3)).

Because the party was not at his home, the maximum penalty that Jack faces is a \$18,150 fine or three years in prison. He may also have to meet the police's 'reasonable costs' of attending the party.

## *Feeding the homeless*

A regional Christian Fellowship attends a local park to provide food to people who sleep rough in the area. About 30 homeless people attend, including Rob (who is drunk). Two of the men begin arguing, and start to fight.

Under section 53BB, this is an out-of-control event because:

- there were more than 12 people 'gathered together at a place';
- three or more people engaged in 'out-of-control conduct' (being drunk in a public place (section 53BC(i)) and assaulting a person (section 53BC(c));
- a person at the event reasonably fears violence.

Under section 53BH, members of the Church have organised this out-of-control event, and the individuals involved are guilty of an offence. The maximum penalty that they face is a fine of \$18,150 or three years in prison, and as they didn't take any steps to prevent the event becoming 'out-of-control', they have no defence.

## *Free legal service*

A community legal centre operates a drop-in advice service on Wednesday nights, which is staffed by eight lawyers and sees forty clients. One Wednesday night:

- Wendy, who is upset by the stress from her divorce, threatens to have her ex-partner 'kneecapped', a threat that the staff take very seriously given Wendy's history;
- Judy, who received a brochure about child support law, throws the brochure on the street; and
- Joe attends the service drunk, and is asked to leave.

Under section 53BB, this is an out-of-control event because:

- there were more than 12 people 'gathered together at a place';
- three or more people engaged in 'out-of-control conduct' (threatening to assault a person (section 53BC(c)), littering 'in a way that causes... harm to... the environment (section 53BC(k)) and being drunk in a public place (section 53BC(l));
- a person at the event reasonably fears violence.

Under section 53BH, members of the legal service have organised this out-of-control event, and the individuals involved are guilty of an offence. No-one lives at the legal centre, so the maximum penalty is a fine of \$18,150 or three years in prison.