



Community
driven justice.

PO Box 297, Fitzroy Vic 3065
DX No. 96611

☎ (03) 9419 3744

✉ enquiries@fls.org.au

🌐 www.fls.org.au

Shane Patton APM
Chief Commissioner of Police

Cc: The Hon Anthony Carbines MP, Minister for Police

By email: shane.patton@police.vic.gov.au
Cc: minister.carbines@justice.vic.gov.au

19 June 2023

Dear Chief Commissioner

Open letter of concern to Victoria Police: policing of Melbourne 2023 420-rally

“Victoria Police recognises that drug problems are first and foremost health issues. By taking a health-focused approach, police are empowered to respond to an individual’s circumstances, environment and life stage. This enables policing approaches that reduce harm and keep the community safe.” – Victoria Police Drug Strategy 2020-2025, p 18

“Under the [drug] strategy, Victoria Police will focus on the drugs causing the most harm within the community, arrest and prosecute drug dealers, disrupt drug networks, and work with the community and our partners to ensure those suffering from addiction are connected to appropriate treatment and support services.” – Victoria Police website, <https://www.police.vic.gov.au/drug-strategy>

“Every person has the right not to have that person’s privacy ... unlawfully or arbitrarily interfered with ... Every person has the right to freedom of expression... Every person has the right of peaceful assembly.” – Charter of Human Rights and Responsibilities Act 2006, ss 13 15 and 16

“I saw lots of people getting searched, pretty much every second person. Saw half the people who got searched being taken away in cuffs to the portable station.” – 420 rally attendee

“They’re just a bunch of druggies” - a Victoria Police officer overheard at the 420-rally

Fitzroy Legal Service (**FLS**) provides specialist legal services for Victorians whose engagement with the legal system is underpinned by drug use, in the form of our Drug Outreach Lawyer (**DOL**) program. FLS has been delivering this service for over 20 years throughout metropolitan

Melbourne and is thus regarded as the leading harm-reduction legal service in Victoria. The DOL program facilitates health and social support and improves access to justice through partnerships with a wide range of providers, including Youth Support and Advocacy Services (YSAS), Uniting Care Regen, North Richmond Community Health, Living Room, and Odyssey House.

FLS notes and welcomes Victoria Police's stated commitment to adopting a harm-reduction approach to drugs, including as set out in the Victoria Police Drug Strategy 2020-2025 (**VPDS**), as excerpted above.

We were therefore alarmed and concerned to learn about Victoria Police's approach to policing the protest rally and community picnic held at Flagstaff Gardens, Melbourne on Thursday 20 April 2023 (**'the 420-rally'**). We are writing to you to raise serious concerns in relation to this operation based on first-hand accounts of Victoria Police conduct. We have detailed our concerns in the **attached report**. Our analysis is that Victoria Police members acted in breach of the law, Victoria Police guidelines and policies, and attendees' human and constitutional rights. In summary, our concerns are that:

- The scope of the operation was excessive;
- Victoria Police inappropriately searched attendees, including those with prescriptions for medical cannabis;
- Victoria Police used excessive force, through the unnecessary use of handcuffs;
- Victoria Police officers behaved aggressively and disrespectfully to attendees; and
- The operation was incompatible with attendees' rights, the VPDS and harm-reduction principles.

We call on Victoria Police to commit to evidence-based, harm reduction-informed responses to drugs and drug use. In particular we call on you to undertake that the approach adopted at the 420-rally will not be repeated at any future similar events. We further call on you to educate and support Victoria Police members to comply with Victoria Police policy when exercising their discretion whether or not to investigate or lay charges for use and possession of cannabis and other drugs.

Finally, in the interests of transparency and accountability, we request that Victoria Police immediately publicly release the following information:

1. Copies of all Operational Orders relevant to the policing operation of the 420-rally (**'the operation'**).
2. The number of police officers and drug detection dogs deployed to the operation, the operational units involved in the operation, and the number and description/purpose of police vehicles allocated to the operation.
3. The total cost of the operation, including salary costs of the officers deployed.
4. The number of people at the 420-rally:
 - a. Searched

- b. Arrested
 - c. Released without charge
 - d. Released on summons
 - e. Given a caution
 - f. Who provided police with a medicinal cannabis prescription.
5. Whether the 420-rally was utilised as a training operation for newly recruited police members.
6. The nature and extent of information gathered in relation to members of the community attending the rally who were not questioned or arrested, if any, and how that information is being stored, including information identifying individuals as participants in a political demonstration.
7. What consideration was given at an operational planning level and in training/ briefing of police members engaged in the operation to the impact of the operation on attendees' human rights as protected by the *Charter of Human Rights and Responsibilities 2006* (Vic), and the implied constitutional freedom of political communication.
8. What consideration was given at an operational level and in training/ briefing of police members engaged in the operation in relation to the VPDS and harm reduction principles.
9. What training is provided to Victoria Police members on medicinal cannabis, the privacy and health rights of prescription holders, and any policies directing Victoria Police members in their interactions with medicinal cannabis prescription holders.
10. All policies, protocols, and practices used by Victoria Police to monitor the use of illicit drugs and alcohol by police members and protective service officers. We specifically request information as to the scope and regularity of any random testing practices, the methodology by which random selections are made, the breadth of toxicology results sought, any specific mandatory testing proximate with the lodging of use of force forms and/or critical incidents, and any protocols in place to accommodate the medicinal use of cannabis by Victoria Police staff.

We would be more than happy to meet with you to discuss our concerns and to suggest appropriate responses to political demonstrations, drugs and drug use.

Yours sincerely,

Sophie L'Estrange

Sophie L'Estrange

**Lawyer, Strategic Litigation
and Social Action**



Adam Wilson

**Senior Drug Outreach
Lawyer**

Hamish McLachlan

Hamish McLachlan

Legal Director, Day Service