



*McCusker Centre for Action on  
Alcohol and Youth*

**Action on Alcohol Awards 2015**

by

**The Honourable Wayne Martin AC  
Chief Justice of Western Australia**

Curtin University  
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I am greatly honoured to have been invited to address this gathering for the presentation of awards for action on alcohol organised by the McCusker Centre for Action on Alcohol and Youth. I am also very grateful for the opportunity which my presence here has provided to see and meet some of the wide range of community groups and organisations doing such vitally important work in this important area of social policy.

### **Acknowledgement of traditional owners**

Before going any further I would like to express my gratitude to Associate Professor Ted Wilkes for his characteristically generous welcome to country and acknowledge the traditional owners of the lands on which we meet, the Whadjuk people who form part of great Noongar clan of south-western Australia, and pay my respects to their Elders past and present and acknowledge their continuing stewardship of these lands.

I lack the qualifications to speak on the adverse effects which we now know prolonged alcohol use can have upon health, including increasing the risk of heart disease, liver disease and cancer and also of course, even more tragically, as a result of foetal alcohol syndrome. However, I am able to speak about the social impact of alcohol misuse and abuse, which is often manifested in the criminal justice system. In this context, I refer to alcohol abuse to an extent which results in behavioural change - such as erratic or irrational behaviour, or the commission of acts which the person would not otherwise do if sober.

Recently there has been a lot of public attention focused upon the impact which illicit drugs are having in our community, especially methylamphetamine or ice. I have participated in that public debate, which is to be encouraged, because of the significant effect which these deleterious substances have upon our community. It does not diminish the significance and importance of those issues to observe that in terms of magnitude or quantum of impact, alcohol misuse has a more significant effect upon the work of the criminal courts of this State than all the other illicit drugs put together.

The effects of alcohol abuse are not merely seen at the less serious end of the criminal spectrum. To the contrary, alcohol abuse is often involved in some of the cases seen at the most serious end of the range of behaviours that come before our criminal courts. For example, assaults causing unintended death, which has been the recent focus of much public attention, are often, indeed almost invariably, associated with alcohol abuse. Further, charges of murder or manslaughter brought against Aboriginal people in the Supreme Court, which I would estimate constitute between a quarter and one-third of all homicide cases, almost invariably involve alcohol abuse, often by both offender and victim.

Alcohol is very commonly involved in three very significant aspects of the criminal justice system in this State. As I have mentioned many times since my appointment, the gross over-representation of Aboriginal people within the criminal justice system of this State is

the biggest single issue which it faces. Alcohol abuse is too often associated with that over-representation.

Domestic and family violence is the scourge of our community and results in far too many cases currently being brought before the Western Australian courts. Again, alcohol abuse is often associated with offences falling within this category.

People suffering from mental health issues - either mental illness or cognitive disability - are significantly over-represented amongst those who come before our criminal courts. Alcohol abuse is often seen as one of the behavioural characteristics of those persons. Sometimes the alcohol abuse may have caused or contributed to the mental illness or disability, whereas in other cases alcohol abuse may involve a process of self-medication.

On the subject of alcohol misuse by Aboriginal people, I would first like to make the point that, of course, Aboriginal people are not the only people in Western Australia who misuse alcohol and it is also reported that a greater proportion of Aboriginal people are likely to not consume alcohol than non-Aboriginal people. However, when we look at the cohort of Aboriginal people who come before our courts, misuse of alcohol is often a factor which has contributed to their offending behaviour, just as it is with non-Aboriginal people. Alcohol misuse is a problem that affects the entire community.

Second, and more positively, the last 10 to 20 years have seen significant advances in relation to the reduction of alcohol misuse by

Aboriginal people in regional and remote Western Australia. Over that period, a number of remote communities have agreed to go dry, and to prohibit the consumption of alcohol within the boundaries of their community. More recently, smaller towns which are not governed by the *Aboriginal Communities Act* have embraced, with varying degrees of willingness, restrictions upon the sale of alcohol within those towns. The evidence suggests that the restrictions which have been imposed in Fitzroy and at Hall's Creek have been most beneficial in reducing hospital admissions and assaults in those communities.

However, it is also that case that these positive steps often have unintended consequences, including the displacement of problem drinkers to other locations where alcohol is more freely available, and the problem of alcohol being taken illegally into these communities.

Displacement results in problem drinkers gathering in larger towns, like Broome, Kununurra and we should not forget Perth, in which it is impossible to impose significant restrictions upon the consumption of alcohol by the entire community. Because of the impossibility of imposing those restrictions, it seems to me that we need to look more carefully at regulation which identifies problem drinkers, and imposes restrictions upon their use of alcohol - not by reference to race or geography, but by reference to past misuse. Contemporary technology enables us to effectively introduce restrictions on the sale of alcohol at the point of sale to persons who have demonstrated, in the past, an incapacity to behave in a socially acceptable way if affected by

alcohol. Of course, the question of whether such restrictions should be adopted is a matter for Parliament, not the courts, but I simply suggest that it is an area of public policy which would merit further attention.

The research now establishes that patterns of alcohol use and misuse are often established in adolescence. That is one of the reasons why it is so important to focus upon alcohol use by youth, and that is, of course, the focus of attention for the McCusker Centre. That focus is reinforced by the outcome of recent neurological research which seems to establish, quite convincingly, that alcohol use during adolescence has adverse impacts upon neurological development.

In this context, speaking entirely for my own part, I very much welcome the secondary supply laws which are shortly to be introduced into the State Parliament. If passed, these would prohibit the supply of alcohol to persons under the age of 18 in addition to the existing prohibition on the sale of alcohol to such persons. Critics of those laws have observed, correctly, that enforcement of the laws will be difficult. I do not for a minute suggest that we want a society in which police attend every party in which persons present are under the age of 18, for the purpose of ascertaining whether they have been illegally supplied with alcohol.

However, it seems to me that, with respect, this criticism misses the point. Laws perform a number of functions. One of those functions is to specify the standards of behaviour which are considered to be acceptable in the community governed by those laws. Put another

way, the laws adopted by a community should reflect and embody the moral principles and ethics of that community, and prescribe the standards of behaviour which are considered to conform with those principles and ethics. Accordingly, the passage of the secondary supply laws, by the elected representatives of the entire community of Western Australia, would make an important statement of the standards of behaviour which that community considers to be acceptable.

However, the passage of the laws would have a more practical impact. If it were to become illegal to supply alcohol to a person under the age of 18, it would be much easier for parents of teenage children, like me, to say to our children that there will be no alcohol at parties which they organise if there is to be anybody present under the age of 18. It also enables us to inquire of the parents of other children who are organising those parties whether there is to be any alcohol present and if so, to advise that our children will not be attending. The significance of the reinforcement which such a law would provide for parents in this difficult area of social activity cannot be over-estimated.

However, I emphasise that the desirability of these laws is a matter to be assessed by the Parliament, not by me.

Laws of themselves can only ever be part of the solution. On a positive note, as the Honourable Malcolm McCusker AC CVO QC mentioned earlier, the research shows that significant progress is being made in relation to the use of alcohol by adolescents, and recent

studies show that that use is decreasing. No doubt that is partly due to the very good work being undertaken by the McCusker Centre to raise awareness of the magnitude of alcohol-related harms, and by the many groups and organisations recognised by the awards delivered earlier this morning.

Of course, what we are trying to achieve by appropriate social policy in this area is behavioural change. It seems to me that experience suggests that behavioural change requires cultural change, supported where appropriate by laws. However, without cultural change, legal prohibitions, by themselves, will be ineffective.

Perhaps the best illustration of this proposition is the very successful campaign waged in Australia to reduce the use of tobacco, and in which Professor Mike Daube has been very actively engaged for many decades. It seems to me that the success of that campaign was attributable to the very effective public education and information programme, supported appropriately by laws restricting advertising, sale of tobacco to minors, smoking in public places, and more recently requiring all tobacco products to be sold in plain paper packaging.

Community attitudes to driving under the influence of alcohol also reinforce the importance of cultural change. I am old enough to remember a time in which driving under the influence of alcohol was viewed quite differently.

Happily, community attitudes to this offence have changed very significantly. Driving under the influence of alcohol is not regarded as

socially acceptable, and people who commit that offence are regarded as irresponsible and anti-social, and deserving of significant punishment. That change in community attitude has no doubt been influenced by the increased penalties that have been applied to the offence, and the increased resources which have been applied to detecting commission of the offence, but, more significantly, in my view, cultural change was largely achieved by the public information and education campaign which has been conducted very effectively over the last 10 or 20 years.

My point is that real behavioural change requires organisations like the McCusker Centre to improve public information and education and promote a change in the culture of our community. Of course, cultural change is unlikely to be achieved by one organisation acting alone. That is why it is so pleasing to see such a diversity of groups and programmes represented in the winners and finalists of these awards. The breadth and diversity of the winners and finalists causes me, like Ms Tonya McCusker, to have considerable optimism for the future of social policy in this area. The groups represented here this morning appear to me to reflect a groundswell of change in public opinion and attitude, and a real desire on the part of the community to make a change to the way in which we approach alcohol, and particularly the way in which alcohol affects the lives of our young people.

I would like to take this opportunity to convey my heartiest congratulations to all who have been selected as winners and finalists,

and to express my gratitude for the very valuable work that they are doing across our great State.

The geographic diversity of the groups represented this morning is exceptional. Winners and finalists come from Albany, Denmark, Walpole, the Swan Valley, Kalgoorlie and the Tjuntjuntarra lands to the east, and from the Jigalong community in the north.

The geographic diversity of the programmes represented amongst the winners and finalists is matched by the diversity of the groups involved, including groups and organisations involved in health care, policing, schooling, sport, the arts, government, media and community groups generally.

Having regard to the good work being done by these groups, and the other groups who were not able to be recognised by awards this morning, there is every reason to believe that we are on a positive road toward reducing the adverse impact which alcohol misuse can have upon our community, and in particular, the most valuable asset which our community has, our young people.