



Victoria Police Potentially Acted Unlawfully In Allowing Black Lives Matter Protest: Legal Advice

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Legal advice prepared by Stuart Wood AM QC on 2 July and requested by the Institute of Public Affairs about the legality of the decision of Victoria Police to refuse to issue fines, caution, detain, or disperse protesters in relation to the Black Lives Matter protest in Melbourne on 6 June 2020 reveals that there are grounds to find the decision could be unlawful.

The legal advice identified that the decision to not enforce the Chief Health Officer's directions to limit gatherings of over 20 people in an outdoor public place was potentially unlawful because the Chief Commissioner of Victoria Police either exercised a discretion they did not have under the *Public Health and Wellbeing Act 2008* (Vic), or inappropriately exercised a limited general discretion they did have.

"The revelation that Victoria Police's decision may have been unlawful raises serious questions about how the state is respecting the rule of law in Victoria during the lockdown," said Morgan Begg, Research Fellow at the Institute of Public Affairs.



On 2 July 2020 the Premier of Victoria announced that it would launch a judicial inquiry into the operation of the state hotel quarantine program for returning travellers. Breaches in the hotel quarantine program have been linked to transmission of the coronavirus in the community.

“The bureaucratic bungling of the quarantine belongs in the same category as the potentially unlawful Victoria Police decision. They both deserve scrutiny and Victorians deserve transparency about how they were allowed to happen,” said Mr Begg.

“The terms of reference for the judicial inquiry must be extended to examine the circumstances surrounding the police’s decision to not enforce public health directions against the protesters,” said Mr Begg.

“The legal advice notes the potentially unlawful decision may even expose Victoria Police—and therefore Victorian taxpayers—to civil claims that will add to the enormous cost of the government’s inept pandemic response.”

“Thousands of protesters were allowed to take to the streets in an environment in which all other Victorians lived under the strict rules against public gatherings of more than 20 people.”

“The State Government’s response to the protest highlighted the mismanagement and arbitrary decision-making that has characterised the entire pandemic response,” said Mr Begg.

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