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12 May 2005

Professor Kate Warner
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Dear Professor Warner

INTOXICATION AND CRIMINAL RESPONSIBILITY – ISSUES PAPER NO 7

I refer to your letter of 18 March 2005 to the Commissioner of Police inviting comments on the abovementioned issues paper. I regret the failure to reply by the deadline of 2 May 2005.

Tasmania Police has had the opportunity of considering the response of the Office of the DPP to the issues paper contained in Mr Coates' letter to you of 2 May 2005. Tasmania Police concurs with the views expressed in that letter and does not seek to add any further comments. I would specifically note, however, that I concur with Mr Coates' view that the current state of the law regarding intoxication does not affect the decision to prosecute or which offences to charge. Moreover, it is apparent that intoxication is very rarely raised to negate criminal responsibility in either the Criminal Court or the Magistrates Court. That has been my experience in 17 years working as a prosecutor and two years work prior to that as a Judges Associate. It is also the experience of my colleague, Mr Virs, who has some 19 years experience as a prosecutor. I have also confirmed with all Tasmania Police Prosecution Divisions (Hobart, Launceston and Ulverstone) that intoxication is very rarely raised as a defence.

Yours faithfully

MARK MILLER
Principal Legal Officer