

Northern Territory Police Response to the Questions on Notice

Ice Select Committee

QUESTION ON NOTICE 1:

Mr CHAIR: Deputy Commissioner, if I ask you to take that question on notice, we would like some details around the legislative changes you suggested. Given we have 15 minutes to go I would rather have them in written form than read them onto the *Hansard* record. Would you be able to submit to this committee the amendments you are suggesting in a detailed form?

RESPONSE 1:

Analysis of emerging criminal offending associated with illicit drug use, has identified trends of escalating violence, illicit drug use and supply, organised crime involvement (including but not limited to outlaw motorcycle gangs), increased firearm presence and use, and limitations with sentencing options and aggravation absence with respect to the *Criminal Code Act*.

A review of the Acts associated with the issues listed above has been undertaken by the Northern Territory (NT) Police Force (NTPF) Drug and Organised Crime Division and the Policy and NT Police, Fire and Emergency Services Forward Planning Unit. The options have been discussed with the Legal Policy Division within the Department of the Attorney-General and Justice (AGD).

The preferred policy suite requires amendments to several pieces of legislation and primarily targets organised or sophisticated criminal offending, illicit drug manufacture and trafficking, associated violent offending, including use of firearms, and engaging in violence as part of enforcing drug debts or protecting drug markets.

Based on advice from interstate counterparts regarding suitability and alternative legislative options, primary pieces of legislation for amendment include *Misuse of Drugs Act*, *Criminal Code Act*, *Serious Crime Control Act* and the *Firearms Act*. With the exception of the *Firearms Act*, all pieces of legislation fall under the responsibility of AGD.

The amendments to the Acts are all in various stages of progression and with the exception of the *Misuse of Drugs Act* (currently under consideration of Cabinet), approval to draft the amendments have not been submitted to Cabinet.

The following information outlines the basic elements of the proposed legislative amendments.

Misuse of Drugs Act

The AGD are in the process of revising the Act to include definitions to be inserted identifying correlating definitions within the *Firearms Act* and the *Weapons Control Act* to set out for firearm, offensive, controlled and prohibited weapons.

These definitions are required in order to facilitate aggravation to apply to certain offences relating to supply, cultivation/manufacture, possession or theft where a firearm of prescribed weapon is present or used in the commission of the offence.

Additional matters for inclusion in the Act such as introduction of an offence for a person allowing the presence of a child in a site of manufacture or cultivation has previously been raised with AGD and advice is that these matters are being considered.

Development of a Drug Prohibition Order should is also considered. Such an order will facilitate effective detain, search and seize powers for the NTPF, and would apply to individuals who have demonstrated a high level of offending (e.g. trafficking / manufacture of

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Schedule 1 Drugs) or who have been engaged in violent offending subsequent to drug use or possession.

As detailed above, analysis of emerging criminal offending associated with illicit drug use has identified trends of:

- escalating violence;
- illicit drug use and supply;
- involvement of organised crime (including but not limited to outlaw motorcycle gangs); and
- increased firearm presence and use.

From an operational perspective, amendments to several pieces of legislation is required to assist in targeting organised and sophisticated criminal offending, illicit drug manufacture, trafficking and associated violent offending, including use of firearms and engaging in violence as part of enforcing drug debts or protecting drug markets.

The NTPF have recommended the establishment of declared drug routes. Residents of Indigenous communities are often targeted by drug traffickers due to the increased amount of money residents are willing to pay for illicit substances. It is also clear that criminals frequent certain roadways to bring drugs into the NT to supply urban areas.

Currently, the NTPF are unable to randomly search and seize illicit substances transported in vehicles destined for Indigenous communities and urban areas. These limitations exist as there are no declared drug routes for the purposes of random drug inspections under the *Misuse of Drugs Act*.

Increased powers of search and seizure do exist in the NT and have been incorporated in the *Liquor Act* and the *Kava Management Act* to aid the detection and interception of liquor and kava destined for Indigenous communities. The NTPF have noted that similar powers relating to dangerous drugs would greatly increase the interception of drugs entering communities and would enhance community safety.

Similar legislation currently exists in South Australia (a major trafficking boarder for illicit drugs into the NT), with s 52B of the *Controlled Substances Act* (SA) allowing senior police officers to declare an area (usually a roadway between two points) to be a drug transit route. These 'declarations' last for up to 14 days and allow officers to exercise additional powers of search and seizure on the drug transit route during the period of the declaration.

Consorting Legislation

Existing consorting legislation within the NT is contained within the *Summary Offences Act*. It has not been successfully utilised and its application has been limited. Following a review of alternative consorting legislation, and discussion with respective jurisdictional counterparts, the AGD considering repealing existing s 55A of the *Summary Offences Act*, and considering the application of consorting legislation as it applies in New South Wales (NSW) pursuant to s 93X of the *Crimes Act 1900*.

The priority of the amendments is to facilitate greater efficiency by enabling police officers (as opposed to the Commissioner of Police) to administer orders and warnings to individuals who habitually consort with convicted offenders. This efficiency has been demonstrated in NSW, and use of verbal and written warnings has withstood challenge in the High Court of Australia, and operational translation seems apparent following discussion with NSW Police Force members.

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Firearm Related Offences

Additional offences for consideration by the AGD have been identified following increased incidents involving unlawful firearm possession and use of firearms. Existing offence provisions for consideration and potential inclusion within the *Criminal Code Act* include offences relating to causing danger with firearm (and scope to consider other weaponry), firing or discharging in residential vicinity, and trespassing while armed, or unlawful possession of firearm in a public place.

Offences for Consideration as Aggravating Circumstances

Additional aggravations as they are intended, apply to offences involving firearms, illicit drug offence (including historical offences) and offences against the person. Aggravating circumstances are sought where an offender has history (by way of previous conviction) for the offences involving violence, or threats of violence, or prior convictions of supply of a dangerous drug, or where the offender while under the influence of an illicit drug or psychotropic substances to such an extent that it caused behaviour that was a likely contributing factor in the offence being committed.

Offences that this would apply to include serious acts of harm against the person, such as recklessly endanger life, or acts intending or causing serious harm, and offences that relate to property and subsequent matters such as stealing, dealing with stolen property, unlawful use of vehicle or damage to property.

Serious Crime Control Act

Existing 'declared organisation' provisions necessitate considerable investment to declare such organisations in the NT. To date, attempts to utilise the provisions have been unsuccessful primarily due to the prescriptive requirements of the Act. The intent of the legislation is relevant; however, the process elements require review.

The primary intention is to ensure that those engaging in organised or sophisticated high level offending (including individuals) are subject to appropriate law enforcement responses to ensure community protection can be provided. Complementary anti-consorting provisions will further supplement this intent.

Firearms Act

As part of the proposed suite of reform, introduction of Firearm Prohibition Orders and a review of the current offence structures (with a view to updating their penalty and application) are being developed by way of a separate concurrent Cabinet Submission.

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QUESTION ON NOTICE 2:

MR PAYNE: '... Equipment and other information technologies that enable us to infiltrate and glean information that leads to the dismantling and disruption.'

Mr CHAIR: Would you be able to submit to the committee what those technologies are at some point?

RESPONSE 2:

The fact that this is a public forum and the sensitivity of the technologies, rather than provide brand names or technical details of interception capabilities, a more general term of response has been provided.

Advances in telephone technology have resulted in what was traditionally unencrypted voice communication, frequently becoming encrypted communication based on data rather than voice.

This can be either as a result of the communication platform consumers choose to use (e.g., Skype, Viber and Snapchat) being encryption based, or that as platforms evolve, encryption becomes the default setting (e.g., Android and Apple).

Therefore, the NTPF require access to tools that are able to deal with data constructed communication as opposed to voice, and tools which can address the added security of encryption.

Example of recent Australian incidents can be located via the following links:

2011 - <http://www.smh.com.au/digital-life/mobiles/bikies-blackberrys-beat-law-20110205-1ahmo.html>

2014 - <http://www.abc.net.au/7.30/content/2014/s3957610.htm>

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QUESTION ON NOTICE 3:

Mr PAYNE: We certainly have and we keep very specific data. Specifically around ice use, what I could provide to the committee is referrals to NGOs for drug-related matters or the need for drug rehabilitation services. This goes to that point earlier in discussion about when is something ice related and when is it determination. Very often a referral might occur where it is ice related but it is known at the time that it is - perhaps another - and vice versa. That data could be, at this stage, more global than it is specific to ice, but I am very happy to supply to you.

RESPONSE 3:

From 1 January to 30 June 2015, there have been 17 referrals made through SupportLink across the NT for people misusing drugs (excluding volatile substances). Eleven of these have been made in the last three months.

An additional 13 referrals have been made to support family and carers through the drug misuse of another person over the six months ending June 2015. This additional referral contact both assists the family or carer in coping with the situation, and strengthens the personal support network of people who misuse drugs.

The above shows specific referrals for drug misuse. Drug misuse can also be addressed by support services where a person has been originally referred for other matters, such as mental health or alcohol misuse, through a holistic approach.

Throughout July to December 2014, SupportLink was being rolled-out across the Territory; therefore, there is no data available for Darwin Metropolitan Command or Northern Command throughout the first six months of last financial year. This prevents the ability to compare figures and is why the data provided is only from the most recent six months.

The additional separation of drug users and their families/carers is an important distinction as it supports the support network of the affected person.

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ADDITIONAL QUESTION 1:

The Department of Health's (DoH) website refers to the *NT Illicit Drug Pre Court Diversion Program* which it states is overseen in conjunction with NTPF.

Can you provide the Committee with an overview of pre-court diversion options currently available to the NTPF and the extent to which they are used for people charged with methamphetamine related offences?

ADDITIONAL QUESTION 1 RESPONSE:

The NT Illicit Pre-Court Drug Diversion Program (the Program) commenced in 2002 with annual funding for salary, education and counselling referrals provided by the Commonwealth DoH. The Program has been jointly managed between the NTPF and the DoH Alcohol and Other Drugs Section. The Program is available to first time offenders for use and possession of any illicit substance.

Cannabis is the main substance used by program referrals and at present ice referrals are very low. There has been one current offender for ice, one for LSD and 30 referrals or cannabis. The number of referrals has increased in the past 12 months.

Although the latest agreement expired in 2013, the NTPF has continued to operate drug diversion within the auspice of the NTPF Youth Pre-court Diversion Scheme. It is understood that the DoH will continue to pay for any treatment and counselling referrals that may be made by the NTPF.

The DoH is also working with youth diversion to expand the network of available services using local clinics in remote communities. Previously, under Illicit pre-court drug diversion, program availability in remote communities was fairly restrictive as it required trained counsellors accredited under a nationally agreed process. Remote counselling was rarely available and any drug offenders were managed through the formal youth pre-court diversion process which is considerably more involved.

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ADDITIONAL QUESTION 2:

With regards to drug education, a recent survey of school principals indicated that there is insufficient access to youth engagement police officers (YEPOs). How many YEPOs does the NTPF currently employ? Do all schools across the NT have access to YEPOs? What consideration has been given to how youth engagement and other police officers can better assist in providing drug education, prevention and guidance in the school environment and has this been discussed at interagency meetings?

ADDITIONAL QUESTION 2 RESPONSE:

There are 16 YEPOs employed by the NTPF.

- three in Palmerston ;
- three in Darwin;
- five in Casuarina;
- two in Katherine; and
- three in Alice Springs.

Not all NT schools have access to YEPOs. The remote communities do not have access to YEPOs; however, there are eight community engagement police officers (CEPOs), who undertake duties like the YEPOs at remote schools.

Northern Command	
CEPO – ‘Western’ (based from Darwin)	CEPO – ‘Arafura’ (based from Darwin)
Lajamanu (Hooker Creek) Timber Creek Yarralin Kalkaringi (Wave Hill) Bulman Beswick Maranboy Mataranka / Jilkmिंगgan (Duck Creek) Manyallaluk (Eva Valley)	Maningrida Ramingining Milingimbi Galiwinku (Elcho Island) Gapuwiyak (Lake Ewalla) Warruwi (Goulbourn Island) Minjilang (Croker Island) Jabiru Gunbalanya (Oenpelli)
CEPO – ‘Bonaparte’ (based from Darwin)	CEPO – ‘Carpentaria’ (based from Darwin)
Wadeye (Port Keats) Peppimenarti Palumpa Daly River Pine Creek Adelaide River Batchelor	Alyangula (Groote Eylandt) Angurugu (Groote Eylandt) Umbakumba (Groote Eylandt) Milyakburra (Bickerton Island) Numbulwar Ngukurr Minyerri (Hodgson Downs) Borrooloola Nhulunbuy / Yirrkala

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Southern Command	
CEPO – ‘Central’ (based from Alice Springs)	CEPO – ‘Barkly’ (based from Alice Springs) Vacant
Ntaria (Hermannsburg) Ltyenty Apurte (Santa Teresa) Ti Tree Willowra Laramba Harts Range	Elliott Avon Downs Arllparra (Utopia) Amplilawatja (Ammaroo) Alpurrurulam Ali Curung (Warrabri)
CEPO – ‘Ghan’ Vacant	CEPO – ‘Capricorn’ (based from Alice Springs)
Yulara Mutitjulu Docker River Imanpa Kulgera Finke Titjikala	Walungurru (Kintore) Papunya Ikuntji (Haasts Bluff) Mount Liebig Yuendumu Yuelamu (Mount Allen) Nyirripi

The YEPOs are responsible for carrying out a proactive policing role through the establishment of positive relationships with students, parents and teaching staff to promote a supportive learning environment and safer school communities.

As fully sworn police officers, they perform operational duties associated with their positions including regular patrols of residential areas, shopping complexes and bus interchanges. They operate both proactively and in response to reports of antisocial or criminal behaviour involving students.

The YEPOs are also involved in identifying youth at risk within the school system and working with the Department of Education to ensure that appropriate programs are in place to assist these students.

They also assist in the Family Responsibility Program agreement and order process by identifying youth and families that may benefit from intervention by way of an agreement or order. They establish initial contact with these families and maintain contact with them during the term of the agreement. More recently YEPOs have become involved with referral of students to the Early Intervention Youth Boot Camps.

The YEPOs work with schools in relation to drug and alcohol awareness programs. While they do not deliver formal programs, they are involved on an informal basis at times assisting in the delivery of certain aspects of programs the schools may run. They also deliver localised responses in accordance with local school needs and emerging issues.

In the remote community context CEPOs also at times work with schools; however, there are only eight CEPOs covering 60 communities so their opportunity to have a major impact is necessarily limited by competing workloads.

In relation to both YEPOs and CEPOs, the NTPF would like to do more but competing priorities and the lack of resources means this stifles how much can be achieved. However, in the context of Task Force Neo the agency is currently reviewing gaps and service delivery of youth-related services and exploring options across the agency.

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ADDITIONAL QUESTION 3:

The Committee understands that clandestine laboratories represent a serious public and environmental health risk. Have police developed any specific work place health and safety measures for personnel that may come into contact with clandestine laboratories? If so, would these measures be applicable to frontline workers in other professions that may come into contact with such.

ADDITIONAL QUESTION 3 RESPONSE:

The NTPF has developed its' workplace health and safety measures in accordance with the *Clandestine Drug Laboratory Remediation Guidelines* as published by the Commonwealth Attorney-General's Department in 2011. All members are required to submit exposure reports regarding their contact with clandestine laboratories that details: the time of exposure, extent of exposure and any work health and safety measures adopted to reduce the effects of exposure to the laboratories.

All personnel who respond to and process illicit clandestine laboratories are appropriately trained in the various methods of manufacture, stages of production, likely hazards and utilisation of breathing apparatus. These personnel are also issued with personal protective equipment and clothing specifically purchased for these duties. The response that personnel take at the scene of a clandestine laboratory and the level of the safety equipment that they must wear is dictated by the forensic chemist who first enters the scene with an 'initial entry team' to make this assessment. An 'initial entry team' is comprised of a police officer, a forensic chemist and a NT Fire and Rescue officer.

On a case-by-case basis if any first responders or third parties have been exposed to clandestine laboratories then they are provided with necessary advice by the forensic chemist and police at the time of conducting an investigation into the laboratory that has been discovered. The NTPF is currently in the process of producing an information pamphlet that will provide health and safety information to those persons who may have come into contact with a clandestine laboratory or may have to remediate a scene after its dismantlement and removal. The most hazardous phase for a clandestine laboratory is where apparatus and chemicals are present prior to police response. In these circumstances the environment is potentially contaminated with lethal toxic fumes and potentially highly vulnerable to explosion.