



RESEARCH INTO LEGISLATION RELATING TO PETROL SNIFFING

Gill Shaw

March 2010

Executive Summary

INCONSISTENT LEGISLATION IN THE CONTEXT OF PETROL SNIFFING IN INDIGENOUS COMMUNITIES

This Report was commissioned by the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) in response to Recommendation 10 of the 2006 Senate Community Affairs References Committee Report *Beyond petrol sniffing: renewing hope for Indigenous communities*. The final report contains sensitive information about sniffing incidence in Indigenous communities and is not available for publication.

The Report presents research findings on the level of satisfaction stakeholders have with current legislation in their state/territory relating to petrol sniffing, and any reasons for dissatisfaction. The following issues have been explored with stakeholders in Western Australia, South Australia, the Northern Territory and Queensland:

- Whether stakeholders are aware of inconsistencies in legislation relating to petrol sniffing between jurisdictions;
- What impacts inconsistent legislation has in the region;
- If there are negative impacts, whether this is seen as a significant problem when compared with other issues relating to the prevention of petrol sniffing;
- If there are negative impacts, whether these have changed over time (improved or worsened), and what may have caused these changes;
- Whether legislative reform is considered a priority, (if so: which pieces of legislation stakeholders would like to see amended, why, and in what way);
- What role state and territory governments can play in resolving these issues;
- What role the Commonwealth can play in resolving these issues; and
- What role other stakeholders can play in resolving these issues (e.g. community organisations, local government bodies etc).

Please note that the research does not evaluate the legislation in place in various jurisdictions. It examines the practical impacts of the fact that different jurisdictions have different legislative frameworks and powers in place.

This research is primarily qualitative, with a focus on the perception of community members of the sites in which fieldwork was conducted, and stakeholders in the Police, Justice, Corrections, Alcohol and Other Drug Services and Child Protection spheres. A total of 56 people were interviewed across all locations. Twenty-nine of these interviews were face to face, and 27 were via the telephone.

The findings of the research are remarkably consistent across jurisdictions.

In Western Australia the two sites present very different scenarios regarding the role of legislation in the response to sniffing; with one site having sniffing as an offence, and the other using different legislation to deal with sniffing-related behaviour. Stakeholders from both communities report that, while the court has the ability to mandate attendance at treatment or education programs, there are no

appropriate programs in the local region. Neither site records any negative impacts from inconsistent legislation in other jurisdictions, with both sites being more focused on what they can achieve within their own legislative frameworks.

In South Australia a general consensus was that the range of available legislative responses hold enough provisions to be able to order an adequate range of options for any individual. However many stakeholders are clearly frustrated by the lack of effective supervision of any orders that are made by the court, which undermines the effectiveness of the options available to it.

In addition the limitations on rehabilitation or education programs available in the region mean that it is difficult to frame a meaningful response to offences through the justice and correctional systems. There was consistent feedback from all stakeholders that inconsistent legislation in other jurisdictions has no impact in South Australia.

In the Northern Territory stakeholders were also satisfied with the legislative options available to them. Here, however there are a suite of local programs to which offenders can be sent for rehabilitation.

While some doubts were expressed about the quality of some of these programs, there was considerable satisfaction that there are treatment pathways available for people using volatile substances in the NT. Here again there were no negative impacts reported from inconsistent legislation in other jurisdictions.

In Queensland stakeholders comment that the available legislation is sufficient. Both the police and the agency interviewed took the view that provisions to enable sentencing individuals to mandatory treatment would be useful, however both commented that legislation plays a very secondary role in working with the users.

They reported that access to high quality, comprehensive services that could work with the individuals and their families, accompanied by good diversionary activities were a major priority. Both police and the agency said that they rarely dealt with people from interstate over volatile substance misuse issues. They did not report any adverse impacts from the fact that different jurisdictions use different legislation.

The overall thrust of the findings in each jurisdiction were satisfaction with the legislative options available, but strong dissatisfaction with the availability of diversionary and treatment programs to which offenders could be sent.

There was also consistency in the finding that the variety of legislation currently being used in relation to sniffing does not have any practical impacts at ground level.

The researchers present the following five findings:

1. There are no major adverse impacts from inconsistencies in existing legislation that can be addressed by the introduction of consistent legislation relating to volatile substance misuse.
2. The vast majority of stakeholders are satisfied with the legislative tools currently at their disposal.

3. Stakeholders recognise that legislative frameworks are fundamental tools in the response to volatile substance misuse.
4. Stakeholders identify the following issues as critical to the successful and sustained reduction of levels of volatile substance misuse in Indigenous communities:
 - strategies to reduce the supply of sniffable substances
 - access to good quality services such as rehabilitation and diversionary programs (including youth services)
5. Stakeholders consider that supply reduction strategies, and access to good quality treatment and diversionary programs are of primary importance in the successful and sustained reduction of levels of volatile substance misuse.

Recommendations:

1. That no further action be taken with regard to the introduction of consistent legislation on volatile substance misuse in all jurisdictions.
2. That the Australian government continue to identify opportunities to increase community capacity and effectiveness in their response to volatile substance misuse.
3. That FaHCSIA note the consistent feedback from stakeholders that the availability of youth services, and lack of good quality treatment and rehabilitation services encountered in all jurisdictions are more pressing issues than consistent legislation.
4. That FaHCSIA consider commissioning further work to explore the gaps in service delivery identified in this Report.