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Criminal Justice Division



12 August 2003

Mr Quinton Clements  
Inquiry Secretary  
Joint Standing Committee on the National Capital and External Territories  
Parliament House  
CANBERRA ACT 2600

Dear Mr Clements

**INQUIRY INTO NORFOLK ISLAND GOVERNANCE – QUESTIONS ON NOTICE**

I refer to your letter of 28 July 2003 to Ms Katherine Jones regarding a number of questions directed to this Department from the Committee at its public hearing on 25 July 2003. As the questions largely relate to areas that fall under my responsibility I am responding to the Committee on the Department's behalf.

Please find our responses to questions 1, 2, 4, 5 and 6 attached. We are in the process of seeking advice from the Australian Government Solicitor regarding question 3. We will endeavour to finalise and forward our response as soon as possible in order to accommodate the Committee's reporting timeframe. If you require any further information or assistance, please contact Ms Rebecca Curran who is the action officer for this matter. Ms Curran can be contacted on 6250 6873.

Yours sincerely

[Signature]  
Joanne Blackburn

Telephone: 6250 6699  
Facsimile: 6273 0075  
E-mail joanne.blackburn@ag.gov.au

**Question 1: Is there any technical or fundamental policy reason why laws such as the *Freedom of Information Act 1982* (Cth) and the *Privacy Act 1988* (Cth) could not be applied to the Norfolk Island Government?**

There are no technical or fundamental policy reasons why the Commonwealth *Freedom of Information Act 1982* and/or the *Privacy Act 1988* could not be applied to the Norfolk Island Government.

There would be a number of issues that would need to be taken into account in arriving at a decision. The principal ones would be whether to apply the existing or a modified regime and the costs of implementing any agreed regime.

Any such decision would be a matter of policy to be addressed by the Commonwealth and/or Norfolk Island governments, in light of the Commonwealth's policy of supporting self-government, as provided for under the *Norfolk Island Act 1979*.

**Question 2: Can you clarify whether any federal criminal offences relating to the corruption of government officials, misappropriation of public money or money laundering apply to the activities of the Members of the Norfolk Island Legislative Assembly or public servants employed by the Norfolk Island Government?**

**Corruption of Government Officials:**

Corruption offences are covered by Divisions 141 and 142 of the *Criminal Code Act 1995*.

The offence in Division 141 is committed where a bribe is given to or received by a Commonwealth public official. The offences in Division 142 are 'corrupting benefits given to or received by a commonwealth public official and 'abuse of public office'

'Commonwealth public official' is defined in the Dictionary to the *Criminal Code* to mean

- (h) the Administrator, an Acting Administrator, or a Deputy Administrator, of Norfolk Island; or ...
- (n) an individual who holds or performs the duties of an office established by or under a law of the Commonwealth, other than: ...
  - (iv) the *Norfolk Island Act 1979*; or ...
- (r) an individual who exercises powers, or performs functions, conferred on the person by or under a law of the Commonwealth, other than: ...
  - (iv) the *Norfolk Island Act 1979*; or ...

These offences will apply to any Administrator, Acting Administrator, or Deputy Administrator of Norfolk Island.

The corruption/bribery offences in the *Criminal Code* do not apply to officials of Norfolk Island where the office concerned is established under the *Norfolk Island Act 1979* or to members of the Norfolk Island Legislative Assembly.

**Misappropriation of Public Money:**

Offences relating to obtaining Commonwealth property by deception, and other offences relating to fraudulent conduct against the Commonwealth are covered by Divisions 134 and 135 of the *Criminal Code*.

In most of the offences, one of the elements is that the person against whom the offence was committed is a 'Commonwealth entity'.

'Commonwealth entity' is defined in the Dictionary to the *Criminal Code* to mean

- (a) the Commonwealth; or
- (b) a Commonwealth authority.

'A Commonwealth authority' is defined to mean:

a body established by or under a law of the Commonwealth, but does not include:

- (a) a body established by or under: ...
  - (iv) the *Norfolk Island Act 1979*; or

The misappropriation offences in the *Criminal Code* do not apply to property obtained by deception or fraud where the victim of the deception or fraud is a body established under the *Norfolk Island Act 1979*.

The offences of 'Influencing a Commonwealth public official' at 135.1(7) and 135.4(7) will apply in Norfolk Island where the official who is dishonestly influenced is the Administrator, an Acting Administrator, or a Deputy Administrator, of Norfolk Island.

### **Money Laundering:**

Money laundering offences are covered by Division 400 of the *Criminal Code*. The money laundering offences in the *Criminal Code* operate in Norfolk Island.

The money laundering offences under the *Criminal Code* apply where the proceeds are the proceeds of a 'Commonwealth indictable offence'

'Commonwealth indictable offence' is defined in the Dictionary to the *Criminal Code* to mean

an offence against a law of the Commonwealth, or a law of a Territory (other than the Australian Capital Territory and the Northern Territory), that may be dealt with as an indictable offence (even if it may, in some circumstances, be dealt with as a summary offence).

**Question 4: Can you explain the Attorney-General Department's role in crime prevention and what funding is available for isolated and remote communities with systemic problems such as domestic violence, drug and alcohol abuse, sexual assault and paedophilia?**

State and Territory governments have primary responsibility for the criminal justice system, including law enforcement, juvenile justice, courts and corrections, and crime prevention. Local government is also increasingly active in community safety through urban design and service provision. At the national level, the Commonwealth Government plays a key role in fostering social cohesion and building stronger communities through programs and policies in the areas of family and income support, health, employment and education. It also takes a strong leadership role in national justice issues, including the prevention of violence and crime, working in collaboration with all levels of government and with the business and community sectors.

One of its major initiatives in this area is the National Crime Prevention Program (NCP) launched in 1997 by the Prime Minister, the Hon John Howard MP. In the 2003-04 Budget, the Government provided an additional \$4 million for this program, bringing its total investment in the NCP since 1996 to \$38 million.

The NCP's objectives are to identify and promote innovative ways of reducing and preventing crime and the fear of crime. It draws on the expertise of officials, practitioners in crime prevention and relevant fields such as social work, health and education, reflecting the Government's whole of government approach to increasing the well being of Australians. Priority areas have included early intervention and youth crime; domestic and family violence; private sector and property crime and public safety. It has funded research and pilots in partnership with State, Territory and local governments, the Australian Institute of Criminology, and the community sector. The program has also provided information about crime prevention issues and strategies both to people working in crime prevention and to members of the general community. (Details of key initiatives are attached at A.)

The NCP is not a grants program nor does it provide recurrent funding for service delivery. NCP projects with a focus on regional and rural localities include:

- developing community responses to crime in the regional centre of Kalgoorlie;
- a pilot project in Derby involving working with Indigenous young people to prevent family violence (2001-04);
- support for an early intervention project with young people and their families in Bunbury, Western Australia;
- a national review of indigenous night patrol services, and support for the NT government to develop a set of practices and protocols for these services;
- funding for the AIC to conduct a three year research project into farm crime; and
- support for the Council of Australian Governments service provision trials at Tjurabalan and surrounding region to help address justice and safety issues.

Commonwealth support for programs addressing domestic and sexual violence and treatment of substance abuse is largely delivered through the Departments of Family

and Community Services and Health and Ageing. The Department of Veterans' Affairs also funds substance abuse and other programs to veterans.

Key initiatives under the NCP include:

**Early Intervention:**

The Government is strongly committed to applying early intervention and developmental approaches to the prevention of juvenile crime in Australia. These approaches involve provision of durable interventions early in the lifecycle and at critical stages in a child's development to minimise the risk of young people entering into criminal activity.

The NCP has provided funding for research and development into the most effective ways to prevent bullying in pre-school and early primary school, producing resources to help teachers and parents of pre-school and early primary school children. It has commissioned national research into factors that contribute to successful mentoring programs and diversion programs for young offenders. The NCP has also supported state capacity building programs focusing on truancy (Tasmania), mentoring (South Australia), and young offenders (Tasmania). It is midway through a national pilot of a project to assist to provide practical support to the children and families of prisoners and improve the parenting skills of prisoners; and working with NSW to implement a coordinated community program to assist children and young people in Redfern and Waterloo.

Several other key reports have helped shaped policy and programs nationally across the education, health and community services sectors. These include: *Pathways to Prevention-Developmental and Early Intervention Approaches to Crime in Australia*; *Hanging Out: Negotiating young people's use of public space*; *Public Spaces for young people- A guide to creative projects and positive strategies*.

**Domestic and Family Violence:**

Preventing Domestic Violence is a Commonwealth Government priority. In the NCP in partnership with the then Department of Education, Training and Youth Affairs commissioned benchmark research into young people's attitudes to and experiences of domestic violence. *Young People and domestic violence: National research on young people's attitudes and experiences of domestic* provides the first national data on young people's attitudes to domestic violence and on the experiences that help shape these attitudes. It also undertook the first national Australian research into programs for perpetrators of domestic violence, which included an audit and review of all programmes operating in Australia which provide services to those committing domestic violence. Since 2001 it has funded the Shire of Derby/West Kimberley to undertake a pilot project *Working with Adolescents to Prevent Domestic Violence*.

The project stemmed from the recommendations of a NCP report, *'Working with Adolescents to Prevent Domestic Violence - Indigenous Rural Model'* .

**Violence in Indigenous Communities:**

*Violence in Indigenous Communities* was commissioned to identify priorities and produce recommendations for the prevention of violence in Indigenous communities.

Its findings have helped shape the Indigenous Family Violence Grants Program under Partnerships Against Domestic Violence. Across Australia, night patrols have been identified as a significant crime prevention strategy, particularly within Indigenous communities. The NCP has supported an important project in the Northern Territory to build the capacity of community-based and managed organisations to manage community issues and also to develop a common set of practices and protocols for night patrols. The program is also a sponsor of CROC Indigenous festivals and the WA Aboriginal Child Health Survey.

### **Building skills in crime prevention and community safety:**

The NCP in partnership with the Local Government training board is developing crime prevention competency standards. These will be used to provide a nationally consistent benchmark of what is required of crime prevention and community safety workers (police, community crime prevention officers, and a wide range of workers in health and community sectors). A practical kit on evaluation models for community crime prevention is being finalised to assist managers assess the effectiveness and impact of their projects. Guidelines designed to help small community organisations plan and implement safe public events have also been developed.

### **Preventing Property Crime:**

Burglary is one of the more common crimes in Australia. NCP has worked with the South Australian, Queensland and ACT governments to develop and test ways of reducing residential break and enter by focusing on repeat victimisation and localised hot spots as well as by targeting recidivist offenders. It has also produced a high popular information kit to help householders' reduce the risk of burglary.

Theft of cars and of property from cars is another of the most common forms of crime in Australia. Seventy-five per cent of vehicles are stolen by young opportunistic thieves who target vehicles that are easy to steal. The NCP is working in partnership with the National Motor Vehicle Theft Reduction Council (NMVTRC) on a project targeting young car thieves at sites in Tasmania, New South Wales, Queensland and Western Australia.

### **Helping Small Business**

In a 1999 AIC survey funded by the NCP that 51.5 per cent of small businesses who responded to the survey had been victims of crime. To help small business deal with crime, the NCP has funded the Australian Institute of Criminology to conduct specialist research and advisory services. Projects underway include: a survey of businesses in Fairfield/Cabramatta; an evaluation of police beat shopfronts in Qld; a survey of online credit fraud; and an evaluation of a business watch program in the NT. NCP also supports the AIC's farm crime project which is undertaking the first ever national research into crime against farms in Australia. The project will: measure the extent and nature of crime against farms in Australia; identify factors affecting crime against farms; and identify promising crime prevention initiatives.



**Question 5: Does the crime prevention work of the Department involve collaboration with the Office of the Status of Women to develop educational programmes with regards to changing male attitudes toward women to prevent domestic and sexual violence in small communities?**

The Attorney-General's Department's (AGD) work in crime prevention is undertaken in collaboration with a wide range of Commonwealth and State and Territory Agencies, including the Office of the Status of Women. The Department is represented on the Partnerships against Domestic Violence Taskforce. Partnerships against Domestic Violence has undertaken a number of community education and training projects aimed at preventing domestic violence. This includes the Walking into Doors campaign which worked with Indigenous communities, and a campaign to increase community awareness of domestic violence in non-English speaking background (NESB) communities.

A number of the projects have had some focus on working with small communities, including: the Torres Strait Islander Domestic Violence Community Education/Training Strategy (Qld); the development of competency based standards to enhance the skills of people who work in domestic violence, including people working with perpetrators; a training project aimed at rural health professionals (Tasmania); piloting models for counselling/intervention for Aboriginal men involved in family violence (NT and WA); community Arts projects undertaken by Big Hartt (NSW); a number of schools based education programs (ACT, NSW, Qld, NT).

Information on specific PADV projects may be found at <http://www.padv.dpmc.gov.au/>.

The AGD as part of the National Crime Prevention program has undertaken two research based pilot projects working with adolescents to prevent domestic violence in a rural town setting (Derby and Northam in WA.)

Together with the then Department of Employment, Education and Youth Affairs, in 1999 it commissioned *Young People and Domestic Violence*, the first national study of its kind. The objective was to provide national benchmark data on young people's attitudes towards domestic violence and the experiences and beliefs that helped shape those attitudes, and to identify the optimum points and models for intervention.

**Question 6: The Committee understand that in 2002 the Norfolk Island Government wrote to the Federal Minister for Justice and Customs seeking advice on whether federal funding could be made available to assist with the development of a 'Justice package' for Norfolk Island. The Justice Package is a proposed program of review and updating of criminal law, sentencing, bail and child protection laws. Has the Justice Minister responded to that request? Is the Attorney-General's Criminal Justice Division able to provide technical assistance to the Norfolk Island Government to ensure that Norfolk Island laws are reviewed and updated?**

The Minister for Justice and Customs wrote to the Norfolk Island Minister on 11 February 2003 explaining that a Norfolk Island proposal to use firearms buy-back money for a Justice Package was not within his discretion. The Attorney-General's Criminal Justice Division does not have the resources to provide technical assistance to the Norfolk Island Government for the review of Norfolk Island laws.