

CHAPTER 4

EFFECTIVENESS OF LAWS AND POLICING

Many communities are in such a violent and dysfunctional state that there is no option but to deal with personal safety as a priority. Without some law and order it is not possible for people to deal with their daily lives. I believe that many community members must surely exist in a state of severe depression because of the unceasing violence and disruption to which they are exposed, much of it associated with substance misuse.¹

Introduction

4.1 The role of laws and policing to effectively combat trafficking and sniffing of licit and illicit volatile substances were discussed at length during the inquiry. Addressing petrol sniffing encompasses both law and health issues. The act of sniffing petrol being primarily a health issue, as opposed to the supply of petrol for sniffing, which is clearly a criminal issue. Regardless of this distinction, Indigenous community support for laws and policing came through strongly in evidence and the combination of law enforcement with the provision of complimentary initiatives such as places of safety, mandated treatment and rehabilitation were seen as the most effective strategies to combat sniffing. This chapter considers the effectiveness of existing laws and policing with respect to petrol sniffing in affected Indigenous communities.

4.2 In Australia there has been minimal criminal or civil regulation to prevent sniffing of noxious substances, with most of the regulation focussing on the sale and distribution of volatile substances. Some States and Territories have had to use child welfare provisions to implement intervention measures to combat sniffing.

4.3 Often Indigenous people feel unable to deal with the situation of petrol sniffing and seek support from authorities to intervene. Commonwealth and State and Territory legislation provides for some methods of intervention. The *Petrol Sniffing in Remote Northern Territory Communities* report commented:

At the very least, police should be able to impound petrol and sniffing implements and then deal effectively with the sniffer depending on the circumstances, if at risk of harm to themselves or others.

Most people would agree that locking up sniffers is not the answer to the problem. However, there is a need to protect them and others in the community and to compel them to undergo some form of treatment and rehabilitation when this is warranted.²

1 *Submission 15d*, pp.7-8 (NPYWC).

2 Legislative Assembly of the Northern Territory, Select Committee on Substance Abuse in the Community, *Petrol Sniffing in Remote Northern Territory Communities*, October 2004, p. 25.

4.4 The power of justice systems to legally regulate volatile substance abuse (VSA) in Indigenous communities varies in each community depending on the State and Territory legislation in place. Legislation influences police presence in communities, the right to safety and protection for community members and the power of justice officials to effectively intervene when Indigenous people misuse volatile substances such as petrol, glue and paint.

Legislation to combat sniffing and substance abuse

Overseas examples

4.5 Texas has some of the most comprehensive legislation covering volatile substance abuse in the United States. *The Abusable Volatile Chemicals Act 2001* prohibits the sale or delivery of volatile chemicals to minors (less than 18 years of age). This Act also prohibits the use and possession of volatile chemicals to inhale or that affect the central nervous system. The Texan volatile substance industry is heavily regulated, requiring that places of sale possess a permit with all revenue from permits used for education and prevention programs for inhalant abuse. Strict requirements also exist for the storage of and access to inhalants and authorities have criminal prosecution powers for retailers failing to conform to requirements of the Act.³

4.6 In New Zealand, the *Alcoholism and Drug Addiction Act 1966* provides police with powers to '[apprehend] a person whose persistent and excessive indulgence of a substance is causing or is likely to cause serious injury to his/her health, or is a source of harm, suffering, or serious annoyance to others or renders him/her incapable of properly managing himself or his affairs'.⁴ Some local authorities in New Zealand have created area specific by-laws preventing the use of 'mind-altering' substances including glues, solvents and volatile substances.

Australian legislation

Appropriate legislation forms an essential component of any response to VSA [volatile substance abuse], along with the realisation that new legislation also requires appropriate planning and consultation along with sufficient resources applied in a timely manner for its effective implementation.⁵

4.7 The policing of petrol sniffing is a complex issue as the legislation of each State and Territory is different and these differences create inconsistencies in the ability to adequately control and police sniffing in Australia. Appendix 3 provides details of the relevant legislation in each State and Territory.

3 Parliament of Victoria, Drugs and Crime Prevention Committee, *Inquiry into the Inhalation of Volatile Substances: Final Report*, September 2002, pp.179–80.

4 Drugs and Crime Prevention Committee September, p.181.

5 *Submission 27*, p. 24 (Waltja Tjutangku Palyapayi Aboriginal Corporation).

4.8 The Committee heard that Western Australia is effectively regulating substance abuse in some Western Australian Indigenous communities using provisions in the *Criminal Code Amendment Act 2004* and the *Protective Custody Act 2000*. Mr Murray Lampard, Deputy Police Commissioner of the Western Australia Police Service (WAPS), explained the Police Service's use of the legislation:

We have two pieces of legislation that we operate in. We have a section of the Criminal Code which allows us to detect people that are supplying deleterious substances. We have used that legislation quite successfully, particularly in the Warburton area. The real bonus with that is that the judiciary are very much supporting us using that legislation.

It [petrol] is deemed to be an intoxicant under section 206 of the Criminal Code. The penalties are 12 months imprisonment and a fine of up to \$12,000. We have used that on three occasions in recent times, at Warburton in particular. The people charged have received three months, eight months and nine months imprisonment. Also we have the Protective Custody Act, which we use, which gives police the power to seize substances. We find it to be a particularly good piece of legislation. We can seize it and dispose of the substance straightaway. When we are dealing with young children, it is not our focus to put them before the judicial system. It is better that we remove the risk – meaning the substance, the liquid, the deleterious substance, as I said – and provide intervention from a health perspective.⁶

4.9 Many witnesses provided evidence on the recent introduction of the *Volatile Substance Abuse Prevention Act 2005* (VSAP Act) in the Northern Territory. The VSAP Act and its supporting regulations were enacted in February 2006 and the Department of Health and Community Services (DHCS) in the Northern Territory provided details on the intent of this legislation:

The objectives are to support child, family and social welfare by providing a legislative framework for the prevention of volatile substance abuse and to protect people from harm resulting from volatile substance abuse. The act complements existing legislation such as the Mental Health Act and the Community Welfare Act.⁷

4.10 DHCS indicated that the Act has five main areas and will give police and others new powers to manage petrol and other volatile substance abuse. The five areas are:

- power to search and seize;
- power to apprehend people and transport them home or to a place of safety;
- strengthen provisions relating to illegal supply;
- assessment and court mandated treatment for chronic users; and

6 *Committee Hansard* 20.2.06, p.10 (WAPS).

7 *Committee Hansard* 21.2.06, p.22 (DHCS NT).

- community management plans that control the sale and supply of volatile substances.⁸

4.11 DHCS went on to comment that before the introduction of the Act police had felt vulnerable about their powers to be able to take people home and to respond to someone at risk other than through the Community Welfare Act. In addition, there had been no specific powers to enable police to seize petrol. DHCS concluded:

There was something else. I believe there was an intention by the Northern Territory government of having a very strong policy stand in the form of a new act around volatile substance abuse.⁹

4.12 While the VSAP Act has only recently been implemented, Central Australian Youth Link-up Service (CAYLUS) provided evidence of early positive responses, though they also noted reservations about the implementation of some provisions:

The legislation has been very good for police morale, it seems. A policeman we were talking to the other day is really happy about it because he does not have to watch sniffers any more and not be able to do anything about it. The police are now empowered legally to take petrol off them and dispose of it. But, at the same time, the police recommendations around how they are going to be enforcing that are fairly tight. Whilst they are sensible to some degree, to some degree some of the provisions are so cumbersome that they might not actually get up. It might be such a cumbersome process to use the VSA legislation for some things that it might not be effective.¹⁰

4.13 Associate Professor Dennis Gray expressed caution on the effect of the VSAP Act in criminalising petrol sniffing. Professor Gray commented:

Another principle of drug strategy has been that proposed solutions should not do more harm than they fix. That was a point made by the Royal Commission into Aboriginal Deaths in Custody and it was behind legislation in most, but not all, states and territories, to decriminalise public drunkenness. What we have seen in the Northern Territory with the move to make petrol sniffing illegal is taking a step back from that. At this stage it is too early, I think, to see what the effect might be, but given what has happened with regard to decriminalisation of public drunkenness, it would be prudent to look at what happens in the Northern Territory and evaluate that, before other jurisdictions jump in and criminalise sniffing. That is not to say that there should not be legislation which enables the police to seize volatile substances or to take them to safe places, but in most jurisdictions there are already pieces of legislation in place which enable that to happen.¹¹

8 *Committee Hansard* 21.2.06, p.22 (DHCS NT).

9 *Committee Hansard* 21.2.06, p.9 (DHCS NT).

10 *Committee Hansard* 22.2.06, pp.21–22 (CAYLUS).

11 *Committee Hansard* 20.2.06, p.33 (National Drug Research Institute WA).

4.14 The VSAP Act differs from Western Australian legislation in that it provides justice officers with powers to seize and destroy volatile substances as well as empowering justice officers to take people sniffing petrol to a safe place and mandate treatment and assessment services.¹²

4.15 The Northern Territory Select Committee on Substance Abuse called for the need to provide a safe house for petrol sniffers once petrol had been seized and destroyed by justice officers. The Committee's 2004 report stated that:

...apprehending or otherwise removing a young person from the source of harm in itself is not sufficient. There need to be 'safe' houses and other places where they can be taken, where they will be safe and restrained from self-harm and harm to others.¹³

4.16 The Committee heard evidence from community members at Balgo, Halls Creek and Alice Springs that, in the absence of proper safe houses, police are using cells to temporarily hold intoxicated adults. It is not appropriate for police station cells to be used as safe houses. Some communities are in dire need of appropriate safe houses, especially those who do not have police facilities nearby.¹⁴

4.17 Associate Professor Gray also highlighted issues around the provision of safe houses or safe places. Associate Professor Gray indicated that safe houses may not be available in Indigenous communities and gave an example related to the Pitjantjatjara Lands in South Australia:

That is all very well in principle, but in a lot of those remote communities there are simply no options of safe places. For example, in the Pitjantjatjara lands, if the police apprehend a sniffer, they have the choice of doing nothing or charging that person for breach of the community by-laws and immediately releasing them. If they want to take them to a place of safety, they have to put them in the back of a police vehicle, drive several hundred kilometres to a police station or to a hospital, and they have to stop every 15 minutes to check that that person is safe. We need safe places in communities. There is very little call for that at the moment and I think it is something that we need to do.¹⁵

4.18 Evidence provided to the Committee while visiting Halls Creek in Western Australia highlighted the need for providing safe places for children as well as adults who are intoxicated or hurt and abused. While on night patrols, Halls Creek's police officers and community safety officers have sufficient facilities to place abused women in a refuge and to place intoxicated adults in a 'safe place' to sober up. However, night patrol officers who collect children at risk can only keep them safe for

12 *Committee Hansard* 20.2.06, p.11 (Department of Corrective Services WA).

13 Select Committee on Substance Abuse in the Community, p. 25.

14 Evidence taken from informal Committee discussion.

15 *Committee Hansard* 20.2.06, p.33 (National Drug Research Institute WA).

the duration of their patrol shift as there is no 'safe place' or youth refuge to place children. At the conclusion of their shift (often at 1 am or 2 am in the morning), officers can only return children to their home which may not ensure that children remain safe during the early hours of the morning.

Need for further legislation

4.19 In contrast to the Western Australian and Northern Territory legislative powers that enable justice officials to intervene in situations where people are sniffing petrol, evidence provided from witnesses in Queensland described frustrations in combating petrol sniffing due in part to the lack of enabling legislation.

4.20 Dr Radhika Santhanam, a senior clinical psychologist for the Remote Area Mental Health Service in Queensland, outlined some of the difficulties experienced by justice officers, particularly those in the Cape communities:

The justice group and the police are struggling with the fact that, because petrol sniffing is not illegal, it is very hard to even invite young people to start dialogue and discussions about responsibility. Unlike, for example, vandalism or alcohol intake – or even marijuana abuse, for that matter – petrol sniffing, paint sniffing and chroming are seen as having no relevance to the justice group issue, unless you break something or you steal a car or whatever.¹⁶

4.21 Mr Paolo Gambi, a youth support worker for Anglicare, provided an example of a recent initiative in Cairns that attempted to police petrol sniffing:

The Police Powers and Responsibilities Act 2000 was amended on 1 July last year to allow the police to confiscate cans of paint, volatile substances or harmful things from young people and then escort them to a place of safety. Unfortunately, this was voluntary, so the police have found it very difficult to continue to get the young people to the place of safety and maintain their interest in the place of safety as such. It is now in a state of suspension, because we are looking at other programs and other ways of being able to address the issues in Cairns.¹⁷

Aboriginal by-laws

4.22 Ngaanyatjarra communities in Western Australia and communities on the Anangu-Pitjantjatjara Lands in South Australia have passed by-laws under local councils to legislate against petrol sniffing and trafficking. The by-laws vary between Indigenous communities and are not believed to be routinely enforced.

4.23 The Northern Territory Select Committee on Substance Abuse raised the issue of whether by-laws or sanctions should be in place for remote Indigenous communities, noting that it is illegal to sniff petrol on Ngaanyatjarra Lands in Western

16 *Committee Hansard* 08.3.06, p.26 (Remote Area Mental Health Service Qld).

17 *Committee Hansard* 08.3.06, p.42 (Anglicare Nth Queensland Ltd).

Australia. The Select Committee received evidence that the impact of the West Australian by-laws was 'that those who wanted to sniff simply crossed to communities on Nyaanyatjarra Lands in the Northern Territory'.¹⁸

Policing to combat sniffing

4.24 The Committee heard much evidence on the positive contribution made by having a police presence in Indigenous communities. Issues around policing as a strategy include:

- a permanent police presence;
- the involvement of Aboriginal Liaison and Community Officers;
- the safety of communities and attracting resources;
- the use of night patrols; and
- cooperative and collaborative government strategies.

Permanent police presence

4.25 Ms Vicki Gillick, Coordinator at the Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council (NPY Women's Council), provided two examples where the safety of community members with disabilities was threatened by people affected by sniffing petrol:

You have the frail, aged mother with disabilities who cannot live in her house. No family member will be her carer, because they are terrified of the sniffers who come around every night. There is no permanent police presence in the community and when he is charged, he is bailed. I think he has actually been remanded this week, but it just goes on and on. That is just one example.

We have an aged client who is a stroke victim and a former executive member... We cannot get a carer. The house has been trashed. The sniffers have taken it over. Her sniffing son has, in the last few months, twice broken into the respite house, threatened the staff and stood over his mother to get money from her. That is the sort of thing we are dealing with in case management. She is frail, aged and has disabilities. He is a chronic, long-term sniffer. If, in the last 10 years, there had been some treatment centre or rehabilitation to which a magistrate on the APY court circuit could have compelled him to go, they would have done so.¹⁹

4.26 In 2002, Magistrate Sue Gordon reported the findings and recommendations of the Special Inquiry into the Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal Communities (Gordon Inquiry). The Western Australian Government, following recommendations in the Gordon Inquiry,

18 Select Committee on Substance Abuse in the Community, p.48.

19 *Committee Hansard* 22.2.06, pp.58-59 (NPYWC).

identified priority sites for the implementation of remote policing services and multi-function facilities in Indigenous communities. The focus was collaborative service delivery for Aboriginal communities recognising that each community has unique needs.

4.27 Dr Randolph Spargo, Medical Officer for the Puntukurnu Aboriginal Medical Service stationed at Jigalong Medical Clinic in remote Western Australia gave evidence on the Gordon Inquiry recommendations and progress made to improve policing services in remote Indigenous communities in WA:

Funding advanced to meet the Gordon recommendations allowed the police to piggyback on the government's response and to plan and budget for eight MFPPs, multifunctional police facilities – called multifunctional in that a provision of the funding was that a child protection worker was to be located in each MFPP. These facilities were also to be community based. So far we have at least seen the presence of police at Kalumbaru, Balgo, Bidyandanga, Warakurna and Warburton. Further MFPPs are planned for Bulman, Lombadina and Jigalong.²⁰

4.28 The Committee was able to observe and discuss the operation of a multifunction police facility during its visit to Balgo, where the child protection worker is co-located in the facility with police. The Balgo facility was funded in response to the Gordon Inquiry recommendations.

4.29 Evidence provided in Western Australia confirmed that the remote policing strategy is proving successful, having identified essential requirements for effective policing in remote Indigenous communities:

The permanent police presence was the forerunner of one of the multifunction police stations in remote communities that Deputy Commissioner Lampard will no doubt talk about later. Once again, I cannot overemphasise the importance – for supporting community engagement and actually tackling taking the solvents off the kids – of that permanent police presence.²¹

4.30 The South Australian Coroner's Report of 2005 commented on problems with effective policing and stated that 'police are considerably inhibited from dealing in a more effective way with offending in the Anangu Pitjantjatjara Lands (AP Lands) at present by the lack of appropriate detention facilities, lack of personnel, the distances involved, and the lack of sentencing options available to the courts'.²²

4.31 The Committee heard evidence in Western Australia, Alice Springs and Mt Theo of problems experienced with recruiting adequate numbers of police officers.

20 *Committee Hansard* 27.4.06, pp.57–58 (Dr R Spargo).

21 *Committee Hansard* 20.2.06, p.3 (Drug and Alcohol Office WA).

22 Coroner Wayne Chivell, *Finding of Inquest into the Deaths of Kunmanara Ward, Kunmanara Ken, Kunmanara Ryan and Kunmanara Cooper*, Umuwa, SA, 2005, p.85.

It was suggested to the Committee that the existing police recruitment rules which prevent people with a minor prior juvenile record from applying, are overly strict and reduces potential recruit numbers. Given that generally, police officers are leaving the force in numbers greater than new recruits are entering, recruitment rules must be appropriate and encourage suitable applicants.²³

4.32 The Committee notes reports that the South Australian Government has foreshadowed the introduction of a Bill that will make it an offence to traffic petrol for the purpose of sniffing and trafficking on Aboriginal lands will attract penalties of a 10-year jail sentence or a \$50 000 fine.²⁴

4.33 The joint submission by Department of Health and Ageing (DoHA) and Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) provided further information on the police presence on the AP Lands commenting that:

Until recently there was no permanent police presence on the AP Lands other than Aboriginal Community Police Officers. However the S.A. Police have recently announced the creation of a new separate police district to cover the AP Lands. The new district will provide for both police and Aboriginal Police Community Constables to be based on the Lands at a number of centres. Police stations at Pipalyatjara, Mimili, Fregon and Indulkana have now been upgraded and commissioned, and there are plans to upgrade police stations at Ernabella and Amata.²⁵

4.34 Evidence provided in Adelaide noted the increasing commitment to place permanent police officers on the APY Lands. However, the fact that the location of this additional police presence will be removed from the local community has resulted in much criticism. Ms Kate Reynolds stated:

The important thing for this committee to realise is that in the longer term not one of those officers will be based in a major community on the APY lands. Over 400 people live at Amata, but their local police officers will be based in a small homeland community about 100 kilometres away. Over 500 people live at Ernabella, but their local police officers will reside about 30 kilometres away at Umuwa, which is, I think it is fair to say, an administrative centre dominated by white fellas. The same story can be told for every major Aboriginal community on the APY lands. Police will drive around these communities each day. They will open their police stations at designated hours, but as the sun sets and as the petrol sniffers come out, there will be no police close to hand.

...they [SA Government] have agreed to base eight officers there but only if they do not live anywhere near a major Aboriginal community. The nursing

23 Evidence taken from informal Committee discussion.

24 Australian Associated Press, SA: *Trafficking in petrol to be an offence in SA*, 31.5.06, Story No.2660.

25 *Submission 25*, p.10 (DoHA & DIMIA).

staff, the teachers and the local community's administrative staff all live in the local communities, but not the police—at least not in South Australia. As you know, it is a very different story in Western Australia.²⁶

4.35 The importance of a police presence in local communities to combat sniffing was reinforced in evidence provided by the NPY Women's Council:

We note that a visiting Magistrate on the Anangu Pitjantjatjara Lands north-west court circuit last week sentenced a man convicted of supplying petrol for the purpose of sniffing to the (current) maximum available penalty of six months in custody. We understand that the defendant was an education worker. We hope this sentence indicates that:

- the increased number of police in the region is resulting in increased charges against suppliers; and
- Magistrates in their dispositions are increasingly willing to administer penalties that reflect the seriousness of these matters.²⁷

Aboriginal Community Police Officers

4.36 Aboriginal Community Police Officers, when available in a community, often provide a liaison between sworn police officers and Indigenous communities. The Western Australian Police Service (WAPS) provided evidence that they do not have enough Aboriginal police liaison officers and are encouraging Aboriginal officers to come into mainstream policing. The WAPS commented:

Interestingly enough, some of the communities did not want Indigenous officers. They wanted, for example, white Australian males. They were what a lot of communities wanted. However, we have certainly followed that, but we have a number of trained female officers that are going out to the communities as well. It is working well at the moment, but clearly WA Police's preference is that we recruit more Indigenous officers across the board and that we are able to target some of these officers to go to some of these remote communities.²⁸

4.37 The NPY Women's Council also spoke of the barriers to effective policing utilising Aboriginal liaison officers:

NPYWC has lobbied intensively for the implementation of cross-border policing and for a sworn police presence in every community. The organisation takes the view that Community Constables (Police Aides or Aboriginal Community Police Officers) are too closely linked to their communities to effectively police them; if they are to be employed, they must be accompanied by sworn officers.²⁹

26 *Committee Hansard* 16.5.06, p.61 (Ms K Reynolds).

27 *Submission* 15, p.4 (NPYWC).

28 *Committee Hansard* 20.2.06, p.19 (WAPS).

29 *Submission* 15d, p.7 (NPYWC).

4.38 The requirement for flexible policing strategies in Indigenous communities was emphasised by Associate Professor Gray, who commented that different communities want different things and provided an example that illustrates a 'one size fits all' strategy will not work in Indigenous communities:

In relation to the police, certainly there are Aboriginal communities where it is culturally at this time inappropriate for Aboriginal people to try to enforce law on other Aboriginal people from those communities. You cannot enforce laws onto your Aboriginal mother-in-law because, as I said earlier, there are already laws in place that quite specifically say, 'You can't do that,' in the Aboriginal law. So the best way to deal with it is to ask white Australia to put someone in there so that there is no complication with that stuff. That is good as long as the Aboriginal leaders in that community are saying that. There are some communities which might be a bit more liberalised in their thinking – and I use that word advisedly – who might be closer to what I call white Australia and the western ways of living, that might be able to adapt another system. One size does not fit all, here.³⁰

Safe communities and attracting resources

4.39 The importance of sworn police officers in making communities safe cannot be understated. The safer a community is, the more likely that resources will be drawn to and remain in the area, providing for policing, housing, health and medical services, as well as sport and recreation facilities. Police not only provide safety in the community but can also build relationships with members of the community to establish community-based strategies to combat anti-social behaviours including sniffing.

4.40 Attracting and retaining government services in Indigenous communities is largely determined on whether facilities are available in the community for workers to reside and feel safe. When basic resources such as housing for government workers as well as education services for their children are not available, it makes it difficult to ensure adequate government services are in place in the community. The Law Society of South Australia (LSSA) commented:

Against that general background over the whole state, it is even more difficult to attract officers to work on the Anangu Pitjantjatjara lands. They are a long way from the services which ordinary suburban and country South Australians are used to, and they will undoubtedly require extra resources such as the building of houses. You cannot just build a police station. You are not going to get police officers to serve there unless there is somewhere for them to live. Governments cannot simply put up a police station and expect that police will come. The housing for those police officers needs to be supplied as does the education for their children.³¹

30 *Committee Hansard* 20.2.06, p.39 (National Drug Research Institute WA).

31 *Committee Hansard* 16.5.06, p.23 (LSSA).

4.41 The WAPS has had success in creating a secure and safe environment in Indigenous communities. Deputy Commissioner Lampard explained:

Police have clearly been given a mandate to go into these communities to develop a platform of law and order and to create some sustainability, and we know that once we provide a safe and secure environment our ability to get other government agencies to join us at those locations will be greatly enhanced. I am pleased to say that that is happening.³²

4.42 The WAPS has used government services in a multidisciplinary approach for successful early intervention with mental health issues:

The ability to be able to take mental health services to the people in the communities is very significant. It allows us to deal with a whole range of issues. The most severe cases...often do need to be relocated to approved hospitals, but having the scope to be able to provide mental health services at all levels with some early intervention – I am proud to say that the police are doing this to some extent – where they identify youth at risk, youth that are certainly experimenting with substance abuse and, together with the other government agencies, come up with ways of diverting them from those behaviours, is very important. There is always a reluctance for a lot of these traditional people to come out of their communities and seek treatment, so our ability to be able to provide government services to those communities and then have an appropriate follow-up is significant. In the communities where that strategy has been put in place, Balgo being one of those, we have seen significant benefits already.³³

4.43 Associate Professor Gray provided evidence on the differences between the effectiveness of the police presence in the Pitjantjatjara Lands in South Australia, as compared with the Ngaanyatjarra Lands in Western Australia. Associate Professor Gray commented:

In South Australia they are having great difficulty in recruiting police to the Pitjantjatjara lands...There are more confrontations with the police in the Pitjantjatjara lands than in the Ngaanyatjarra lands. You have incidents where kids are stoning police vehicles in the Pitjantjatjara lands and you simply do not have that in the Ngaanyatjarra lands. I think it is important to have adequate resourcing of police in those communities, and the policing of the supply is a major role that police can play in those remote communities...One of the things that has come out of our study of policing is that part of the reason that there is less sniffing in Ngaanyatjarra communities than the Pitjantjatjara communities is that the police have much better relations in those communities.³⁴

32 *Committee Hansard* 20.2.06, pp.8–9 (WAPS).

33 *Committee Hansard* 20.2.06, pp.9–10 (WAPS).

34 *Committee Hansard* 20.2.06, p.31 (National Drug Research Institute WA).

4.44 During its inquiry, the Committee visited Balgo, an Indigenous community in remote Western Australia, and spoke with many members of the community. The Office of Indigenous Policy Coordination (OIPC) commented on the contribution of a permanent police presence to positive changes in the Balgo community:

In Western Australia there is a community that for decades had been synonymous with problems. It was Balgo. Two-and-a-half years ago it was totally dysfunctional, corrupt and violent. There were suicides and it was a major crime centre. There was appalling violence against women, sexual abuse, petrol sniffing and other substance abuse. You can go to Balgo today and see that it is a totally transformed community. I believe that is because both governments recognised that to do something with a community that had such ingrained dysfunction and violence into its third generation required a very disciplined joint approach. It started with restoring social norms and it involved the Western Australian government committing for the first time to put a permanent police presence in the town to bring the prospect of law and order to the table.³⁵

Night patrols

4.45 Night patrols, in their various forms, are a common feature of Indigenous communities throughout Australia and assist in maintaining community safety. The Australian Institute of Criminology explained that night patrols are instrumental in reducing crime and that they take on various names, roles and functions depending on the needs of the communities from which they operate. These roles include providing a safe means of transport home or to refuges and safe houses for young people or intoxicated adults at risk of offending or victimisation.³⁶

4.46 Night patrols aim to prevent or stop harm and maintain community peace, security and safety. Patrol members may simply provide a watchful presence or they may be called on to respond to incidents such as an argument or dispute. Night patrols are staffed by approved unpaid volunteers from the community who while on patrol detect and manage behaviour that causes a problem for the community and impacts on the safety of community members.

4.47 In Yuendumu, the Committee heard from community members that they have experienced success with employing and paying reformed sniffers to assist with night patrol duties. Community members believed that having a reformed sniffer on the night patrol gave them a purpose and resulted in positive outcomes.³⁷

35 *Committee Hansard* 27.4.06, p.86 (OIPC).

36 Australian Institute of Criminology, *AICrime reduction matters*, No. 26: Night Patrols. 5.8.04, <http://www.aic.gov.au/publications/crm/crm026.html>. [accessed 26 May 2006].

37 Evidence taken from informal Committee discussion.

4.48 Evidence provided by the South Australian Police Service (SAPOL) indicated that night patrols are being run at Indulkana, Mimili, Amata and Ernabella, and SAPOL aims to increase the number of night patrols on the APY Lands.³⁸

4.49 Although the States and Territories have primary funding responsibility for night patrols, the funding made available for these patrols can come from a variety of sources. For example, the Commonwealth contributes funding towards SAPOL's night patrols in the Central desert region. The Alcohol Education and Rehabilitation Foundation (AER) indicated that a grant of \$39 000 had been provided to the Yuendumu Women's Centre in the Northern Territory for night patrols in their community.³⁹

Cooperative government policing strategies

Tri-state approach and cross border policing

4.50 Evidence provided to the Committee demonstrated that policing strategies had, in some Indigenous communities, effectively addressed petrol sniffing and the sale and distribution of volatile substances. However, effective policing of sniffers or traffickers was undermined when the person crossed borders into another State or Territory where the operation of legislation and policing strategies varied.

4.51 To address cross-border issues the Cross Border Justice Project was established in June 2003 following a Roundtable meeting which included community members and representatives of the Departments of Justice, Indigenous Affairs and Police Services of Western Australia, South Australia and the Northern Territory. The project is working toward implementing effective policing, court and correctional services in the APY Lands in South Australia, the Ngaanyatjarra Lands in Western Australia and the central east and south of the Northern Territory.⁴⁰ The South Australian Government stated:

The Cross Border Justice Project recognises the common cultural and social bonds and mobility of Anangu and aims to minimise the difficulties created by the remoteness of the region and State and Territory borders in the provision of effective court, police and correctional services.⁴¹

4.52 Cross border policing aims to control both licit and illicit trafficking and substance abuse and trafficking including amphetamines and cannabis etc. Cross border policing works when police officers, who traditionally respond to law and order issues in only one State or Territory join forces and work collaboratively in cross border regions. Power for police officers to act and intervene to enforce law and

38 *Submission 29a*, p.4 (South Australian Government).

39 *Submission 29a*, p.4 (South Australian Government); *Submission 39a*, p.4 (AER Foundation).

40 *Submission 29a*, p.4 (South Australian Government).

41 *Submission 29a*, p.4 (South Australian Government).

order in cross border States and Territories makes the cross border policing strategy effective. The WAPS stated:

We have made a lot of ground. In fact, it is a first in Australia, and some of the other states – Queensland, New South Wales, Victoria – are watching how we join up services between South Australia, Western Australia and the Northern Territory. Our first big step forward was the multijurisdictional facility at Kintore, where a Western Australian officer went to work in the Northern Territory, sworn in as a special constable in the NT, as were Northern Territory officers sworn in as special constables in Western Australia.⁴²

4.53 DoHA and the Office of Indigenous Policy Coordination provided comment on the tri-state approach, stating 'a central aim of the project is to enable Northern Territory, Western Australian and South Australian magistrates to hear charges with respect to offences committed anywhere in the NPY Lands'.⁴³ This approach allows police in Western Australia, Northern Territory or South Australia to apprehend a suspected trafficker, even if the trafficker crosses the border into another jurisdiction, and then take the trafficker before the closest magistrate, regardless of the jurisdiction in which the offence was committed.

4.54 The WAPS commented on the formation and the intention of a tri-state approach:

The tri-state arrangement emanated some years back with the Northern Territory, South Australia and Western Australia realising that we had a significant issue with the transient nature of Indigenous people throughout the lands: one week they were in Western Australia, the next week they could be in the Northern Territory and South Australia. Because of the different legislation in each state it made it very difficult for police not only to apply the law but also to proactively deal with the Indigenous communities.⁴⁴

4.55 The commitment of Western Australia, South Australia and the Northern Territory Governments to the tri-state approach has resulted in positive outcomes. The WAPS provided a specific example of outcomes achieved by the collaboration of police services in Western Australia and the Northern Territory:

We have found that the dual state approach in the Northern Territory at Kintore has been enormously successful for us. Not only have we been able to be much more proactive at Kiwirrkurra [1,500 kilometres from WA's closest policing service in Newman] but also we have been able to make a contribution inside the Northern Territory at Kintore. We have been there now for about 18 months and we have enormously improved the attendance rate at schools just through the leadership and the mentoring; the incidence

42 *Committee Hansard* 20.2.06, p.6 (WAPS).

43 *Submission 25*, p.6 (DoHA & DIMIA).

44 *Committee Hansard* 20.2.06, p.6 (WAPS).

of domestic violence has dropped enormously; we are red hot, of course, on any sort of substance abuse, and we not only work together but we can value add to the transient nature of Indigenous people across the border.⁴⁵

4.56 The WAPS also commented on 'poly drug use', which is the combination of more than one substance at a time. Deputy Commissioner Lampard commented:

Where we do have significant issues is when we have a combination of cannabis, amphetamines, petrol and other solvents – what we, of course, call poly drug use. It is a real issue for us. There are some disturbing signs that amphetamines are becoming a little bit more prevalent in some of the communities. Traditionally, a lot of Indigenous communities would certainly experiment with cannabis, but we are just starting to see amphetamines now and we need to crack down on that pretty hard. But there are some great communities. It is a really vexing issue of totally dry communities versus communities that have some regulation or some control over the consumption of alcohol. It works in some and does not work in others.⁴⁶

Whole-of-government approach

4.57 The potential gains in combating sniffing from States and Territories working together in conjunction with the Commonwealth can be illustrated with the establishment of the new Substance Abuse Intelligence Desk (SAID). SAID was funded by a Commonwealth commitment of \$500 000 in September 2005. It is operated by the Northern Territory, South Australian and Western Australian police forces to combat the trafficking of petrol, illicit drugs and alcohol in the Ngaanyatjarra, Pitjantjajara and Yankunytjatjara (NPY) lands across the Northern Territory, Western Australia and South Australia borders.

4.58 The Northern Territory Minister for Police, Fire and Emergency Services, Mr Paul Henderson, commented on the importance of SAID:

Petrol and other illicit substances are destroying lives throughout the NPY lands, and there is a clear link between illicit substance abuse and other crimes such as sexual assault and domestic violence. Traffickers do not recognise border lines as they move drugs, alcohol and petrol, and this new desk provides, for the first time, a co-ordinated intelligence-led policing approach from the three jurisdictions to tackle the issue together.⁴⁷

4.59 The Northern Territory Department of Health and Community Services discussed the whole-of-government project called the Mutitjulu Working Together Project:

45 *Committee Hansard* 20.2.06, p.7 (WAPS).

46 *Committee Hansard* 20.2.06, p.13 (WAPS).

47 Northern Territory Government, *Media Release*, 'Fight Against Substance Abuse Strengthens', 19.1.06.

The Northern Territory government has participation along with the Australian government, Mutitjulu Council are a key stakeholder and of course there is the NPY Women's Council. That provides us with an opportunity to focus on a particular site and the issues at that particular site and engage with the community around what they perceive to be the way forward.

Through the process there has been the development of a plan of action, which we call the Quick Wins plan. Over the past 18 months all items on the community's Quick Wins plan was achieved with the exception of one item. The key for that was collaboration. The Mutitjulu community advocated strongly for a police post at their community instead of just relying on Yallara. That certainly came about as part of that collaborative process between the Northern Territory government and the Australian government.⁴⁸

Eight Point Regional Strategy for Central Australia

4.60 In addition to the tri-state approach and other State-based initiatives to combat sniffing, the Commonwealth, South Australian, Western Australian and Northern Territory Governments have agreed to work collaboratively to implement a comprehensive strategy with Indigenous people that will address the sniffing issues in Indigenous communities around Mutitjulu in Central Australia.

4.61 The Eight Point Regional Strategy for Central Australia (the Eight Point Plan) targets a designated area of Central Australia and aims to address a complex mix of interrelated causes and factors that contribute to sniffing. The elements of the plan that involve legislation and policing to combat sniffing are:

- implementation of a consistent legal framework across the region; and
- provision of an appropriate level of policing.

More information and discussion on the Eight Point Plan is available in chapter 3.

4.62 While the initiatives contained in the Eight Point Plan were widely supported, concerns were expressed to the Committee that the Eight Point Plan is only operating in a restricted area in Central Australia. Many witnesses giving evidence who lived outside this area believed they were included and were expecting to benefit from the Eight Point Plan. In response, the Office of Indigenous Policy Coordination stated:

I am telling you now, on the record, that the approach is focusing on a designated region, because the jurisdictions and the Commonwealth responded to the problem that was thrown up by the coronial inquiry into deaths in Mutitjulu. In some aspects, the approach is limited to a defined geographic area; in other aspects, it is not limited. For example, the negotiations with the three jurisdictions involved involve uniform laws, cross-jurisdictional policing and a whole range of matters that cover all the jurisdictions...That involves uniform legislation, rules that permit police

48 *Committee Hansard* 21.2.06, p.33 (DHCS NT).

from one jurisdiction to operate across the border into another, rules that affect the role of the courts across jurisdictions et cetera. They are benefits that apply now across those jurisdictions, and it is fair to say that the learning that comes out of this exercise will be applied elsewhere...So it is a reasonable expectation that the relevant results of this trial will flow elsewhere in due course.⁴⁹

Conclusion

4.63 The Committee is encouraged by the positive outcomes in the fight against sniffing in Indigenous communities, which have resulted from effective policing strategies. Tri-state policing initiatives, the involvement of Indigenous communities combined with a permanent police presence contribute to the effective regulation and prevention of sniffing.

4.64 However, the Committee remains concerned by the evidence from Indigenous community members of unsafe conditions and the inability to be protected from disputes, vandalism, crime and violence caused by petrol sniffing. Of particular concern is the inability to prevent children from sniffing and to ensure their protection and safety from self-harm and harm from other intoxicated sniffers. The Committee considers that the provision of safe houses is one initiative that is required to improve community safety.

4.65 The Committee strongly supports community safety initiatives involving Indigenous community members, such as night patrols and Aboriginal Liaison and Community Officers. These initiatives, when supported and well funded, empower communities to actively contribute to the battle against petrol sniffing. However, the role of sworn police officers and their presence in the community is paramount to community safety and can not be substituted by other community safety initiatives.

4.66 The Committee also notes that the variety of legislation and associated regulations in force across jurisdictions in Australia make it difficult to determine the best way to address petrol sniffing from a legal perspective. The introduction of the Northern Territory *Volatile Substance Abuse Prevention Act 2005*, provides a model for legislation to combat substance abuse. The Committee considers that there is a need for a comprehensive audit of relevant legislation to ensure a consistent approach.

Recommendation 9

4.67 The Committee, in concluding that the importance of consistent policing strategies in the effective regulation of volatile substance abuse in Indigenous communities can not be understated, recommends that each State and Territory Government ensure that legislation is in place that empowers police and justice officials to intervene and prevent petrol sniffing.

49 Committee Hansard 27.4.06, pp.101–02 (OIPC).

Recommendation 10

4.68 That the Attorney General's Department, with the cooperation of the State and Territory Governments, conduct an audit of current legislation used to police and combat petrol sniffing with a view to ensuring a consistent and cooperative approach in legislation across all jurisdictions by 2008.

Recommendation 11

4.69 The Committee recognises that the violent acts of petrol sniffers are at times being directed towards vulnerable community members and considers that community safety and personal protection are the right of all people. The Committee therefore recommends that Commonwealth, State and Territory Governments commit to:

- continuing to implement strategies as a matter of priority to achieve a permanent police presence in all Indigenous communities;
- recruiting Aboriginal Liaison and Community Officers;
- establishing and supporting community night patrols; and
- considering multi-functional police centres as a best practice strategy.

Recommendation 12

4.70 Community safe houses provide an appropriate place to temporarily house users of volatile substances and other drugs who threaten the safety of other community members. The Committee recommends that the Commonwealth conduct an audit of existing safe houses, identify Indigenous communities in need of safe houses and as a priority, provide additional funding to establish safe houses in these communities.

Recommendation 13

4.71 Women and children who are at risk of harm from intoxicated adults and sniffers need safe places to protect them from violence, hurt and abuse. The Committee recommends that the Commonwealth provide additional funding to establish safe houses, in addition to the safe houses in the previous recommendation, for women and children at risk in Indigenous communities.

