

STATE YOUTH AFFAIRS
CONFERENCE
21 APRIL 2005

ADDRESS
by
DAVID GLASGOW
MAGISTRATE

RESPONSES TO CHROMING

- THE LEGAL RESPONSE
- THE SOCIAL EFFECT
- THE NEED FOR REHABILITATION SERVICES

Resolutions

A regular Prosecutor

The same Legal Aid Lawyer
(for non-indigenous defendants)

A regular ATSI Lawyer

A regular Court Officer

We further resolved to

Lobby for the establishing of an Indigenous Justice Group

Change our court location to give more privacy
and

To ascertain how wide spread chroming was,
where it occurred, who was involved
and the sources of the product.

CHILDREN COURT APPEARANCES CALANDER YEAR 2002

Townsville

Defendants 979

Charges 1920

Brisbane

Defendants 1807

Charges 4010

54%

CHILDREN COURT APPEARANCES CALANDER YEAR 2004

Townsville

Defendants 890

Charges 2251

Brisbane

Defendants 1590

Charges 3120

55 %

TOWNSVILLE CHILDRENS' COURT STAKEHOLDERS GROUP MEMBERSHIP 2003

**PRESIDING MAGISTRATE
COORDINATING MAGISTRATE
REGIONAL DIRECTOR YOUTH JUSTICE
YOUTH JUSTICE COURT OFFICER
O/C JUVENILE AID BUREAU
O/C LEGAL AID
LEGAL AID DUTY LAWYER
AT SI CHILDRENS' COURT LAWYER
PROSECUTOR
O/C CLEVELAND YOUTH DETENTION CENTRE
CHILD PROTECTION OFFICER
REGISTRAR MAGISTRATES COURT**

**TOWNSVILLE CHILDRENS' COURT
STAKEHOLDERS GROUP MEMBERSHIP
2003/2005**

PRESIDING MAGISTRATE
REGIONAL COORDINATING MAGISTRATE
REGIONAL DIRECTOR DEPARTMENT OF COMMUNITIES OR NOMINEE
YOUTH JUSTICE COURT OFFICER
O/C JUVENILE AID BUREAU
O/C LEGAL AID
LEGAL AID DUTY LAWYER
AT SI CHILDRENS' COURT LAWYER
PROSECUTOR
O/C CLEVELAND YOUTH DETENTION CENTRE
REGIONAL DIRECTOR CHILD SAFETY OR NOMINEE
COORDINATOR COMMUNITY JUSTICE GROUP AND ELDERS
O/C YOUTH JUSTICE CONFERENCING
REGISTRAR MAGISTRATES COURT

INHALENT ABUSE

- SOCIAL IMPAIRMENT
- VOCATIONAL IMPAIRMENT
- EDUCATIONAL IMPAIRMENT
- EMOTIONAL AND PSHCHOLOGICAL IMPAIRMENT
- PHYSICAL IMPAIRMENT

THREE MAIN TYPES OF USERS

- EXPERIMENTAL – try a few times and don't again

- SOCIAL/RECREATIONAL – use occasionally
but not on a regular basis –
may use alcohol and other drugs on a regular basis

CHRONIC – use regularly – usually have for six months or more
- often use alone

REASONS FOR USE

- Easy to get – stealing is easy
- Not expensive
- Legal
- A fast high
- Repeated sniffing allows one to stay high all day
- Friends do it
- Helps one cope and escape from the reality of life

USERS IN THE TOWNSVILLE/THURINGOWA CITIES

OVER 70% Indigenous

Profile of users

- Younger than cannabis and other drug users
- Low self esteem – little sense of self
- Multi problematic life
- Immature – acts not consistent with real age
- Erratic
- Sometimes disruptive – acting out behaviour
- Responds poorly to confrontation
- Little respect for authority
- Occasionally aggressive and sometimes violent
- Feels Isolated and abandoned
- Commonly returns to sniffing
- Difficulty in reasoning

From the data provided by and to police by citizens it was adduced that:-

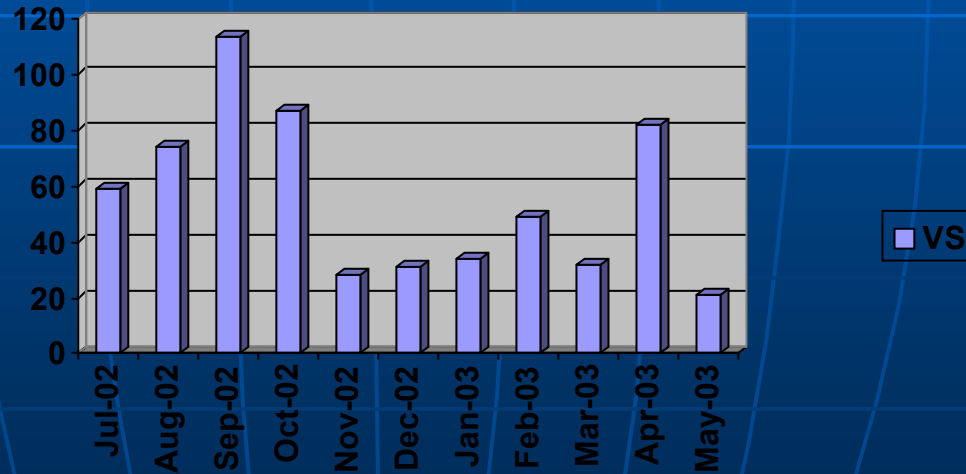
- Most users were indigenous though it was not exclusive to that culture.
- Initially it was thought the problem only related to juveniles but adults were encountered in increasing numbers
- Users varied in age from as young as 7 years to adults
- The majority of identified use occurred in public areas – generally away from high traffic areas.

CONFIRMED VOLITILE SUBSTANCE CALLS FOR SERVIC

VS = Confirmed Volatile Substances Calls for service in Townsville Metro area

ALL = Confirmed Total Calls for Service to Police in the Townsville Metro area

| | Jul 200 2 | Au g 200 2 | Sep 200 2 | Oct 200 2 | Nov 200 2 | Dec 200 2 | Jan 200 3 | Feb 200 3 | Ma r 200 3 | Apr 200 3 | Ma y 200 3 |
|-----|-----------------|---------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|---------------------|-----------------|---------------------|
| VS | 59 | 74 | 113 | 87 | 28 | 31 | 34 | 49 | 32 | 82 | 21 |
| ALL | 592 7 | 587 4 | 594 6 | 601 0 | 593 0 | 261 4 | 705 8 | 631 4 | 721 8 | 652 8 | 683 5 |



Police Powers and Responsibilities Act 2000
section 371F

371F Expiry of ss 371B–371E

- (1) Sections 371B to 371E and this section expire 1 year after they commence.
- (2) However, a regulation may extend the operation of the provisions and this section for periods of up to 1 year.

Police Powers and Responsibilities Act 2000 section 371D

- **371D No compulsion to stay at place of safety**
- A person taken to a place of safety **can not be compelled** to stay there, unless another Act otherwise requires.

Police Powers and Responsibilities Act 2000 section 371E

371E Review of operation of ss 371B–371D

- (1) The CMC must keep the operation of sections 371B to 371D under review for 9 months after the sections commence.
- (2) The conduct of the review and the preparation of the report is a function of the CMC for the *Crime and Misconduct Act 2001*.
- (3) In the course of preparing the report, the CMC must consult with the Minister.
- (4) The CMC must give a copy of the report to the Speaker for tabling in the Legislative Assembly.

Police Powers and Responsibilities Act 2000

section 371A

371A Power to seize potentially harmful things

(1) This section applies if a police officer—

(a) finds a person in circumstances in which the police officer reasonably suspects the person is in possession of a potentially harmful thing the person has ingested or inhaled, is ingesting or inhaling, or is about to ingest or inhale; or

(b) finds a person in possession of a potentially harmful thing in circumstances in which the police officer reasonably suspects the person has ingested or inhaled, is ingesting or inhaling, or is about to ingest or inhale, the thing.

Example for paragraph (a)—

A police officer finds a person with paint on the person's lips.

Police powers and Responsibilities Act 2000

section 371A (continued)

- (2) The police officer may search the person and anything in the person's possession to find out whether the person is in possession of a potentially harmful thing.
- (3) If the person is in possession of a potentially harmful thing, the police officer may ask the person to explain why the person is in possession of the thing.
- (4) If the person does not give a reasonable explanation, the police officer may seize the potentially harmful thing.
- (5) It is not a reasonable explanation for subsection (4) that the person is in possession of the potentially harmful thing to inhale it or ingest it.
- (6) On the seizure of the potentially harmful thing, the thing is forfeited to the State.
- (7) Section 380 does not apply to a thing seized under this section.

Police Powers and Responsibilities Act 2000
Section 371B

371B Dealing with persons affected by potentially harmful things

(1) This section applies to a person at a declared locality if, because of the way the person is behaving and other relevant indicators, a police officer is satisfied the person is affected by the ingestion or inhalation of a potentially harmful thing.

Example of a relevant indicator—

The presence of spray paint cans near the person.

Police Powers and Responsibilities Act 2000

Section 371B (continued)

*(2) However, this section applies to the person only if it is appropriate for the person to be taken to a place, other than a police establishment or police station, and the police officer considers the place is a place at which the person can receive the treatment or care necessary to enable the person to recover safely from the effects of the potentially harmful thing (a **place of safety**).*

Examples of a place of safety—

- 1 A hospital may be a place of safety for a person who needs medical attention.*
- 2 A vehicle used to transport persons to a place of safety and under the control of someone other than a police officer may be a place of safety.*
- 3 The person's home, or the home of a relative or friend, may be a place of safety if there is no likelihood of domestic violence or associated domestic violence happening at the place because of the person's condition or the person is not subject to a domestic violence order preventing the person from entering or remaining at the place.*

Police Powers and Responsibilities Act 2000
Section 371B (continued)

- (3) It is lawful for the police officer to detain the person for the purpose of taking the person to a place of safety.
- (4) In this section— ***declared locality*** means a locality declared under a regulation for this section.

Police Powers and Responsibilities Act 2000
Section 371C

**371C Duties in relation to person detained
under
s 371B**

- (1) It is the duty of the police officer who
detains a person under section 371B, at the
earliest reasonable opportunity—**
- (a) to take the person to a place of safety; and**
 - (b) to release the person at the place of
safety.**

Example—

***The place of safety may be a vehicle under the control
of someone other than a police officer that is used to
transport persons to another place of safety.***

Police Powers and Responsibilities Act 2000

Section 371C (continued)

(2) Subsection (1) does not apply if the police officer is satisfied—

(a) a person at a place of safety refuses, or is unable, to provide care for the relevant person; or

(b) the relevant person's behaviour may pose a risk of harm, including, but not limited to, an act of domestic violence or associated domestic violence, to other persons at a place of safety; or

(c) the police officer is unable to find a place of safety that is willing to provide care for the relevant person.

Police Powers and Responsibilities Act 2000

Section 371C (continued)

- 3) If this section does not apply because of subsection (2), the person must be released.
- (4) Before the police officer releases the person, the police officer must ensure the person apparently in possession or in charge of the relevant place of safety gives a police officer a signed undertaking in the approved form to provide care for the relevant person.
- (5) If the place of safety is not the person's home, the person apparently in possession or in charge of the place of safety may lawfully provide care for the person until the person voluntarily leaves the place.
- (6) As soon as practicable after a person is released under subsection (1) or (3), the police officer must enter in a register kept for this section the particulars prescribed under a regulation for this section.

Child Protection Act 1999

Section 9 What is "Harm"

"Harm" to a child is any detrimental effect of a significant nature on the child's physical, psychological or emotional wellbeing.

It is immaterial how the harm is caused.

Harm can be caused by –

Physical, psychological or emotional abuse or neglect; or

Sexual abuse or exploitation

Child Protection Act 1999
Section 18 (Continued)

18 Child at immediate risk may be taken into custody

- (1) This section applies if—*
- (a) an authorised officer or police officer is investigating an allegation of harm, or risk of harm, to a child; and*
 - (b) the officer reasonably believes the child is at risk of harm and the child is likely to suffer harm if the officer does not immediately take the child into custody.*
- (2) The officer may take the child into the chief executive's custody.*

Child Protection Act 1999

Section 18 (continued)

- (3) For subsection (2), the officer may—
 - (a) enter the place where the officer reasonably believes the child is; and
 - (b) search the place to find the child; and
 - (c) remain in the place for as long as the officer reasonably considers is necessary to find the child.
- (4) The officer may exercise a power under subsection (2) or (3) with the help, and using the force, that is reasonable in the circumstances.
- (5) The officer must, as soon as practicable, apply for a temporary assessment order for the child.

Child Protection Act 1999

Section 18 (continued)

- (6) Also, the officer may arrange a medical examination of, or for medical treatment for, the child that is reasonable in the circumstances.*
- (7) The chief executive's custody of the child ends on the earlier of the following to happen—*
 - (a) the application for the temporary assessment order for the child is decided;*
 - (b) 8 hours elapses after the child is taken into custody.*

Child Protection Act 1999

21 Moving child to safe place

(1) This section applies if—

(a) an authorised officer or police officer reasonably believes a child who is under 12 years is at risk of harm but does not consider it necessary to take the child into the chief executive's custody to ensure the child's protection; and

(b) a parent or other member of the child's family is not present at the place where the child is, and, after reasonable inquiries, the officer can not contact a parent or other member of the child's family.

Child Protection Act 1999

Section 21 (continued)

(2) The officer may, with the help that is reasonable in the circumstances, move the child to a safe place and make arrangements for the child's care at the place.

(3) As soon as practicable after moving the child, the officer must—

(a) take reasonable steps to tell at least 1 of the child's parents or a family member of the child's whereabouts; and

(b) if the officer is a police officer—tell the chief executive the child has been moved to a safe place and where the child has been moved.

Child Protection Act 1999

Section 21 (continued)

- (4) The child may be cared for at the place under the arrangements until the child's parents or family members resume or assume the child's care.
- (5) The moving of the child does not—
 - (a) prevent the child's parents or family members resuming or assuming care of the child; or
 - (b) affect existing parental rights for the child.

Rehabilitation involves some or all of

- a time of compulsory residency in a recognised safe place
- programs involving
 - alcohol and drug abuse education
 - a review of one's self worth
 - a review of physical and mental health
 - to opportunity to deal with healing the spirit
 - budgeting and life skill education
 - anger management
 - training in acquiring work skills

Rehabilitation requires

PARTICIPATION

OF **ALL** OF

THE FAMILY