

10 Law enforcement

While it is now widely accepted, at least throughout all Australian jurisdictions, that VSM is primarily a health and welfare rather than a criminal justice issue, it still poses challenges for law enforcement agencies, including police, courts, and custodial facilities. This is so because inhalant users are at high risk of harming themselves and others, damaging property and threatening family and community wellbeing. Further, in the absence of adequate law enforcement capacity, health and welfare agencies may find it difficult to intervene in VSM.

At the same time, VSM poses a number of difficulties for law enforcement agencies. Many inhalants are cheap and readily available, and possession of them is not in itself an offence. Legal sanctions are therefore limited, particularly as many inhalant users are legally minors. Petrol sniffing tends to occur in remote Indigenous communities where police services are often inadequate and referral options virtually non-existent. VSM also tends to occur sporadically. It is not uncommon for media reports to focus attention on VSM in a particular locality, leading to some sort of (usually stop-gap) resources being made available, only to find that by the time this happens the problem has all but disappeared or moved elsewhere. Finally, for all the anguish generated by episodes of VSM, the number of persons involved in the practice is invariably small and, as an issue competing with other demands on limited law enforcement resources, it usually ranks low on local priority lists (Gray et al., 2006).

In recent years, several Australian jurisdictions have attempted to improve the capacity of law enforcement agencies to respond to VSM by amending police powers and other laws and regulations and, in some instances, making additional resources available for law enforcement. With the exception of one jurisdiction—Queensland—no evidence of the effectiveness or otherwise of these changes has been published, although some anecdotal reports have been tabled, most of them at coronial inquests or parliamentary inquiries. In this chapter we document the current status of law enforcement responses to VSM and review the limited evidence regarding implementation and outcomes.

10.1 Legislation governing police powers to intervene in VSM

As a report prepared for the Australasian Centre for Policing Research (2004) points out, legislation governing law enforcement and VSM falls into two categories: police powers with respect to inhalant users, and restrictions on the sale and supply of volatile substances. In this review, the latter are covered in the Supply Reduction section, under 5.4.1. Changes to police powers with respect to inhalant users are outlined here.

Nowhere in Australia is possession or use of inhalants a statutory offence although, as we describe below, some Aboriginal community councils and organisations have enacted by-laws or regulations prohibiting VSM. The question of whether or not VSM should be made an offence has been debated at various times. The Commonwealth Senate Select Committee of

Inquiry into Volatile Substance Abuse concluded in 1985 that it would be inappropriate to treat inhalant use as a crime, in part because such a policy would possibly have a counter-productive affect of adding to the danger of an already rebellious act, and partly because, in the absence of rehabilitation facilities, it would have no lasting deterrent effect.

In 2002, the Victorian Parliamentary Drugs and Crime Prevention Committee again examined the case for and against making VSM a criminal offence. It too recommended against doing so, citing views expressed in several submissions, and drawing on an earlier examination conducted by the Justice and Law Reform Committee of New Zealand in 1997 (Parliament of Victoria Drugs and Crime Prevention Committee, 2002). The NZ Committee argued that sufficient criminal sanctions already existed without making VSM itself a criminal matter; that in view of the ages of many inhalant users, the welfare of the child should be the paramount consideration; and that the imposition of a conviction for inhalant use would be unlikely to have a deterrent effect, and would probably have detrimental consequences, including encouraging users to shift to other drugs and/or other places. (In the UK, as previously observed, introduction of legal sanctions against glue sniffing and a large-scale public education campaign was followed by an *increase* in deaths from butane and aerosol inhalation (Dinwiddie, 1994, p. 928).) The Victorian Parliamentary Committee also noted that the Victorian Police, among other organisations, did not support criminalisation of VSM.

The National Inhalant Abuse Taskforce (NIAT) noted in its 2006 report (subsequently endorsed by the Ministerial Council on Drug Strategy) that where no specific legislation relating to VSM exists, legislation governing public intoxication, child welfare and consumer protection may be applicable. Two jurisdictions—South Australia and Western Australia—have recently amended existing laws to make them more applicable to VSM. In South Australia in 2004 petrol, defined to include ‘any volatile liquid containing hydrocarbons’, was declared to be a drug under the *Public Intoxication Act 1984*, thereby enabling police to detain a person intoxicated in a public place by VSM, without that person being charged with an offence (South Australia, 2004). In addition, the South Australian *Graffiti Control Act 2001* prohibits the sale of cans of spray paints to persons under 18 years, and requires retailers of spray paints to keep them securely locked or under similar constraints (South Australia, 2001). Under an amendment to the same Act introduced in May 2007, the same restrictions have also been extended to wide-tipped marker pens (South Australia, 2007).

In Western Australia, the *Protective Custody Act 2000* empowers police to intervene in episodes of VSM by seizing and destroying intoxicants, and by apprehending and detaining intoxicated persons in order to protect the latter’s health and safety or prevent them from damaging property (Drug and Alcohol Office (Western Australia), n.d.). The Criminal Code (Section 206) has also been amended to specify an offence of supplying intoxicants ‘to people likely to abuse them’, with an intoxicant defined as ‘a drug, or a volatile or other substance, capable of intoxicating a person’—excluding liquor (Drug and Alcohol Office (Western Australia), n.d., p. 15).

Three jurisdictions—the Northern Territory, Queensland and Victoria—have gone a step further and enacted new legislation specifically addressing VSM. The new laws embody a ‘civil apprehension’ approach to policing, and in the main give police two kinds of powers:

1. to search for and confiscate volatile substances which the officer believes are being used for intoxication; and
2. to apprehend and detain persons intoxicated by VSM.

In Victoria, the *Drugs, Poisons and Controlled Substances (Volatile Substances) Act 2003* authorises police to search a person aged less than 18 years whom the police suspect to be in possession of volatile substances or VSM-related items, or a person regardless of age whom police suspect intends to provide a volatile substance to a person aged less than 18 years for purposes of inhalation. The Act also empowers police to seize volatile substances or items used for inhalation, and to detain persons aged less than 18 years suspected of inhaling or intending to inhale. Those detained are to be released into the care of a ‘suitable person’, which can include parent, carer, guardian, other responsible family member, or health or welfare worker. If police are unable to find a suitable person, they can release or detain the person, if necessary at a police station, but not in a police cell (Australian Drug Foundation, 2004).

An Interagency Protocol, introduced in conjunction with the new legislation, sets out the respective roles of police and other agencies, including alcohol and other drug services, child protection services, Indigenous services, and out-of-home care services, and attempts to integrate their respective activities (State Government of Victoria, 2004).⁶ The Protocol identifies 11 options available to police, namely to:

- call an ambulance;
- release the young person if they are no longer affected by inhalant misuse;
- provide the young person, parent or guardian with education and referral information;
- connect the young person with a parent, carer, guardian or other suitable person;
- return the young person to their Out of Home Care Service, if a statutory client;
- contact the Department of Human Services Child Protection Intake Team if there are risks or protective concerns for children under 17 years of age as defined under the relevant act;
- notify the appropriate authorities if it is known that the young person is under a guardianship, child protection, residential order or other statutory order; and
- connect the young person with an alcohol and drug agency.

The Victorian legislation was originally subject to a sunset clause taking effect on 30 June 2006. However, under the *Drugs, Poisons and Controlled Substances (Volatile Substances)*

⁶ The Interagency Protocol can be downloaded from <http://www.health.vic.gov.au/drugservices/downloads/interagency.pdf>.

(Extension of Provisions) Act 2006 it has been extended for a further two years to allow for completion of an evaluation.

The Queensland Police Powers and Responsibilities and Other Legislation Amendment Bill 2003, which took effect in July 2004, followed a similar approach to that adopted in Victoria. As in Victoria, police powers to apprehend and detain persons believed to be engaging in VSM were expanded, without making VSM an offence (Giskes, 2003). The amendments were introduced on a trial basis in five selected sites—Mount Isa, Cairns, Townsville, inner Brisbane and the Brisbane suburb of Logan. It has since been extended to two other locations: Rockhampton and Caboolture. The Queensland legislation also provided for a trial of a ‘places of safety’ scheme, under which, at the five selected sites, designated facilities were identified for the care of persons intoxicated by VSM. The impact of the scheme was to be evaluated over the trial period by the Queensland Crime and Misconduct Commission (CMC).

Late in 2005 the CMC reported its findings on the amended legislation and the places of safety scheme respectively in two separate reports (Crime and Misconduct Commission (Queensland), 2005a, 2005b). The CMC concluded that the amended police powers had served a useful role and should be extended to cover the whole state of Queensland, subject to modifications. On the negative side, the evaluation reported a widely held perception that, as a result of the new legislation, police had been given primary responsibility for addressing VSM without either sufficient authority or adequate operational guidelines, and without mechanisms to ensure that follow-up health and welfare activities were taken up by the appropriate agencies and not left with the police.

To address these deficiencies, the CMC made 26 recommendations, including calls for police powers to be further extended to authorise police to compel a person apprehended to give their name and address and, in the absence of an available place of safety, to hold persons apprehended for up to four hours for their own wellbeing. The CMC also proposed the introduction of an ‘alert’ system under which, following initial apprehension and referral by the police, the Department of Child Safety would be notified, and obliged to initiate appropriate assessment and case management procedures. (The CMC’s evaluation of the places of safety model is outlined below.)

The most comprehensive legislative initiative to address VSM is the NT *Volatile Substance Abuse Prevention Act 2005*, which took effect in February 2006 (Northern Territory of Australia, 2006). The new Act incorporates similar provisions relating to search, seizure and supply of volatile substances to those in the amended Victorian and Queensland legislation. As in Victoria and Queensland, the legislation stops short of making inhalant misuse an offence. It also contains two provisions not found in the other jurisdictions: provision for mandatory treatment for persons deemed to be at risk of severe harm from inhalant misuse, and provision for ‘management areas’, under which communities can gain legal recognition for locally-specific laws relating to the possession, supply and use of volatile substances (Legislative Assembly of the Northern Territory, 2004).

Under the NT Act, it is also an offence to supply a volatile substance to another person if the supplier ‘knows or ought to know’ that the other person intends to inhale the substance or supply it to a third person to inhale.

The NT Government has also committed \$10 million over five years to a program of new and expanded services that includes treatment facilities for VSM in both Alice Springs and Darwin; government-employed clinical teams based in Alice Springs and Darwin to provide support for remote health services in managing VSM-related problems; support for upgrading outstations in Central Australia that regularly accept petrol sniffers on a diversion basis; funding for six youth case workers, to be based with a non-government organisation; and non-recurrent funds for a series of bush camps.

In May 2006 the ‘civil apprehension’ approach received national endorsement from the Ministerial Council on Drug Strategy (MCDS), through the latter body’s formal acceptance of a report entitled *National Directions on Inhalant Abuse*. The report outlined a set of ‘Guiding principles for inhalant legislation’ based on the following core principles:

- The primary aim of legislation should be to protect the health and welfare of inhalant users.
- Legislation should not criminalise the behaviour of inhalant users and should protect their civil rights.
- Communities may be best placed to make their own decisions and rules about inhalant use issues in their community.
- It may be appropriate for the legislation to include the power to confiscate inhalant products to protect the health and safety of an inhalant user.
- It may be appropriate for the legislation to include the power to apprehend and detain an inhalant user to protect his/her health and safety or to link him/her to treatment.
- Persons selling volatile substances have a responsibility not to sell in situations where they suspect the person will inhale the product.
- The dangerousness or pattern of use of some volatile substances may warrant the introduction of specific sale restrictions.
- The legislation should be enforced in keeping with its primary objectives of protecting the health and welfare of inhalant users.
- Legislation should be supported by a commitment to adequately resource its implementation.
- The operation of legislation should be monitored and reviewed to ensure that its objectives are being met and to assess its impact (National Inhalant Abuse Taskforce, 2005).

10.2 Places of safety

The expansion of civil apprehension powers to deal with young people intoxicated by VSM has in turn generated a need for suitable facilities or agencies where persons apprehended can be released into care. In Victoria, the Northern Territory, Queensland and Western Australia, this may include a responsible family member or other adult, a health or welfare agency, or a designated place of safety. Detention in a police cell is either prohibited (Victoria, Queensland) or permissible only as a last resort (Western Australia, Northern Territory).

Drug treatment services are sometimes co-opted to receive people apprehended by police. In Gippsland, Victoria, the Youth Substance Abuse Service (YSAS) was funded to provide a place of safety. A rights and responsibilities document was developed by staff and clients to set ground rules for the operation of the facility. Nineteen young people were taken by police to the service after an episode of chroming during its operation between January 2004 and August 2005 when short-term funding expired (Murphy, 2005). As well as a crisis response, YSAS provided an ongoing program of activities for young people. Evaluation of the program (Murphy, 2005) identified many benefits including a reduction of visible chroming in public places, and improved communication and cooperation between local service providers including Indigenous organisations and police.

In Queensland, the Crime and Misconduct Commission (CMC) evaluated the trial of ‘places of safety’ provisions in five sites (Crime and Misconduct Commission (Queensland), 2005a). The CMC gathered data on all VSM-related contacts recorded by police, places of safety, ambulances or hospitals at the five sites between 1 July 2004 and 31 March 2005. A total of 2210 such contacts were recorded, 1848 of them at places of safety. These contacts were accounted for by 316 clients, indicating a high rate of repeat admissions (with 50 clients having 10 or more admissions during this period). Of the 316 clients, 64% were Aboriginal and 60% were male.

The CMC concluded that, while the places of safety had succeeded in providing a service for youths affected by inhalants, they had not fulfilled their intended goal of providing a referral option for police. Only 120 referrals during this period (7% of the total) came from police, compared with 807 self-referrals and 806 referrals by outreach services.

10.3 Community by-laws relating to VSM

A number of Aboriginal communities and organisations have imposed their own legal sanctions on VSM. By-laws under the *Pitjantjatjara Land Rights Act 1981* make it an offence to possess or supply petrol for the purpose of inhalation on the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands in South Australia (Commonwealth Department of Health and Family Services, 1998, p. 108). Coronial inquests conducted into deaths related to petrol sniffing in the APY Lands in 2002 and 2004, however, exposed the inadequacies of legal sanctions in the absence of effectively supported and enforced sentencing options (South Australia Coroner’s Court, 2002, 2005) or of local safe places to which young people intoxicated from inhalants could be taken. The 2002 inquest heard that there were virtually no facilities in place throughout the APY

Lands to supervise community service orders, much less to refer chronic sniffers for treatment (South Australia Coroner's Court, 2002). The 2004 inquest was informed by the Department of Correctional Services that additional staff had been appointed in the APY Lands and a new service model developed for case management of inhalant users who had received sentences.

In Western Australia, communities in the Ngaanyatjarra Lands have prohibited petrol sniffing under community by-laws enacted under Section 7, 1(g) of the *Aboriginal Communities Act 1979* which enables communities to make by-laws for '... the prohibition, restriction or regulation of the possession, use or supply of alcoholic liquor or deleterious substances' (Gray et al., 2006). For several years persons convicted of sniffing petrol were fined or (in the case of non-juveniles) sentenced to up to three months in custody, the latter option being used not so much to punish or rehabilitate the sniffer but rather to give the community some respite (South Australia Coroner's Court, 2002, para. 10.48). In 1996, however, the Western Australian Sentencing Act abolished custodial sentences of less than six months, effectively removing this option. While available, the imposition of custodial sentences was reported to have led to some reduction, but sniffing continued to cause significant community disruption (McFarlane, 1999).

Elsewhere in Western Australia, according to witnesses testifying to a recent Senate inquiry into petrol sniffing, police are hampered in enforcing local by-laws prohibiting VSM by the absence of safe places to which they can refer youths. In other communities, by-laws are rendered meaningless by the absence of local police to enforce them (Commonwealth of Australia Senate Community Affairs References Committee, 2006). The Senate inquiry also heard claims that local community by-laws led to sniffers moving to other communities.

The NT *Volatile Substance Prevention Act 2005* empowers communities to develop local management plans relating to managing the possession, supply and use of volatile substances. The NIAT Taskforce report states that, in the period February to May 2006, five communities had requested assistance from the NT Department of Health and Community Services to declare a community management area and plan (National Inhalant Abuse Taskforce, 2006).

10.4 Aboriginal community-based police officers

Several jurisdictions engage community-based police officers in Aboriginal communities, with titles such as 'police liaison officers' or 'community constables'. The officers are expected to perform a variety of roles, including that of providing a link between sworn police officers and community residents. Evidence relating to the operation and outcomes of these schemes consists of anecdotal reports.

Bryce et al. reported on the use of police aides in APY communities (Bryce et al., 1991). Like warden scheme or night patrol members, police aides never have a neutral role in a community, as they are always in kinship relations to other people and so are already implicated in disputes. Thus the police aides' authority, grounded in Western notions of policing, sits somewhat uncomfortably with Pitjantjatjara values of individual autonomy and interconnectedness through relationship with others. Bryce et al. found that rounding sniffers up and locking them

up became more problematic for police and police aides after the Royal Commission into Aboriginal Deaths in Custody. They concluded that while police aides were an important part of the community response, they were limited in their effectiveness.

Similar observations emerged from a coronial inquest conducted in the APY Lands in 2002 into the VSM-related deaths of three youths (South Australia Coroner's Court, 2002). The coroner heard that a Community Constable Scheme had been established in the APY Lands in 1986, with four Anangu men selected to work in each of four communities, initially alongside four non-Aboriginal police officers. Communities were consulted about the appointments; the constables were expected to be engaged in community activities, and to act as a contact between police and the local community. After one year, however, the sworn police officers were withdrawn, leaving the Community Constables working on their own, with support from Marla Police Station. The scheme was subsequently expanded: by 1990, 37 Community Constable positions had been created across the state. In 1988 a non-Anangu Senior Constable was stationed in one APY community to supervise Community Constables throughout the Lands. This position remained filled until 1997, after which the SA Police found they were unable to recruit to the position. According to one witness at the inquest, the departure of the sworn police officer from the community coincided with an increase in petrol sniffing in the community.

Indeed, a theme that emerges from the coronial inquest is that Aboriginal community police officers cannot be expected to work effectively unless sworn police officers are also present in the community. Coroner Chivell concluded, on the basis of evidence presented to him, that the Community Constable Scheme was a worthwhile initiative, which could be further improved by additional training of constables. However, in his view the scheme was also constrained by cultural factors and the fact that constables were members of very small communities. Their main strengths, he suggested, lay in defusing situations and acting as liaison and intelligence officers (South Australia Coroner's Court, 2002, para. 11.61–11.62).

In evidence presented to a 2006 Senate inquiry into petrol sniffing, the Western Australian Police Service argued that, while Aboriginal Community Police Officers, when available, often provided liaison between sworn police officers and community residents, the service was more interested in encouraging Aboriginal people to enter the Police Service itself (Commonwealth of Australia Senate Community Affairs References Committee, 2006).

10.5 Community patrols

Community patrols are local services that provide transport and care for at-risk community members, especially young people or intoxicated adults. They are now common in many Indigenous communities, where they may be known as street patrols, night patrols, foot patrols, mobile assistance patrols or street beat programs (Australian Institute of Criminology, 2004). Cuneen (2001) notes that night patrols differ according to whether they operate in urban, rural or remote settings, and in kinds of relationships maintained with police. However, common to all of them, he suggests, is a high level of local Indigenous community ownership, and a reliance on volunteer staffing.

Mosey (1994) has identified several pre-requisites for a successful night patrol. These include adequate consultation at the outset, establishing clear relationships with police and clear duties for patrollers, and a strong management structure.

One of the first to be established was the Julalikari Night Patrol in Tennant Creek, Northern Territory. Set up in the mid-1980s, in 1992 it won the inaugural Australian Violence Prevention Award by the Australian Institute of Criminology (Cuneen, 2001; Curtis, 1993). Curtis, one of the founders of the Julalikari Night Patrol, has argued that night patrols are often misunderstood by non-Indigenous agencies and groups as having a law-enforcement function when in reality their primary focus is the care and wellbeing of members of the local Indigenous community, and the good order of local town camps (Curtis, 1993). It was partly for this reason that Julalikari Council insisted on their patrol being staffed on a voluntary basis. Relations with the local police were formalised through a jointly negotiated *Agreement on Practices and Procedures* that set out the respective roles of police and the patrol.

Cuneen (2001), reviewing crime prevention approaches in Indigenous communities, concluded that evaluations of night patrols had tended to be positive, and indicated that night patrols could achieve:

- reductions in juvenile crime rates including for offences such as malicious damage, motor vehicle theft and street offences;
- enhanced perceptions of safety;
- reduction in harms associated with alcohol and other drug misuse;
- encouragement of Aboriginal leadership, community self-management and self-determination; and
- fostering of partnerships between Indigenous and non-Indigenous organisations.

Indemauro (1999) reports that night patrols in rural areas have led to reductions in arrests and detentions of Aboriginal people. Blanchard and Lui (2001), drawing on an evaluation of four night patrols established in NSW in 1998, found that the patrols reduced Aboriginal youths' involvement in anti-social behaviour and in crimes such as street offences, theft and malicious damage. They also helped to foster a greater sense of community safety, reduced harm associated with alcohol and other drug misuse, and encouraged community management in accordance with principles of self-determination. Night patrols were also seen as positive expressions of Aboriginal citizenship.

At the same time, Blanchard and Lui were critical of what they saw as inadequate, piecemeal funding of night patrols:

The funding given to night patrols in NSW is barely enough for a single patrol. The resources needed for even one night patrol group to be sustained total

approximately \$70,000 a year, little more than the annual cost of one incarcerated youth. Basic costs to be covered include: bus hire and ongoing running costs of the vehicle; personal and property insurance for volunteers; equipment including radio communications, uniforms; and training including first aid courses, drivers licences and child protection workshops. A coordinator should also be funded if the community chooses to have one. In some communities, such as Walgett and Redfern, the NSW Police Service provides this support. In others, such as Kempsey, a shire worker coordinates patrol activities. This is an extremely valuable 'hidden' cost of patrol operations. However, most night patrol operations in NSW struggle with donations from business or short-term government contracts. This piecemeal approach to funding is undesirable. An alternative would be a pool of funds available to patrols to complement support acquired at the local level (Blanchard & Lui, 2001).

The NSW Crime Prevention Division of the Attorney General's Department has published an on-line practical guide to establishing and running Community Patrols, covering such aspects as steps in forming a local advisory committee, developing a plan, identifying funding sources, selecting and training staff, responsibilities and roles with respect to child protection, codes of conduct, operating procedures, occupational health and safety issues, maintaining a vehicle, and monitoring and evaluation (NSW Crime Prevention Division, 2003). The guide also includes templates for various data collection and reporting forms, some but not all of which are specific to NSW departmental requirements.

Blagg (2003) conducted a study of 63 night patrols in Western Australia, the Northern Territory, New South Wales, Victoria and South Australia. Like other observers, he found that inadequacy and uncertainty of funding was a major problem for many patrols; however, he also identified another common problem: inadequate support from local communities. Some night patrols, Blagg found, have also found themselves subjected to conflicting expectations. Patrols are often viewed by non-Aboriginal agents as an extension of mainstream policing (the 'eyes and ears' of police) or even as a means of getting young people off the streets, whereas from the point of view of the patrols themselves their main function is not policing, but rather mobilising the capacities of Indigenous communities for caring, support and mediating conflict. 'Night patrollers', argues Blagg, 'are not police and the majority of patrollers do not want policing powers' (p. 74).

10.6 Statutory sanctions for VSM

Since sniffing petrol is not generally illegal, sniffers normally appear before the courts, if at all, only when they are charged with committing an offence related to sniffing, usually breaking-and-entering and/or stealing or arson, and occasionally a more serious offence such as rape, indecent assault or murder (Elsegood, 1986; McFarland, 1999). In fact, most chronic sniffers are involved with the law and its institutions in some way (Stojanovski, 1999). Young inhalant users are also liable to fall within the scope of child protection laws.

In general, statutory sanctions have not proved particularly helpful as a response to VSM. It is widely recognised that imprisonment is often not an effective deterrent with respect to young Aboriginal people, and may even be seen as an attractive alternative to the boredom, family dislocation and lack of purpose of community life, offering as it does companionship, regular food and recreational activities (Elsegood, 1986). Magistrates, uncomfortably aware of this, sometimes cast around for alternative sanctions.

Incarceration also poses a range of risks, not least of which is death in custody. Indeed, Dunlop (1988, p. 85) found that the deleterious effects of spending time in jail was a causal factor in some young people's sniffing. Previously we discussed the use of outstations as respite and rehabilitation services for petrol sniffers. Outstations such as Mt Theo are sometimes used by magistrates as a sentencing option for young people in Central Australia who have been convicted of crimes associated with petrol sniffing. However, outstations are only suitable for the accommodation and care of some young people. They are not, for instance, usually suitable for serious offenders, or seriously ill or brain damaged young people:

We can look after offenders and criminals but not if that person is really bad, like a murderer or sexual assault or too much brain damage. We've got too many young kids here. We've got to think of them too, and our own family.
(Cook et al., 1994, p. 53)

Stojanovski (1999) argues that Aboriginal families' beliefs in their children's rights to personal autonomy can make it very difficult for the children to stop sniffing or go to an outstation. Because of this, families sometimes look to outside agencies such as police to control their children. According to Stojanovski, young people are often relieved when police intervene and send them to Mount Theo.

It is sometimes argued that, even if they lack deterrent power, legal sanctions should be used as a means of removing petrol sniffing 'ringleaders' from communities. In this view, whatever the effect or lack of it on ringleaders themselves, their removal from communities reduces the likelihood that other young people will sniff. The 1985 Senate Committee investigating volatile substance misuse recommended that greater use be made of statutory care and custody provisions as a means of removing petrol sniffing ringleaders from communities, claiming that removal of ringleaders 'is paramount to the effective control of sniffing' (Commonwealth of Australia 1985, p. 222). This argument oversimplifies the nature of petrol sniffing gangs. While a number of observers have documented the hierarchical structure of these gangs and the important role played by dominant older youths in recruiting younger sniffers (Craighead, 1976; Nurcombe, Bianchi, Money, & Cawte, 1970), the presence of 'ringleaders' is merely one among several factors which give rise to petrol sniffing. Brady (1989, 1992) studied a community in Arnhem Land where petrol sniffing virtually ceased during the 1988 dry season. She found that the absence of certain individuals had indeed been a factor in the virtual disappearance of sniffing. However, she also found that some of the alleged ringleaders were not absent throughout the entire period, and warned that relationships between peer group leaders and their followers were more complex than

the ‘ringleader’ thesis allowed. The Yuendumu community was surprised when sniffing did not stop after the removal of ‘ringleaders’ in 1994 (Stojanovski, 1994).

The use of statutory custody provisions with respect to young Aboriginal people also runs counter to the rationale underlying contemporary Aboriginal child welfare legislation, which emphasises the need to maintain the integrity of Aboriginal family, kinship and community structures. Finally, even if the above objections were to be set aside, and one or more ringleaders removed, a practical problem remains: when they return to their communities, as they must eventually be permitted to do, there is no reason to suppose that they will not resume old habits.

Legal sanctions, in short, offer few keys to the VSM problem. Sanctions currently available can certainly deprive petrol sniffers of access to petrol for a limited period, but offer little prospect of inducing any longer-term behavioural change. Nonetheless, the search for suitable diversionary schemes should continue on the grounds that they are less wasteful and more constructive than incarceration for minor crimes and might, in some circumstances, impart skills and attitudes which lead some young people to reappraise the attractions of sniffing petrol.

10.7 Community-based sanctions

Closely allied to the notion of employing legal sanctions as a deterrent to petrol sniffing is that of employing non-statutory, community-based sanctions, such as flogging, banishment, shaming at public meetings, or denial of access to local facilities. In one Arnhem Land community the names of known petrol sniffers were publicly listed (Eastwell, 1979).

Morice, Swift and Brady (1981) concluded that on the whole community-based sanctions do not have long-term benefits. Public beating of a sniffer at a community meeting in a community in 2000 did not appear to have any effect (Senior & Chenhall, 2007). Indeed it served to increase tensions within the community with the family of the young man involved being resentful of this punishment.

Brady, however, has suggested that the use of community-based sanctions may have some beneficial effects in settings where there are few chronic sniffers and where, as a consequence, most of those who do sniff are experimenters. She has identified four cultural sanctions which, she suggests, could be used effectively as a response to petrol sniffing: shaming, cursing, ceremonial instruction, and the imposition of compensation payments (Brady, 1992). Mosey, in her study of petrol sniffing in Central Australian communities, found that communities experiencing small outbreaks of sniffing were often able to quash the practice through ‘publicly shaming, hitting or chastising’ the young people involved (Mosey, 1997, p. 21). In Kutjungka, WA, Mosey argued that community interventions such as hitting children or grandchildren, tipping out petrol, taking sniffers for extended stays in other communities or to outstations had limited or stopped petrol sniffing becoming entrenched in the community (Mosey, 2000). Nonetheless, she concludes that sympathetic rather than angry or punitive measures are the most effective.

Morice, Swift and Brady (1981) reviewed several reports of banishment and concluded that, while it may bring about a temporary cessation of sniffing by denying people access to petrol, it was unlikely to have lasting benefits, unless the period in exile was used to bring about a major change in attitudes on the part of former sniffers. For this to be achieved, the authors suggested, close supervision would be needed, both during the period of banishment and subsequently, following return to the home community.

Senior and Chenhall (2007) document how, in 1974, petrol sniffers at one community were banished to an island by senior men of the community. One element in the success of this intervention, they argue, is no involvement or resources were required from non-Aboriginal people or organisations and thus the intervention functioned to reinforce the authority of community leaders.

One situation in which expulsion appears to have beneficial effects—for the community if not for the young person concerned—is when petrol sniffing is introduced by visitors from other communities. According to Brady, quick action to send them back before the practice gains a foothold in the community is essential to prevent its spread (Brady, 1997).

In Cape York a two step process has been devised by the ‘Boys from the Bush’ program to control petrol sniffing (James, 2002, 2004). Firstly, petrol sniffing leaders are identified, removed from the community and placed in the care of others in different communities. Secondly, an inclusive set of community and regional youth development programs are implemented. James argues that transient petrol sniffers remaining in the community will be more easily persuaded to desist through introduction of other activities once these leaders are gone, and so their removal is not necessary. James (2004) recommends that sniffers be placed in environments where supervision is available as well as opportunities for education and employment.

Flogging, apart from its human rights implications, does not seem to be a helpful response. A Review of the Commonwealth Aboriginal and Torres Strait Islander Substance Misuse Program was told that floggings only pushed petrol sniffing further underground (Commonwealth Department of Health and Family Services, 1998). Stojanovski (1994) tells of young people flogged at Yuendumu who were sniffing petrol again later the same day. McCoy (2004) adds weight to this view, finding that in the community at Wirrimanu, belting was not considered an effective means of addressing petrol sniffing by either young people or their families.

Strategies involving banishment and/or other punishments run the risk of accentuating one of the key conditions associated with chronic sniffing: social isolation of the sniffer—from their families, kin networks and the community. It is for this reason that a number of workers have preferred a variety of other strategies, all of which are designed to ‘re-integrate’ the sniffer with his/her family, kin and community, both by providing alternative recreational activities and by counselling or attendance at an outstation program (Franks, 1989).

10.8 Preventive policing

Police on occasions have adopted a pro-active, preventive approach to VSM. For example, in early 2002 police stationed in the Anangu Pitjantjatjara Yankunytjatjara (APY Lands) in northern South Australia conducted a preventive exercise known as Operation *Pitulu Wantima* ('Petrol—Leave it Alone'). The operation involved placing four police officers on the APY Lands who worked with Community Constables. One aspect of the operation involved identifying petrol sniffers and, where it was safe to do so, emptying and crushing their petrol cans. Another aspect involved collecting data on the prevalence of petrol sniffing. During the operation, 302 instances of petrol sniffing were detected, involving 95 individual sniffers. A report into the operation concluded that the expanded police presence had been well received in communities, and had led to many requests for assistance with issues other than petrol sniffing (South Australia Coroner's Court, 2005).

Working regionally, the Substance Abuse Intelligence Desk (SAID) in Alice Springs collates intelligence and coordinates policing activities in the tri-state cross-border area of Central Australia. The SAID particularly targets petrol and other drug and alcohol trafficking (Henderson, 2006).

A recurring theme in discussions of the role of law enforcement agencies in addressing VSM is the relationship between police and health and welfare agencies. As mentioned above, the introduction of amended police powers in Victoria in 2004 was accompanied by a protocol designed to clarify just this issue.

A number of other instances of referral systems have also been documented. Anders (Anders, 2000; Gray et al., 2006) describes a system developed and trialled in Gippsland, Victoria, between May 1998 and March 2000, under which youths identified as 'high risk adolescents' (HRA)—as a result of mental health, substance abuse, accommodation problems or domestic violence—were referred by police to appropriate support or service agencies. The system was based on a Common Assessment Referral Form (CARF)—a single page assessment sheet designed to enable police to identify the client's most pressing needs and thereby to direct officers to making the most appropriate referral. The system was also supported by a HRA Reference Group composed of representatives of government and non-government agencies and local police. Referral wall charts were also prepared, identifying the most appropriate agency or contact for each risk type, so the CARF could be faxed to the appropriate agency/service at the time of completion. Officers in each police station were also given a short training session, including an overview of how to identify target groups.

A pilot study conducted in May 1999 found that the system had successfully helped police to identify HRAs and establish connections with appropriate agencies. The scheme was subsequently extended to all police stations in the Gippsland region, as well as to six local secondary schools and five medical services.

The Gippsland CARF was in turn used as the basis for a Common Assessment Referral Project in the Melbourne suburb of Mooney Valley (Riddell, 2003). Following media attention on inhalant

use in the area, a local youth organisation monitored chroming sites over a four week period, and a local steering group was formed comprising representatives of various government and non-government agencies, including the police. A modified version of CARF was adopted in order to link young inhalant users with appropriate services. Riddell found that the project enhanced relationships between police and local services and helped to clarify police understanding of their ‘duty of care’. At the same time, project effectiveness was undermined by staff turnover among agencies and transience among the inhalant user population.

Another monitoring and referral initiative is described by Scanlon (2003) in response to the emergence of ‘chroming’ in Townsville, Queensland, in the 2000–2001 school holidays. Local police at the time knew little about the effects or symptoms of VSM. Initial efforts were directed at training officers to recognise users and monitor chroming locations. School-based police officers compiled a list recording experimental, social and chronic users. In the first year more than 140 persons aged under 18 were identified. Early identification of users and locations of use enabled police to respond in a timely manner, and in some cases to consult with families. However, police lacked either the referral options or the authority to refer users for treatment. What was needed, argued Scanlon, was a treatment model accepted by the families, the professional community, and the users themselves.

10.9 Preconditions for effective law enforcement

Although almost all of the evidence relating to law enforcement and VSM is descriptive, it is possible to suggest a number of pre-conditions for effective policing of VSM, some of which are currently being addressed more than others. The pre-conditions are:

1. legislation creating appropriate and adequate police powers, with associated guidelines and protocols;
2. an adequate police presence in VSM-affected areas;
3. trained and supported community-based agencies, including night patrols;
4. places of safety other than police cells;
5. adequate referral options;
6. sentencing options; and
7. clearly articulated linkages with health and welfare sectors, in which both of the latter also play appropriate roles.

10.10 Summary

- While VSM is widely acknowledged to be a health and welfare issue, rather than a criminal justice issue, the high risk that inhalant users pose to themselves and others means that it is also an issue for law enforcement agencies.
- VSM is not a criminal offence in any Australian jurisdiction.
- In recent years several Australian jurisdictions have amended police powers to intervene in VSM episodes, in two main ways: by authorising police to confiscate inhalants and related equipment; to apprehend young people engaged in VSM and release them into the care of a responsible person or a place of safety.
- An evaluation of the ‘places of safety’ measures in Queensland in 2005 found that, while the facilities had provided a safe haven for inhalant users, it had not been extensively used by police as a custodial option.
- A number of Aboriginal communities and organisations have imposed sanctions on VSM in the form of by-laws. However, in some places the effectiveness of these has been compromised by a lack of suitable places to which apprehended inhalant users can be taken, and/or by an absence of police to enforce the by-laws.
- Aboriginal community-based police liaison officers can play a useful role in complementing sworn police officers; however, their capacity to act is sometimes constrained by local cultural factors, and they should not be seen as an alternative to sworn police officers.
- Community patrols, also known as night patrols and street patrols, can provide an important mechanism for communities themselves to maintain peace, mediate conflicts and reduce harm related to VSM and other substance misuse. Their effectiveness is dependent upon a number of factors, including clear and mutually satisfactory relationships with local police, and adequate funding.
- In order for law enforcement agencies to work effectively against VSM, a number of pre-conditions must be met. These include an adequate police presence, appropriate short-term custodial options, appropriate sentencing options, trained and supported community-based agencies such as night patrols, and clearly defined relationships linking police with health and welfare agencies.

