

**WHERE LEGISLATION STOPS AND DUTY OF CARE
BEGINS: A SUMMARY OF THE EXPERIENCE OF
POLICE IN TOWNSVILLE IN DEALING WITH
VOLATILE SUBSTANCE ABUSE**

Cheryl Scanlon
Officer in Charge, Townsville Juvenile Aid Bureau

*Paper presented at the
Inhalant Use and Disorder Conference
convened by the Australian Institute of Criminology
and held in Townsville, 7-8 July 2003*

This paper is specifically focused on first response and the options open to police in Queensland in dealing a person affected by a volatile substance (inhalant). Although the author has been part of a number of committees and focus groups in Townsville exploring whole government approaches, this paper outlines what legislation is available and the need to monitor volatile substance abuse as a means of crime prevention and/or reduction.

The issue of volatile substance abuse is one of widespread concern in the Townsville Community, and has been for approximately two years. Community groups, retailers, government agencies, and the families who have members engaged in this practice all struggle to understand why young people participate in such a practice, how to limit the availability of the products concerned, and most importantly how to protect and heal the individuals involved. The role of law enforcement officers in that process is limited, and is particularly frustrating, when chronic users are unable to be deterred from further use, or offered realistic detoxification solutions.

This paper is written around the experiences of police officers working directly with users in Townsville since detection of this practice in December 2000. Those officers are from a range of disciplines including General Duties Officers, Police Liaison Officers (PLO's), School Based Police Officers (SBPO's) and Detectives from the Juvenile Aid Bureau (JAB).

The Search for Assistance

When the first small group of volatile substance users were detected in a public park in the school holiday period of 2000-2001, police officers knew very little about the effects, the symptoms, or the means to assist a person involved in this practice. Like any new social problem, the benefit of hindsight is a wonderful asset, but learning from others who have managed the same problems can be invaluable. Several other locations around Queensland including Brisbane City, Fortitude Valley and Ipswich were experiencing similar, but not identical problems to Townsville. Juvenile Aid Bureaus are teams of specialist Detectives who have responsibility for investigations involving children and young people as both victims and as offenders. It is therefore appropriate that cases involving children who are placing themselves at risk by inhaling, and those committing offences whilst effected, be referred to those Bureaus. Townsville's problems provided a new challenge in establishing links with other Police Services outside of Queensland, particularly more remote communities and seeking advice on how such a situation was policed. In most cases, it seemed the smaller the community, the better monitoring and coordination of a response.

How Widespread is the Problem – the Importance of Tracking

One of the difficulties for any community faced with volatile substance abuse is establishing how wide spread the problem is, and who are those likely to engage in the practice. From current contact and data collected by Townsville police, we know that although most users are indigenous, it is not exclusive to that culture. Initially this problem related only to juveniles (those under the age of 18), but in the past eighteen months, adults have also been detected using in increasing numbers. The youngest case of solvent abuse investigated related to a 7 year old girl, and in most instances, users came from families that had previously been identified as having some dysfunction due to alcohol abuse, domestic violence, or child protection issues.

In larger communities such as Townsville, responding to calls for service involves firstly training police to identify users, and secondly establishing systems to record and monitor both the users and the locations where it is occurring. Once police became aware of what to look for and which locations to target, it was discovered that users became quite proficient at moving to more isolated locations and remained highly mobile to avoid detection.

From 1st July 2002, Townsville police commenced a system of recording locations and users within the Townsville Police Communications Centre (PCC). This involved the introduction of a specific call for service code for “*Substance Abuse*”. The collection of this data better equips police to identify chronic users and also to monitor specific locations that are being used as “sniffing havens”.

Initially the Police Liaison Officers had assisted sworn staff with identifying which young people were engaged in solvent abuse. This consisted of a raw data base of names, addresses and parent/guardian contacts. In excess of 140 persons under the age of 18 were identified within the first year, however, the extent of their using and the locations where use was occurring was difficult to track using this method. The School Based Police Officers in their contact with students across six state high schools began classifying users into three categories of (a) experimental (b) social or (c) chronic. Having some form of classification assisted with making an assessment of who is most at risk and where to place sometimes limited resources to restrict use.

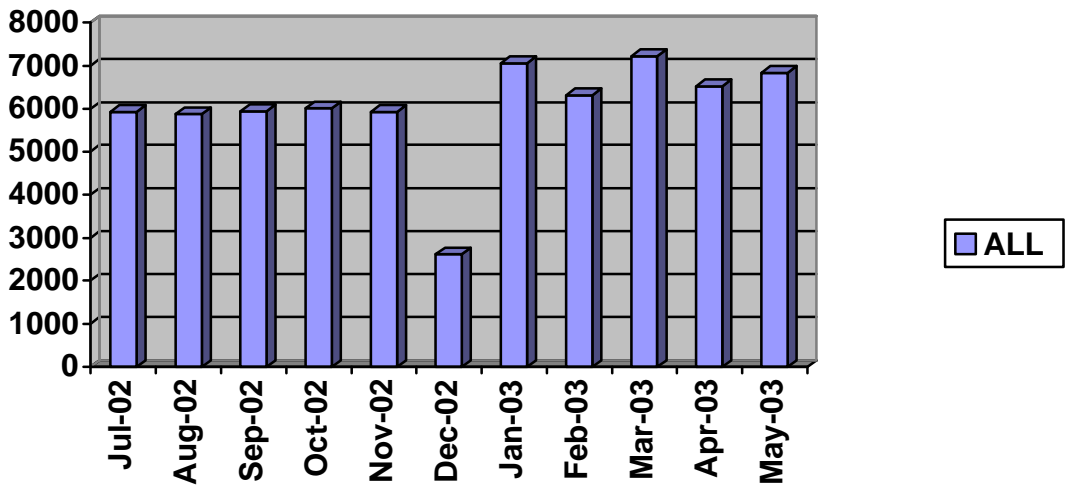
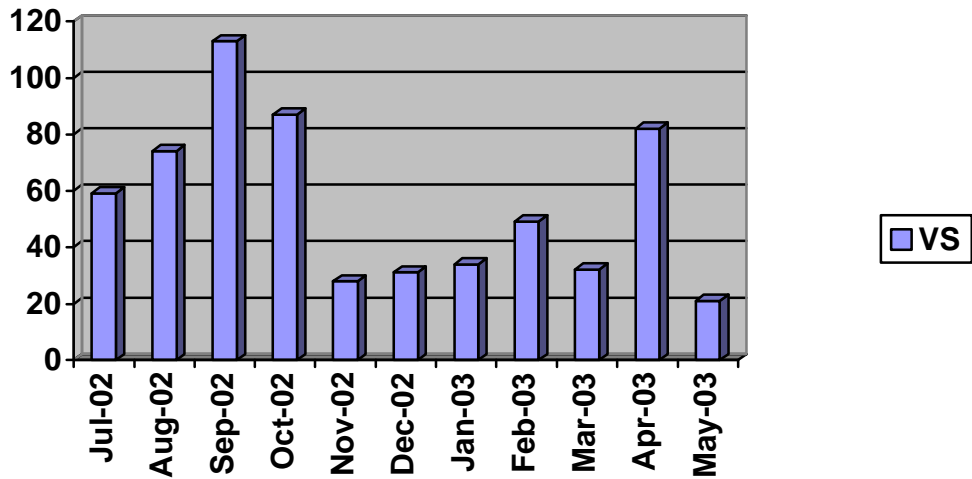
Data has been collected from the calls for service data across each month from July 2002 until May 2003 and will continue to be gathered as a means of monitoring the local situation. Call for service data is initially logged as a particular type of call for service. Once police have attended the call, the data is updated with a finalisation code. Where a situation is found to have been consistent with the call, it is recorded as confirmed under the appropriate code.

The following data for each month depicts the amount of “confirmed calls for service” in relation to the **solvent abuse** code and the amount of confirmed calls for service across **all areas** of policing. What is not able to be tracked from this data is the surrounding calls for service or associated matters. For example, the initial call may be about a wilful damage committed by a person or an assault which occurs after a person has been inhaling. This call is logged as the wilful damage or the assault with a secondary code at solvent. This data is not included in the confirmed “Substance calls” as it is not the principal code logged.

What is also relevant is that the calls for service data is indicative of solvent abuse that occurs in public places. Members of the public “call for assistance” from police when they observe inhalant use. What is not able to be tracked is that substance abuse which is occurring in private homes and secluded locations that a not able to be monitored or disrupted by public concern or intervention from passers by.

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 2002	Aug 2002	Sep 2002	Oct 2002	Nov 2002	Dec 2002	Jan 2003	Feb 2003	Mar 2003	Apr 2003	May 2003
VS	59	74	113	87	28	31	34	49	32	82	21
ALL	5927	5874	5946	6010	5930	2614	7058	6314	7218	6528	6835



What is Available Under Queensland Legislation

Under Section 371A of the Police Powers and Responsibilities Act 2000, police in Queensland have the power to remove potentially harmful things from a person who they suspect may be inhaling or is about to inhale a substance. There is no offence committed and no power to move a person engaged in the use of such a substance. If the person requires urgent medical treatment, police engage the services of Queensland Ambulance to transport critically ill persons.

Section 371A Power to seize potentially harmful things

- (1) *This section applies if a police officer finds a person in possession of a potentially harmful thing in circumstances in which the police officer reasonably suspects the person is inhaling, or is about to inhale the thing.*
- (2) *The police officer may ask the person to explain why the person is in possession of the potentially harmful thing.*
- (3) *If the person does not give a reasonable explanation, the police officer may seize the potentially harmful thing.*
- (4) *On seizure of the potentially harmful thing, the thing is forfeited to the State.*
- (5) *In this section –*
- (6) ***“potentially harmful thing”*** means a thing
 - (a) *that a person may lawfully possess; and*
 - (b) *that is or contains a substance that may be harmful to a person if inhaled*

Examples:

1. *Glue*
2. *Paint*
3. *A solvent*

Where a child is involved, consideration must be given to the implications of the Child Protection Act 2000, and whether the child is at risk of harm. This legislation is particularly relevant, given that children and young people who engage in inhalant abuse are usually also subjected to a range of other risks and associated social, family and relationship problems.

Section 9 What is “Harm”

- (1) *“Harm” to a child is any detrimental effect of a significant nature on the child’s physical, psychological or emotional wellbeing.*
- (2) *It is immaterial how the harm is caused.*
- (3) *Harm can be caused by –*
 - (a) *Physical, psychological or emotional abuse or neglect; or*
 - (b) *Sexual abuse or exploitation*

Under the same legislation, where a child is at immediate risk of harm, police or officers from the Department of Families have the power to take that child into custody.

Section 18 *Child at immediate risk of harm may be taken into custody*

- (1) *This section applied if-*
 - (a) *an authorised officer or police officer is investigating an allegations 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.*
- (3) *For Subsection (2), the officer may-*
 - (a) *enter the place where the officer reasonably believes the child is; and*
 - (b) *search the placed 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 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.*
- (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 temporary assessment order for the child is decided;*
 - (b) *8 hours elapses after the child is taken into custody*

Where children are under the age of 12 years the powers with Section 21 of the Child Protection Act allow for the child to be moved to a place of safety without the taken on a Temporary Assessment Order.

Section 21 *Moving a 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.*
- (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 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.*
- (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.*

Although legislation exists for police to exercise power to protect children and young persons under the age of 18 years, there are limited options for on going treatment or detoxification of solvent abuses once initial medical assessment is carried out. The problems for police in Townsville in being supported with long term solutions, are no further advanced then when the discovery of users were made. It is easy for agencies and individuals to recite that the “place of safety options are too hard”, but for police officers, our response must always be 24 hours a day 7 days a week. The “place of safe dilemma” is very real for operational police officers, and there is no dispute that police stations and watch-houses are far from suitable options for effected persons.

The debate surrounding legislating to protect individuals in the community who are incapable of protecting themselves, is always one that is attacked with vigour. Legislation such as the Child Protection Act and the Mental Health Act are in place to protect those who find themselves in the position of not being able to care adequately for themselves due to age or mental impairment. In many instances, solvent abusers are also persons in our community who are incapable of caring for themselves whilst affected. They participate in behaviours that heighten the risk to themselves and the community, and in many instances there is no one able to willing to care for a person in that condition.

Policing Response

Over the past two years, the Juvenile Aid Bureau in Townsville has dealt with offending children and young people who have been affected by solvent whilst committing offences such as unlawful use of motor vehicles, break and enter/burglary, bodily harm and rape. There is no doubt in the minds of investigators that solvent abuse played a significant role in the commission of such offences, with perpetrators oblivious to the seriousness of their actions whilst under the influence.

Placement of those affected by inhalant addiction is very limited or non existent due to the nature of the behaviour, and the inability to confine individuals for suitable treatment. What has been useful in a small number of cases has been the early consultation with families, particularly extended family who can provide respite and limit contact to other users in more remote centres.

What is critical to the *police initial intervention* in cases of chronic inhalant abuse, particularly with children and young people, is early identification of users and the locations of use. Without a means of tracking or monitoring this behaviour, a timely and effective response or referral is lost.

Much work has been done in the Townsville Community in establishing networks and bringing agencies to the table to ascertain what resources they actually have to battle inhalant abuse. Police are now in a position to better monitor individuals and track places where inhaling occurs in public domains. What we now need is treatment model or program that is accepted by the families, the professional community, and the users themselves. We are able to share what knowledge we have and already have programs such as “Fax-Back” for Domestic Violence that provide timely follow up to an external support agency. It is proposed that once an appropriate model is developed, a protocol can be advanced to ensure cases are referred by police.

References

Child Protection Act 2000 (QLD)

Police Powers and Responsibilities Act 2000 (QLD)