

NAAJA and CAALAS' concerns with paperless arrests

The Northern Territory police have gained powers best suited to a police state under new law passed into the *Police Administration Act* on 26 November 2014.

'Paperless arrests' allow police to detain a person for 4 hours without charge if police believe they have committed, were committing or were about to commit a minor offence that could otherwise be dealt with by way of infringement notice. The new law defines a wide range of existing minor offences as Infringement Notice Offences, which are summarised below.

The government says that the changes are a bid to increase police flexibility and efficiency. Police can detain a person for a minor offence before more serious offending can happen. A reduction in paperwork allows police to return to the beat quickly.

NAAJA and CAALAS says this is bad law and Territorians should not accept it.

- Police already have the power to arrest and detain people who commit offences and need to be taken off the street to protect public safety;
- Some of the Infringement Notice Offences captured under this regime are fine-only offences (see, for example, ss 53A(2), 53B(3) in relation to noise complaints or s 76 which relates to playing a musical instrument so as to annoy). These amendments will mean that people can be imprisoned for offences that the NT Parliament has specifically said cannot and should not attract a term of imprisonment.
- Detaining a person without charge allows police to impose punishment without anyone deciding whether that person is innocent or guilty. But there is a reason why police have to bring cases to court: only courts can decide guilt and innocence and impose punishment.
- The legislative scheme does not introduce any monitoring or oversight mechanisms, as the government says that existing appeal processes are sufficient;
- This law will impact overwhelmingly on Aboriginal people and again the lessons of the Royal Commission into Aboriginal Deaths in Custody that we need to lock up less Aboriginal people to avoid deaths in custody are being ignored.

Infringement Notice Offences

- A. An offence for which an infringement notice may be served under reg 3 of the *Summary Offences Regulations*
- Offensive conduct: includes disorderly or indecent behaviour, fighting, obscene language in public or a police station, offensive behaviour in a dwelling-house, dressing-room or clubhouse, unreasonably causing annoyance to or disrupting the privacy of another person (s 47).
 - Obscenity: in public place, or in a licensed premises (s 53(1) and (7)).

- Undue noise at a social gathering after midnight: if a person at a premises is directed to stop the noise in response to a complaint and undue noise continues from the same premises within 12 hours (s 53A(2)).
- Undue noise: if a person at a premises or on unoccupied land is directed to stop undue noise in response to a complaint and does not do so within ten minutes (s 53B(3))
- Challenge to fight for money: if a person makes or accepts a challenge to fight for money or fights for money (s 55)
- Dumping of certain containers: if a person abandons certain whitegoods and furniture on public land or at a dump without removing the doors and lids (s 65AA)
- Tampering with vehicle mileage instruments (s 65A)
- Regulating places of refreshment: if a person permits drunkenness or disorderly conduct in a place where refreshments of any kind are sold or consumed (s 66(1))
- Playing musical instruments after a complaint is made (s 76)
- Failure to keep clean yards and causing nuisance (s 78)
- Damage to public fountains (s 82)
- Leaving dead animals in public places (s 85)
- B. A police infringement offence as defined in reg 7(1) of the *Liquor Regulations*:
 - Contravention of identification system conditions in the sale of liquor (s 31A(6))
 - Bringing in, possessing or consuming alcohol: in a general (s 75(1)) or special (s 101AE(1)) restricted area or restricted premises (s 101L(1)), or consuming alcohol in a public restricted area (s 75(2))
 - Contravening permit conditions on alcohol possession or consumption in a special restricted area (s 101AK)
 - Consumption of liquor at regulated place causing nuisance (s 101V(1))
 - Consumption of liquor at regulated place in a designated area (s 101W(1))
 - Contravention of exemption notice conditions (s 101ZE(4))
 - Contravention of a banning or exclusion notice: if a person enters or remains, or attempts to enter or remain in a designated area or licensed premises that they are banned from (s 120N(1)) or if an exclusion order applies (120T(1)) or if the excluded person fails to comply with police direction to leave (s 120U)
 - Licensee allows person to contravene banning notice or exclusion order (s 120Y)
 - Licensee fails to remove drunk or disorderly person from premises (s 121(2)) or allows person to return within 12 hours (s 121A(1))
- C. Offences incorporated into reg 7(1) of the *Liquor Regulations* under s 11 of the *Stronger Futures in the Northern Territory Act*
 - Bringing in, possessing or consuming alcohol: in an alcohol protected area (s 75(B)(1))
 - Supplying, possessing or transporting to supply liquor: in an alcohol protected area to a third person in a protected area if the quantity of ethyl alcohol involved in the commission of the offence is 1,350 ml or less (s 75(C)(1))
 - Removing notices about alcohol offences in alcohol protected areas (s 75F(1) applicable to notices under s 14(3))
- D. An offence defined in s 20A of the *Misuse of Drugs Act*:
 - Cultivation of not more than two cannabis plants (s 7)
 - Possession of certain cannabis plant products: less than 1g of cannabis oil, less than 50g of cannabis plant material, less than 10g of cannabis resin or seed (s 9 and Schedule 3).