

Response to Federal Government intervention SCAG 26-27 July 2007

THIS IS A REVISED VERSION OF A SPEECH PRESENTED BY MINISTER SYD STIRLING TO THE STANDING COMMITTEE OF ATTORNEYS-GENERAL

We are at a defining moment in Territory history, and I have no doubt that how both Governments direct their expertise and energies to combat Indigenous disadvantage, systemic neglect and child abuse, will determine the Territory's direction for decades to come.

As we have been saying for years, we can't do this alone. We welcome the focus and resources that the Commonwealth can bring to the Territory's Indigenous citizens. But it must be resources and attention not for weeks, not for months, but for the long-term.

Of course the Territory Government must play a central role in the Federal involvement.

A few commentators have taken the intervention as somehow removing all Territory Government involvement and oversight. As this plays out on the ground, it is becoming more and more evident how incorrect this view is. I have no doubt Territory expertise will have a big impact on the success of the Federal plan.

For example, all Members of the Legislative Assembly with bush electorates recently conducted extensive tours of communities and held meetings to discuss the proposals.

I was greatly concerned by the misunderstanding around the Federal Government's intentions – most obviously, the very real fears about the threat of child removal.

This demonstrates, perhaps, that the initial stage of the intervention has not been accompanied by the consultation and communication necessary to ensure wider acceptance in Indigenous communities. The Territory has always concentrated on bringing about gen-



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erational change and long-term solutions – in improving health and mortality rates, in lowering Indigenous over-representation in our criminal justice system, in boosting literacy and numeracy levels to help Indigenous kids succeed in wider society, and of course, in lowering rates of child abuse and neglect.

We know more needs to be done – which is why we commissioned the Little Children are Sacred Report – to find out how we could best direct our resources to protect Indigenous children and affect sustainable change.

The Commonwealth's involvement must also be targeted and well-considered – not for just weeks or months, but for the long-term.

Within the Justice portfolio, the Territory Government's reforms will complement Federal involvement.

Bail Act amendments, to be introduced in August, will reverse the presumption in favour of bail in cases involving serious sexual

offences, including all sexual offences involving children.

It is a difficult decision to deny a defendant liberty before trial, but there is strong evidence some alleged offenders in remote communities, once released on bail, are attempting to intimidate witnesses, victims and their families.

The Evidence of Children Amendment Bill introduces a range of measures to reduce the trauma on young and vulnerable victims in sexual offences or serious violence cases.

Earlier this week, Government approved wholesale reform of the Domestic Violence Act to afford greater protection to victims of family and domestic violence.

The Territory supports and will work to enforce the Commonwealth's prohibition of x-rated material in prescribed areas. Anecdotal evidence from several high profile sexual assault cases suggests that pornography has been watched by offenders prior to and during assaults.

The lack of cultural context to the material, and little discretion on where and when it is shown in remote communities, is at the root of the problem.

Territory Police and Justice officers are also stepping up monitoring of illegal material, and streamlining the process to shut distribution post office boxes, and prosecute distributors, who are often based interstate.

One of my first decisions as Minister for Justice was to authorise a major boost in funding to Community Corrections, to ensure stronger monitoring, support and supervision of offenders upon

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release back into remote communities.

Perhaps most importantly, alcohol reforms to be introduced and passed urgently in August, demonstrates the Territory Government recognises and has acted to curb the powerful negative effect of widespread alcohol abuse on children.

The Territory will support the Commonwealth's alcohol ban on all Aboriginal land, noting that many Indigenous communities are already dry. Alice Springs town camps will be declared dry. Tennant Creek and Katherine town camps are also investigating going dry.

Police will have increased powers to have random searches inside general restricted areas. Photo I.D. will be required to purchase alcohol in the regional hub for restricted areas. These will complement significant supply and distribution reforms already in place, such as 'dry areas' legislation, and the Alcohol Court.

Despite the Territory Government's broad support for Federal involvement, some aspects have greatly concerned Government, public servants, and our Indigenous communities.

I took as a challenge the Commonwealth Attorney's statement yesterday, that as Ministers and Legislators we need to ensure the reforms we implement will have practical, positive results for our Indigenous population. I run that litmus test over every piece of legislation I introduce. A lot of what the Commonwealth has proposed passes that test, to the extent of the detail I've seen.

Other aspects, however, may cost much but have little or no effect – or worse, negatively impact on other components. One obvious example is Mr Brough's insistence on introducing a complicated, labour intensive identification system for anyone, anywhere, pur-

chasing three cartons of heavy beer or equivalent. While the intent is to curtail grog runners it will only result in resource allocation that could be better spent on other initiatives, and inconvenience for law abiding Territorians. Grog runners will pick up two cartons from ten stores and stay completely under the radar of law enforcement.

Concerns about land permit removals are strong across all Territory communities.

There has been no compelling case made that the land permit system in any way contributes to child abuse nor is there any evidence supporting the five year leasing and compulsory acquisition proposals. People can see the link between grog, porn, lack of education, and child abuse. But as soon as land acquisition is raised, all other positive views go out the window.

The 'Little Children are Sacred' report contained 97 recommendations – not one of which touched on altering or removing the permit system.

There are clear negative implications in providing easier access to grog runners, drug runners and paedophiles into these areas – which is why Territory Police have come out strongly against this component as well. It will make their jobs a lot harder.

The Territory Government will continue to work closely with Indigenous communities to negotiate long-term leases, but I pass on the clear views of Indigenous Territorians that the Commonwealth must reconsider weakening the permit system. Any such move will only mire Government in protracted legal dispute, foster resentment in communities, and not achieve any practical benefits for children living on Aboriginal land.

The Territory Government's position on customary law complies with the 2006 Council of Australian Government communiqué.

There is nothing in our law that excuses, justifies, authorises, requires, or lessens the seriousness of violence or sexual abuse. There are no customary law defences remaining on our books. The last, a traditional marriage defence, was removed in 2003.

However, the Territory Government has consistently been of the view that all relevant factors should be taken into account by a Judge or Magistrate in sentencing or determining bail. Without this full discretion, sentencing resembles a mechanical exercise, without due regard to an offender's personal circumstances or cultural beliefs.

Customary law is raised relatively regularly in Territory courts, and is generally given the weight it deserves amongst other considerations. Nevertheless, I will examine the possible excision of customary law in bail and sentencing specifically for domestic violence and child abuse offences – a sensible compromise.

Apart from these issues, and one or two other points under discussion, I reiterate that I welcome the Commonwealth's overdue focus on issues the Territory Government grapples with every day. I trust the Commonwealth legislation coming forward will reflect the view that the best way to achieve our common goals is through working together, not over-riding Territory legislation for the sake of it.