Public Safety Canada | Sécurité publique Canada

ARCHIVED - Archiving Content

ARCHIVÉE - Contenu archivé

Archived Content

Information identified as archived is provided for reference, research or recordkeeping purposes. It is not subject to the Government of Canada Web Standards and has not been altered or updated since it was archived. Please contact us to request a format other than those available.

Contenu archivé

L'information dont il est indiqué qu'elle est archivée est fournie à des fins de référence, de recherche ou de tenue de documents. Elle n'est pas assujettie aux normes Web du gouvernement du Canada et elle n'a pas été modifiée ou mise à jour depuis son archivage. Pour obtenir cette information dans un autre format, veuillez communiquer avec nous.

This document is archival in nature and is intended for those who wish to consult archival documents made available from the collection of Public Safety Canada.

Some of these documents are available in only one official language. Translation, to be provided by Public Safety Canada, is available upon request.

Le présent document a une valeur archivistique et fait partie des documents d'archives rendus disponibles par Sécurité publique Canada à ceux qui souhaitent consulter ces documents issus de sa collection.

Certains de ces documents ne sont disponibles que dans une langue officielle. Sécurité publique Canada fournira une traduction sur demande.

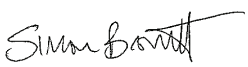
Canada

Briefing paper

>issue 9, August 2011

CEPS ARC Centre of Excellence in Policing and Security

In this Briefing Paper, Helen Punter provides a comprehensive examination of the evolution of a new type of public order law, unique to Australia, commonly called "move-on" powers. These laws supplement and extend existing common law powers to prevent a breach of the peace. As a recent review by the Queensland Crime and Misconduct Commission (CMC) identified, these powers, though serving an important crime prevention function, pose risks to the civil liberties of vulnerable groups and have a potential to undermine public confidence in police. This research underscores the CMC's recommendations that further policy development is needed to ensure that the use of move on powers is both fair and reasonable, as well as effective in its objective of preventing crime and disorder. This research forms part of the CEPS program on Frontline Policing and was undertaken by Helen as part of a Professional Placement with CEPS organised by Griffith University's School of Criminology and Criminal Justice.



Professor Simon Bronitt

Director

Move-on Powers in Queensland: Key Policy and Practice Issues

Helen Punter

Introduction

A move-on power "is a power to require persons in a public place who may not have committed an offence to leave that public place, if the police officer believes that the person is likely to commit a breach of the peace or an offence" (Criminal Justice Commission (CJC) 1993b, p. 641). In late 2008 the Queensland Crime and Misconduct Commission (CMC) initiated its review of police move-on powers to establish whether they have been used properly, fairly and effectively (Crime and Misconduct Commission, 2008). The findings and recommendations of this review were made public in December, 2010.

The aim of this briefing paper is to, a) provide an overview of the move-on powers inserted into *Police Powers and Responsibilities Act (PPRA, 2000)* and b) identify the key policy and practice issues relating to the use of this type of Police Power. It does by this by reviewing the current police move-on powers operating in Queensland. The paper surveys the implementation of move-on powers, exploring how these powers have changed incrementally since their enactment in 1997, evolving from a restricted use in defined circumstances into a more general move-on power. A comparative analysis of the legislation across Australia reveals how statutory safeguards operate in guiding the application of move-on directions. Move-on powers in Queensland give police the power to direct persons to move-away from an area (or cease and desist activities), without requiring a triggering offence to have been committed. Primarily these powers were enacted to give police new tools to aid in the prevention of crime (Parliamentary Criminal Justice Commission, 1994). When using these powers police have a high degree of discretion. Therefore, the use of move-on powers legitimately or otherwise may have a long lasting impact on those who are subject to them. Consequently, it is important to identify the key policy and practice issues associated with their use. These policy and practice issues are considered alongside the findings and recommendations presented in the Crime and Misconduct Commission's review (2010) of the use of police move-on powers.

Background of Move-on Powers in Queensland

Consolidation of Police Powers in the 1990s

The enactment of statutory move-on powers was precipitated by some of the findings the Commission of Inquiry pursuant to Orders in Council (referred to as the 'Fitzgerald Inquiry', 1989). The Fitzgerald Inquiry recognised that the Queensland Police Service (QPS) and the criminal justice system in general, were suffering from major difficulties (Criminal Justice Commission, (CJC), 1993a, p. 1). In particular, the inquiry identified criminal law reform as an area that needed attention, "especially in relation to police

powers" (CJC, 1993, p.1). Mr Fitzgerald QC decided to forgo making a final recommendation on these issues and referred them to the Criminal Justice Commission (CJC), [Note: the Criminal Justice Commission (CJC) is now known as the Crime and Misconduct Commission (CMC)], to conduct a "comprehensive review of police powers" (Fitzgerald Inquiry, 1989, p. 362).

In 1993 the CJC released the results of the research conducted as part of the Fitzgerald Inquiry in the form of the *Report on Police Powers in Queensland* (CJC, 1993), which was released gradually over five volumes. Through the course of the review it became evident that there was a need to consolidate police powers under common law and statutes into a single Act. The review revealed that a full inventory of police powers did not exist and that police powers were conferred in an ad hoc manner, lacking any concern for consistency (CJC, 1993a, p. 94). In 1997 the government introduced the Police Powers and Responsibilities Bill to parliament which intended to consolidate police powers into one Act. However, the Act does not replace the police officers common law powers (PPRA, 2000).

The Advent of Move-on Powers

The consolidation of police powers into one Act in Queensland occurred in 1997 in the form of the *Police Powers and Responsibilities Act 1997*(Qld) (PPRA 1997). The PPRA conferred upon police officers new "move-on" powers. A move-on power "is a power to require persons in a public place who may not have committed an offence to leave that public place, if the police officer believes that the person is likely to commit a breach of the peace or an offence" (CJC, 1993b, p. 641).

The Criminal Justice Commission (CJC, 1993b), in its review of police powers in Queensland, recommended that "the police should not be given a general move-on power" (p. 650). The CJC noted that move-on powers in various forms could be found in a multitude of existing laws such as the *Public Safety Preservation Act 1986*(QLD) and the *Traffic Act 1949*(QLD), both of which contained provisions to allow police to direct the movement of people or vehicles when necessary. Further, the *Criminal Code,* the *Vagrants, Gaming and other Offences Act 1931* and the *Liquor Act 1992* also contained a range of public order offences (CJC, 1993b, p. 642). However, proponents of move-on powers maintained that these powers were necessary to deal with a person's antisocial behaviour (which did not amount to an offence) for the purpose of preventing crime and preserving public order (CCJ, 1993, pp. 644; 649).

The Parliamentary Criminal Justice Committee (PCJC) in its *Review of the Criminal Justice Commission's Report on Police Powers in Queensland: Volumes I-III, Report 23B* (1994) took a different approach, rejecting the need for such wide powers to demand people to move-on. Rather the PCJC recommended circumscribed powers available "in defined circumstances, to direct person to either desist their actions that are potentially or actually improper, dangerous or unnecessarily affect the rights of others, or to require those persons to move-on" (p. 284). This proposal was accompanied by recommendations for procedural safeguards, including:

- Police officers should keep a written record of any move-on direction given, which should contain details of the event and demographic information;
- Where move-on directions are exercised, the police officer issue a citation to the individuals subject to a direction;
- Police stations keep monthly records on directions given, to be forwarded to the Commissioner's office for collation;
- Legislation should restrict the use of move-on powers in respect to peaceful and authorised assemblies.

The police move-on power enacted in the PPRA 1997 was faithful to the PCJCs proposed restrictions and safeguards. Nevertheless, since its adoption the move-on powers have been subject to multiple amendments.

One of the first changes occurred when Hon. Russell Cooper proposed an amendment to the PPRA to include automatic teller machines (ATMs) as a place where police may use move-on powers to prevent attacks and robberies (Hon. Russell Cooper, 1998a). Cabinet approved Mr Cooper's proposed amendments on 4 February 1998 (Hon. Russell Cooper, 1998b).

The PPRA (1997) was repealed and replaced with the *Police Powers and Responsibilities Act 2000* (Qld) (PPRA, 2000) which completed the reform process of consolidating police powers into one Act (CJC, 2000). The newly consolidated Act further expanded police move-on powers to cover all shopping malls throughout Queensland (Spooner, 2001), racing venues (CJC, 2000) and war memorials (Hon. Tom Barton, 2000) as places that police can direct people to move away from the general area.

In 2005, despite public objections to expanding the current scope of police move-on powers, the Brisbane City Council (BCC) applied to have several Brisbane 'hot spots' – King George Square, Kurilpa Park and New Farm Park – designated as 'notified areas' to increase the scope of police move-on powers (Dudley, 2005). The application was reportedly made in reaction to a string of violent events in Brisbane's CBD, including the murder of a man in January, 2005 in Kurilpa Park and the subsequent physical assault of two young people in the same park in May (Wenham, 2005). On 17 February, 2006, the Minister for Police and Corrective Services, the Hon. Judy Spence, approved the BCC application to have King George Square, Kurilpa Park and New Farm Park declared as 'notified areas', noting that "move-on powers ensure that all people can enjoy public spaces without fear or threats of intimidation" (Hon. Judy Spence, 2006).

After a steady expansion of the move-on powers, 2006 saw the Minister announce that the Police Powers and Responsibilities and Other Acts Amendment Bill 2006 would further amend police move-on powers so that "police will have the ability to use

move-on powers in all public spaces in Queensland" (Hon. Judy Spence, 2006). The impetus for this action came when the Premier, the Hon. Peter Beattie MP, "announced that he would be bringing a submission to Cabinet for state-wide move-on powers to be given to police" (Dixon, 2006, p. 16). Mr Beattie indicated that his desire for expanded state-wide move-on powers arose from a need to prevent a Cronulla Beach style riot and violence occurring in Queensland (Giles, 2006). Further, it was noted that expanding move-on powers to all public places state-wide would remove the time consuming process that councils were required to undergo when applying for declared notified areas (Dixon, 2006). Taylor and Walsh (2006) emphasise that "the current ambit of move-on powers comes extremely close to the 'general move-on power' that the PCJC recommended against" (p. 16).

Move-on Powers: "Moral Panic" and "Law and Order Commonsense"?

The move-on powers in Queensland and elsewhere have been progressively widened over time. This expansion of police powers is a response to a general 'moral panic' about public disorder in the community. Stanley Cohen (1972) defines 'moral panic' as "a condition, episode or group of persons [which] emerges to become defined as a threat to societal values and interests; its nature is presented in a stylised and stereotypical fashion by the mass media" (p. 9). 'Moral panics' attempt to "criminalise certain behaviour" and ultimately manipulate the "content and enforcement of law" (Goode & Ben-Yehuda, 1994b, p. 82). Although 'moral panics' tend to come and go they always leave a legacy of institutional change (Goode & Ben-Yehuda, 1994a, p. 149). In Queensland, a state of 'moral-panic' was created when the mass media paid significant attention to the issue of out-of-control youth parties and gatherings (see Safe Youth Parties Task Force, 2006, p. 9; ABC News Online, 2005). This panic about youth and disorder was also evident during Parliamentary debates over the Police Powers and Responsibilities and Other Acts Amendment Bill 2006, exemplified in a Second Reading Speech by the member for Currumbin, Mrs Stuckey:

> In my electorate we have borne the brunt of out-of-control youth activities and parties...What was most frightening about these rages was the increasing degree of rebelliousness and belligerence; the boldness of youth in linking arms and taking over a local street chanting gang war cries... The community fear I have just mentioned is not exaggerated as I personally experienced the terror of driving through an out-of control street party on my way home one evening in November last year. This scenario and others highlight the need for extended move-on powers (Queensland Parliament. Record of Proceedings, May, 23, 2006a, p. 1797).

Moral panics inform local 'law and order' politics and 'law and order commonsense' arguments which in turn justify enacting new legislation or amending existing legislation in order to combat perceived increasing crime levels. Within the logic of law and order commonsense, "crime is depicted as a problem of ever-increasing gravity set to overwhelm society unless urgent, typically punitive measures are taken to control and suppress it" (Hogg & Brown, 1998, p. 4). These measures are short term solutions, typically ill conceived legislation that responds to a particular issue during a moment in time, which serves to placate an emotional reaction by certain sectors of the population (Hogg & Brown, 1998). Analysis of parliamentary debate reveals how law and order commonsense arguments were evoked in 2006 by the Queensland Government to promote the need for state-wide move-on powers (Taylor & Walsh, 2006). Premier Peter Beattie in a ministerial statement regarding the "Safe Youth Parties' Task Force" report, stated:

> Like many Queenslanders, I am concerned about reports of parties involving young people which adversely impact on law-abiding Queenslanders and which lead to dangerous behaviours by young people that require a police response (Queensland Parliament. Weekly Hansard, March 28, 2006b, p. 813).

In the Second Reading of the Police Powers and Responsibilities and Other Acts Amendment Bill 2006, The Hon. Mr Caltabiano also voiced concern about youth violence:

> the enjoyment of...public places has, in recent times, been marred by the presence of gangs of youths who have caused much concern for the users of these public places...Drug and alcohol fuelled abuse and vandalism are becoming more frequent and have led to a significant threat to the community, public safety and the property and homes of residents in the vicinity of these popular public places where loitering occurs (Queensland Parliament. Record of Proceedings, May, 23, 2006a, p. 1799).

Similar expressions about "out of control" youth behaviour and increasing levels of expanding criminal activity have accompanied each round of reform, and expansion of move-on powers

Comparing Move-on Powers in Australia

Police move-on powers exist in all Australian states and territories (see Table 1). Although, the terminology differs these powers have equivalent functions, giving police officers the power to direct members of the public to move away from a specific area. However, the triggering conditions or circumstances required before an order can be given, the level of discretion afforded to police officers, the types of directions available and the penalties for contravening an order vary between each jurisdiction (Walsh & Taylor, 2007). Generally, governments and police justify these powers as being necessary for securing the enjoyment of public space, and also function as another diversionary tool, providing an alternative to arrest in situations that can be diffused without incident (Walsh & Taylor, 2007, p. 151). However, as move-on powers are highly discretionary, statutory safeguards and restrictions have been applied in all State and Territory legislation to guide and limit their use. The statutory 'move-on' powers will be examined and compared in more detail in the following table:

Table 1: Australian State and Territory Police "Move-on" Powers Legislation (Current as of 29 October, 2010)

Jurisdiction	Relevant Legislation	Provision: Section and Name	Police Officers Belief/Suspicion	Triggering Conditions/Circumstances
QLD	*Police Powers and Responsibilities* 2000	Directions to move on, ss.44-48 Commenced: 1997	Reasonable suspicion	A person's behaviour or presence: • causes anxiety to a person entering, at, or leaving the place. • interfering with trade or business • disrupting the peaceable or • orderly event, entertainment or gathering And if a person's behaviour is disorderly, indecent, offensive or threatening to someone entering, at or leaving the place
ACT	*Crime Prevention Powers Act* 1998	Move-on Powers, s4 Commenced: 1998	Reasonable belief	A person in a public place has engaged, or is likely to engage • in violent conduct (violence to, or intimidation of, a person; or damage to property).
NSW	*Law Enforcement (Powers and Responsibilities) Act* 2002	Powers to give directions, ss.197-.200 Commenced: 2002	Reasonable belief	The person's behaviour in the place is: • obstructing persons or traffic • harassment or intimidation • cause fear • unlawfully supply prohibited drugs
NT	*Summary Offences Act*	Loitering – general offence s.47ALoitering – offence following notices.47B Commenced: 2006	Reasonable belief	A person is loitering in a public place and • an offence has been or is likely to be committed; • movement of pedestrian or vehicular traffic is obstructed or about to be obstructed; • the safety of the person or any person in his vicinity is in danger • or the person is interfering with the reasonable enjoyment of other persons utilising the public place
SA	*Summary Offences Act* 1953	Order to move on or disperse s.18 Commenced: 1985	Reasonable belief	A person is loitering in a public place or a group of persons is assembled in a public place and • an offence has been or is about to be committed • a breach of the peace has or is about to occur • pedestrian or vehicular traffic is or about to be obstructed or safety of person in the vicinity is in danger, the officer may request that person to cease loitering, or request that the persons in that group disperse
TAS	*Police Offences Act* 1935	Dispersal of persons s.15B Commenced:	Reasonable belief	The person has: • committed or is likely to commit an offence • obstructing or likely to obstruct the movement of pedestrians or vehicles • Endangering or likely to endanger the safety of any other person committed/likely to commit a breach of the peace.
VIC	*Summary Offences Act* 1966	Direction by police to move on s.6 Commenced: 2009	Reasonable suspicion	The person is or persons are • breaching, or likely to breach, the peace • endangering, or likely to endanger, the safety of any other person; behaviour is likely to cause injury to a person or damage property or is otherwise a risk to public safety.
WA	*Criminal Investigation Act* 2006	Suspect and others may be ordered to move on s.27 Commenced: 2006	Reasonable suspicion	The person is doing or about to do an act that is likely to: • involve the of violence against a person • cause a person to use violence against another person • cause a person to fear violence will be used A person is: • committing any other breach of the peace • hindering, obstructing or preventing lawful activity carried out by another person • intending to commit or has just committed or is committing an offence

Grounds for Using Move-On Powers

The current move-on powers in Queensland are contained in Chapter 2, Part 5 Directions to Move-on, s.46-s.48 of the *Police Powers and Responsibilities Act 2000* (Qld) (PPRA). As Table 1 shows, the conduct required to trigger the use of move-on powers varies between jurisdictions. It ranges from specific forms of criminal conduct such as drug dealing, obstruction and prostitution, to general conduct such as loitering or presence causing anxiety. The relevant section – ss.46,47 and 48 – of the PPRA states that a police officer may give to a person or persons any direction that is reasonable in the circumstances, if the officer 'reasonably suspects' the person's behaviour or presence is or has been a 'relevant act'. A 'relevant act' is conduct defined in sections 47 and 48 of the PPRA and includes:

- causing anxiety to a person entering, at or leaving the place, reasonably arising in all the circumstances;
- interfering with trade or business at the place by unnecessarily obstructing, hindering or impeding someone entering, at or leaving the place;
- disorderly, indecent, offensive, or threatening to someone entering, at or leaving the place.

These powers may be exercised in relation to a person at or near a 'regulated place' if the police reasonably suspect the person's behaviour or presence is or has been a 'relevant act'.

'Regulated place' includes a public place or a prescribed place.

"Public places" include:

- a road
- a park; a beach
- a cinema complex
- a shop
- a racecourse

"Prescribed places" include:

- a child-care centre; or a pre-school centre; or a primary, secondary or special school
- premises licensed under the *Liquor Act 1992*
- a railway station and any railway land around it
- a shop or a mall
- an automatic teller machine
- a war memorial

Under the PPRA an officer must satisfy the threshold of 'reasonable suspicion', before applying a direction to move-on. This is lower than that of 'reasonable belief' (*George v Rockett* (1993) ALR 483). As the CJC (1993) noted, "a higher threshold is imposed on those powers which require the existence of reasonable ground to 'believe' (p. 42). Suspicion carries less conviction than belief (*Tuc v Manley* (1985) 62 ALR 460). The standard of 'reasonably suspect' is also used in *Criminal Investigation Act 2006* (WA), s.27 and *Summary Offences Act 1966* (Vic), s.6. All other jurisdictions apply the standard that a police officer must hold that belief on "reasonable grounds".

While in most circumstances exercising move-on powers relies on the 'belief or suspicion' by a police officer that the behaviour amounts to the 'relevant conduct', ss.46(3), and 47(3) of the PPRA require an actual victim. Under these sections a police officer cannot act unless he/she has received a complaint from the occupier of the premises about a persons' behaviour "interfering with trade or business at the place by unnecessarily obstructing hindering or impeding someone entering, at or leaving" their premises (s.46(1)(b); s.47(1)(b)). Further, the provisions for giving a direction in Queensland (PPRA, ss.46-48) and NSW (*Law Enforcement (Powers and Responsibilities Act*, ss.197-200) uniquely provide that, a police officer may issue a direction to move-on based simply on the person(s) 'presence' causing anxiety to another person; interferes with trade or traffic; or is harassing or intimidating.

The most circumscribed move-on powers can be found in the Australian Capital Territory. The *Crime Prevention Powers Act 1998*(ACT), s.4 states that a police officer may only use move-on powers if there is a reasonable belief that the person has engaged, or is likely to engage, in violent conduct in a public place. By contrast to the other State and Territory legislation, Queensland's move-on power (similar to that applied in New South Wales) is one of the most broad, providing police with wide discretion when applying this power. However, the Queensland legislation has various statutory safeguards to guide and limit the use of this power.

Safeguards and Limitations

Move-on legislation contains limitations on the use of police powers (see Table 2). For example, in Queensland the move-on powers do not apply to an authorised public assembly under the *Peaceful Assembly Act* 1992 (QLD). Equivalent exclusions apply in New South Wales. Conversely, Victoria, the Australian Capital Territory, South Australia, Northern Territory and Tasmania do not have equivalent limitations on the use of these powers.

In general when a person is given a direction to move-on an officer is required to prescribe a reasonable period of time that that person may return in. The maximum limit for a person to be excluded from a place and not return in Queensland is 24 hours (PPRA, s.48(3)). A similar exclusion period applies in Western Australia and Victoria. While in the Northern Territory (*Summary Offences Act,* s.47B) a person can be moved away from an area for up to 72 hours. In Tasmania (*Police Offences Act 1935*, s.15B) a different approach has been adopted, with a person being required to leave an area for "not less than four hours", and there is no ceiling for the exclusion period.

Penalties for Breach

A variety of penalties exist for the contravention of a direction to move-on. Fines start from a minimum of $220 in the Australia Capital Territory rising to a maximum of $13,300 for the Northern Territory. In Queensland the maximum penalty for contravening a direction is 40 penalty units (1pu = $100) equating

Table 2: Australian State and Territory Police "Move-on" Powers Legislation (Current as of 29 October, 2010)

Jurisdiction	Exclusions	Temporal limitations for direction	Geographic Limitations	Procedural Requirements for direction	Breaches of Direction and Penalty
QLD	Does not apply to an authorised public assembly under the Peaceful Assembly Act 1992. s.48(2) unless it is necessary in the interests of – public safety; public order or protection of other persons rights and freedoms.	Maximum 24 hours	Public Places Prescribed places that are not also public places	Police officer must tell the person or group of persons the reasons for giving the direction s.48(4)	An offence to fail to comply with the direction or requirement, unless the person has a reasonable excuse. s.791(2) Penalty: Max. 40 Penalty Units Penalty Unit = $100
ACT	No exclusions	Maximum 6 hours	Public Places	No prescribed form	Must not contravene order without a reasonable excuse. s.4(4) Penalty: max.2 Penalty Units = $220 1Penalty Unit - $110
NSW	s.200 this part does not authorise a police officer to give directions in relation to: • industrial dispute • genuine demonstration or protest • a procession • or organised assembly.	Maximum 6 hours	Public Places – not including schools	No prescribed form	An offence, without reasonable excuse, to refuse or fail to comply with a direction. s.199 Penalty: max. 2 Penalty Units = $220 1Penalty Unit= $110
NT	No exclusions	Maximum 72 hours	Public Places	A police officer may give a written notice to a person loitering at a public place s.47B	A person so required shall comply with and shall not contravene the requirements. s.47A(2)(a) Penalty: max. $2,000 or imprisonment for 6 months, or both. s.47B the person is guilty of an offence if; the officer gives the person the notice; and the person contravenes the notice. Penalty: max. 100 penalty units = $13,300 or imprisonment for 6 months. 1 Penalty Unit = $133
SA	No exclusions	No time restrictions specified, must leave place and area.	Public Places	No prescribed form	A person of whom a request is made must leave the place and the area in the vicinity of the place in which he or she was loitering or face a fine. s.18(2) Penalty: max. $1,250 or imprisonment for 3 months.
TAS	No exclusions	Minimum 4 hours; no maximum	Public Places – including schools	A police officer may direct a person to leave a public place for not less than 4 hours s.15(B)(1)	A person must comply with a direction. s.15B(2) Penalty: max. 2 Penalty Units = $240 1 Penalty Unit = $120
VIC	s.6 does not apply in relation to person or persons, picketing a place of employment; demonstrating or protesting; or speaking, bearing or otherwise identifying with a banner, placard or sign.	Maximum 24 hours	Public Places – including schools	Direction may be given orally s.6(2)	Person must not without reasonable excuse contravene a direction given to the person under this section. s.6(4) Penalty: max. 5 Penalty Units = $597.25 1 Penalty Unit = $119.45
WA	Consideration of likely effect of the order on the person, including but not limited to the effect on the person's access to the places where he or she usually resides, shops and works, and to transport, health, education or other essential services must to be taken into account. s.27(3)	Maximum 24 hours	Public places and Public transport	Any order given under s.27 must be in writing on a prescribed form s.27	No penalties

to $4,000 (s.791(2)). Western Australia does not specify any penalty for non-compliance.

Several jurisdictions have implemented statutory safeguards to prevent the arbitrary or excessive use of the power. To prevent situations escalating to an arrest some jurisdictions require a police officer to warn the person that failure to comply with a direction is an offence and may result in an arrest (PPRA 2000, s.633(2); NT, s.47B(1)(c)). A police officer is also required to give the person a reasonable opportunity to comply (PPRA, s.633(3)). A person must not contravene a direction, though it is a defence to establish a 'reasonable excuse' for doing so. Most jurisdictions, with the exception of Western Australia and Tasmania, include a defence of 'reasonable excuse'. A reasonable excuse is a justification that the behaviour undertaken was of a genuine nature (Bronitt & McSherry, 2010). Further, courts considering a defence of 'reasonable excuse' will consider the circumstances in which the conduct occurred and any relevant antecedents (*Conners v Craigie* (1994) 75 A Crim R 502).

Data collected by the CMC (2010a) for its review of the use of police move-on powers revealed that during the 12 month periods immediately before and after the state-wide expansion of the Queensland move-on powers (1 June 2005 to 3 May 2007), the use of these powers resulted in a relatively high percentage of directions that were contravened, especially compared with other jurisdictions. During the two year period from 1 June 2005 to 3 May 2007, there were 4478 move-on incidents recorded, with 2219 (approximately 50%) move-on incidents recorded as 'disobey move-on incidents', meaning the individual or group of persons involved contravened a move-on direction given by a police officer (CMC, 2010b). The QPRIME data utilised for the review recorded information based on incidents, defined as "a situation that requires police attention during which a move-on direction is issued". One incident may involve multiple individuals (CMC, 2010b, p. 1). The 2219 disobey move-on incidents involved 2444 individuals, of which 1901 (1789 adults and 110 juveniles) were charged only with disobeying a move-on direction. Of the adults, the majority (*n* = 1239 (69.3%) were arrested while the other 543 (30.4%) adults were given 'notice to appear' (CMC, 2010b). This contrasts with New South Wales data which suggest higher levels of citizen compliance. The New South Wales Ombudsman (Policing Public Safety, 1999) report on the use of move-on directions – under the (now repealed) s.28F *Summary Offences Act 1988* (NSW) – found that in more than 90% of cases, persons given directions complied (14,445 directions were given and 13,092 directions were complied with) (p. 37).

Reasons for Direction

Under the PPRA (s.48 (4)) the police officer is required to inform the person or groups of persons of the reasons given for the direction. The equivalent powers in New South Wales also have a similar requirement, but with an additional condition that an officer must provide his or her name and place of duty to the person subject to the direction (s.201). Western Australia offers a further safeguard, stating that all directions must be given in writing, in an approved form (s. 27(6)). The Northern Territory power requires that an officer giving a direction to move-on also provide the person with information on the time period (not exceeding 72 hours) and area of exclusion and the consequences of contravening the notice. This notice may be provided in writing (*Summary Offences Act* (NT), s.47B).

Policy and Practice Issues

Discriminatory Impact of Move-On Powers

Ostensibly move-on legislation does not discriminate on grounds of age or ethnicity. The provisions apply equally to all individuals engaged in prescribed behaviours in defined places (Walsh & Taylor, 2007, p. 167). The proponents of move-on powers in Queensland, responding to the concerns about the disproportionate use of public order powers against person who are homeless, Indigenous, young and the mentally ill (see PCJC, 1994, p. 277), offered assurances that these powers were not intended to target specific groups or types in society. As the Second Reading Speech noted:

> Move-on powers are not focused on any particular age groups, sex colour or race within the community. They only come into play when a person acts in a manner contrary to public interest as determined by this parliament (Queensland Parliament. Record of Proceedings, May 23, 2006a, p. 1814).

The difficulty with such formal neutrality and equality rhetoric is it ignores the structural disadvantage of these groups: "in order for a law regulating the use of public space to be considered reasonable, it must recognise the inequalities that exist amongst public space users" (Taylor & Walsh, 2007, p. 170). Empirical research to date supports the suggestion that marginalised groups within the community are being disproportionally impacted by move-on powers. In one of the few studies conducted on the impact of move-on powers in Queensland, Spooner (2001) found that significantly more indigenous young people were issued move-on directions than non-indigenous young people. It is important to note that Indigenous youth represent only 4% of the general youth population of Queensland yet they received 37% of the directions to move-on (Spooner, 2001). Research on the homeless suggests "high levels of police harassment and interference in the lives of people experiencing homelessness, particularly those who are young and/or Indigenous" (Taylor & Walsh, 2007, p. 164). The most recent review on the use of police move-on powers by the Crime and Misconduct Commission (CMC) in 2010, also revealed that move-on directions continue to be disproportionally applied to juveniles (aged 10-16 years) and Indigenous persons. Of the 6092 directions given – where Indigenous status was recorded – 42.6% (*n* = 2494) were Indigenous

(CMC, 2010a). As a proportion of the Queensland population Indigenous people were "20.2 times more likely to be given a recorded move-on direction than were non-Indigenous people" (CMC, 2010a, p. 19). The New South Wales Ombudsmen Report (1999) found in its earlier study that young people and Indigenous people disproportionally received directions to move-on. Collated police data established that 48% of directions given were to persons aged 17 years or younger, with 22% of directions being given to Aboriginal and Torres Strait Islander people (NSW Ombudsman, 1999, p. 228). Of the Aboriginal and Torres Strait Islander people given directions 51% were given to youth aged 17 years or younger (NSW Ombudsman, 1999, p. 230).

Walsh (2007) suggests that the reasons for the disproportionate use of these powers against minority and marginalised groups stem from the fact that persons who are homeless, Indigenous, young or mentally ill tend to utilise and occupy public space more often than other members of the community (p. 61). Time spent in public spaces is usually influenced by cultural antecedents (Anti-Discrimination Commission Queensland, 2005, 2009) or it is a place where homeless people can access "outreach and support services" (Taylor & Walsh, 2006, p. 25). Both criminal justice specialists and the people experiencing poverty and homelessness themselves agree that the 'high visibility' of marginalised groups within public spaces attracts the attention of police and the general public (Walsh, 2007, p.61, 70). Walsh and Taylor (2007) contend that this high visibility provides an arena where 'labels' and 'stereotypes' can develop regarding the perceived antisocial behaviour of certain groups within the community (p. 171). These community beliefs and fears become important when considering s.47 of the PPRA, which permits a police officer to direct an individual to move-on where mere 'presence' causes anxiety to another person. As one leading civil liberties activist noted: "When a person's presence is considered to be a relevant act, the judgement of the police officer must be based, not upon what a person is doing, but upon who a person is" (O'Gorman, as cited in Taylor & Walsh, 2006, p. 22). The CMC Review (2010) recommended that s.47 of the PPRA, where the power applies to a person's 'presence', be repealed (p. 39). Further, it was found that the 'causing anxiety' element of s.46 of the PPRA is too broad and subjective, recommending that it be amended to only allow police action on the basis the person's behaviour "is causing or is likely to cause fear to a reasonable person" and a complaint has been made about a person's behaviour (p. 39).

Increased Criminalisation

Police move-on powers have been enacted as a way to deal with "minor incidents of public disorder" (Bronitt & McSherry, 2010, p. 828) providing officers with the ability to direct someone to move away from an area before trouble starts, providing an alternative to arrest (Queensland Parliament. Records of Proceedings, November 19, 1997a, 4393; Queensland Parliament. Records of Proceedings, May 11, 2006c, p. 1710). There is both empirical and anecdotal evidence suggesting that police move-on powers do not result in fewer arrests for public order offences, but, rather serve as yet another gateway into the criminal justice system. As was noted in the parliamentary debate over the 2006 Bill to expand the operation of move-on powers, the member for Yeerongpilly, Mr Finn noted that:

> [of approximately] 2,000 directions given in the nine months to December 2005, in some 1,300 cases directions were complied with and approximately 700 directions resulted in arrest...One interpretation [of these figures] may be that there were 1,300 cases of a move–on direction avoiding the need to arrest. Another may be that the move-on direction resulted in 700 arrests where arrest may not have been justified in the first instance (Queensland Parliament. Record of Proceedings, May 11, 2006c, p. 1711; Taylor & Walsh, 2006, p. 20).

The CMC review of move-on powers revealed that there was a significant upward trend in their recorded use, as well as move-on disobey incidents over the course of the four years (1 June 2004 to 31 May 2008) of data collection (CMC, 2010). Of particular interest was the annual rate of move-on incidents for the 12 month periods before and after the state-wide expansion. For the 12 months prior to the expansion (June 2006), 43.1 incidents per 100,000 population were recorded as compared to 59.3 incidents per 100,000 population recorded post expansion, representing a 37.6% increase (CMC, 2010b, p. 5).

It is important to note that the behaviour that triggers a direction to move-on is not necessarily an offence. However, the refusal of an individual to comply with the direction may result in an arrest for the breach offence (PPRA s.791(2)). Those charged with public order violations are often charged with multiple offences, (e.g. assault or obstruct police), usually with a more serious offence as the primary charge (Walsh, 2004; Jochelson, 1997). In an observational study at Brisbane Magistrates Court, Walsh (2004) found that failure to comply with police directions were often associated with charges for offensive language, resist arrest and assault police officer (p. 36). This trilogy of offences is often referred to as the 'trifecta' (see Dennis, 2002), "where a defendant is charged with multiple offences based on the same facts" (Walsh, 2004, p. 36). During the period 1 June 2005 to 31 May 2007 (12 months prior to and following the state-wide expansion of police move-on powers), the CMC review (2010) of move-on powers revealed that 2,444 individuals disobeyed move-on directions. Of those failing to comply with a direction, 543 (22.2%) were charged with additional offences – resist arrest, obstruct police, assault police or public nuisance (p. 25).

Move-on powers are often claimed to be an important "aid in the prevention of crime" (PCJC, 1994, p. 284). However, the disproportionate application of move-on powers against marginalised groups, particularly young people, may

have resulted in negative consequences for community policing, such as increase tension between police and the various members of marginalised groups. This interaction will most likely result in greater criminalisation of those already over-represented in the criminal justice system (Spooner, 2001, p. 31; see ADCQ, 2009, p. 3). The CMC review (2010a) suggests that rather than being an effective diversionary tool police move-on powers may actually draw Indigenous persons unnecessarily into the criminal justice system (p. xiii). Indigenous persons were more likely to be charged with a single offence of disobeying a move-on direction and less likely to be charged with additional offences (17.3%, n = 139) than were non-indigenous persons (24.5%, n = 399). However, Indigenous persons (65.4%, n = 34) were more likely to have convictions recorded against them, at a rate almost 5 times greater than non-Indigenous persons (27.8%, n = 59) (CMC, 2010a). These findings suggest further criminalisation of a population already overrepresented in the criminal justice system.

The PPRA – direction to move-on – provides little guidance to officers as to what sort of directions are "reasonable in the circumstance" (s.48(1)). This becomes relevant when considering those members of the community whose everyday activities revolve around the use of public space, such as persons who are homeless, Indigenous, young or suffer mental illness. A wholesale application of move-on directions is not a viable option for marginalised demographic groups. Taylor and Walsh (2006) revealed how inappropriate a standard direction can be for homeless people in particular. Their empirical research on the impact of move-on powers on homeless people in Queensland, found that many homeless people were "given nowhere in particular to go upon being issued a move on direction" (Taylor & Walsh, 2006, p. 61). When homeless people were directed to an alternate location, they were often areas where others had earlier been told to move-on from, putting them at risk of receiving a secondary direction and, thus increasing the risk of arrest (Taylor & Walsh, 2006). Currently the PPRA does not require an officer, upon issuing a direction to move-on, to direct a person to go to a specified area (Taylor & Walsh, 2006). Additionally, directing a homeless person to move from an area for a stated period of time, (up to 24 hours), could be highly detrimental as it denies him or her access to the vital support service (shelter and food) which usually operates in the public place they have been moved away from (Taylor & Walsh, p. 25). The respondents in the study by Taylor and Walsh often felt like they were being chased from one place to the next. There is a need to ensure that these types of discretionary powers are not utilised simply to recover public spaces of the city for the 'community'. As Walsh (2004b) observes, often the definition of 'community' used here excludes "those to whom public spaces are most important – such as homeless people and indigenous people" (p. 81).

Safeguards need to be included in move-on legislation that minimise harsh and unintended effects for the most vulnerable people in society. One model of 'best practice' is the *Criminal Investigation Act 2006* (WA), s.27(3) which requires a "police officer to take into account the likely effect of the order on the person, including but not limited to the effect on the person's access to the places where he or she usually resides, shops and works, and to transport, health and education or other essential services". Until the needs of the vulnerable in the community are considered more explicitly in public order policing policy, move-on powers will simply move the problem from place to another, serving only to temporarily remove it from public view (Taylor & Walsh, 2006, p. 25; Queensland Public Interest Law Clearing House (QPILCH), 2005, p. 6).

Misuse of Move-On Powers and Procedural Failures

From its inception, community services, justice professionals and politicians alike have voiced concern that move-on powers would be open to abuse. During the Second Reading of the Police Powers and Responsibilities Bill 1997, Parliament was reassured that any reservations about the overuse or abuse of such a power could be allayed with the knowledge that:

> [s]anctions will be applied to police officers who do overuse it or abuse it. Again, the Responsibilities Code and police training, understanding and commitment will all be crucial to ensuring the move-on powers are applied in the correct manner (Queensland Parliament. Record of Proceedings, November 18, 1997a, p. 4308).

Empirical research suggests otherwise. Research conducted by the T.C Beirne School of Law, University of Queensland and the Queensland Public Interest Law Clearing House (QPILCH) Homeless Persons' Legal Clinic on the use and effects of police move-on power on homeless people in Brisbane in 2006 revealed that 48% of the homeless people surveyed who were directed to move-on reported that they were not given a reason for the direction (Taylor & Walsh, 2006, p. 62). Under s.48(4) of the PPRA, "the police officer *must* tell the person or group of persons the reasons for giving the direction". Additionally, of those who were given reasons, a significant number of them did not "satisfy the requirements of ss. 46, 47 and 48 of the Act combined" (Taylor & Walsh, 2006, p. 63). Similarly violations of mandatory requirements under the legislation were found for s.633. "One third of respondents reported they were not given a warning about the consequences for failing to comply with a direction" (QPILCH, 2009).

A study conducted by Spooner in 2001 – prior to the state-wide expansion of public places – found similar abuses of the police move-on powers against youth, with more than half (57%) of the directions given were not justifiable under the legislation. For example, one alleged police direction simply stated "don't come back till you have some money" (p. 30). Section 48(3) of the PPRA states that a police officer may only direct a person to stay away from a regulated place for not more

than 24 hours. It is evident that there is a widespread failure to comply with procedural safeguards.

Effective Remedies for Misuse and Procedural Failures

The PPRA provides numerous statutory safeguards on when and how to use move-on powers. A police officer upon giving a direction to move-on is required to give the person or group of persons a reason for giving the order (PPRA, s.48(4)). Giving reasons is an important aspect of procedural justice, communicating information about the process occurring reassures the individual of the fairness of the procedure, thus impacting people's compliance with the law (Tyler & Blader, 2000, p. 11). Under section 633 of the PPRA if a person fails to comply with a direction, without supplying a 'reasonable excuse', the officer is required to warn the individual that noncompliance is an offence and they may be arrested, the officer must then allow the individual a further opportunity to comply (PPRA, s.633(3)). Further, section 679 of the PPRA requires that all move-on directions are recorded in the QPS Register of Enforcement Acts, along with the information required under the Responsibilities Code (Police Powers and Responsibilities Regulation (PPRRA, s.65). This includes officers identifying:

- when the direction was given
- location of the person when given the direction
- name of the person given the direction, if known
- reason for giving the direction
- apparent demographic of the person.

This information must be kept for a minimum of three years (PPRA, ss. 681 & 682),and be accessible by the person given the order (s.681), unless it is not in the public interest, (for example where disclosure may interfere with an investigation). In its review the CMC could not ascertain whether police had complied with move-on power safeguards, as a formalised system to capture the utilisation of these procedural safeguards does not exist. Without court challenges to a charge of disobeying a move-on direction, it is difficult to determine how often procedural safeguards are violated by police (CMC, 2010, p. 44). The Homeless Persons' Legal Clinic (HPLC) observed that it does very little work which involves challenging move-on powers issued against their homeless clients. This is because although clients are issued with unlawful directions it is easier to comply with the direction than to contest it (QPILCH, 2009). There is clearly a need to provide more effective remedies against unlawful orders, as a deterrent to the power being misused.

From a civil liberties perspective the stakes are high for all members of the public. Under the PPRA it is not necessary for the recipient of a move-on direction to have actually committed any offence, though the consequence of non-compliance is an offence. QPILCH (2009) have found when its clients have challenged a direction to move-on as being unlawful or unwarranted they are routinely "charged with contravening a direction, they do not have the resources or strength to contest charges in Court and plead guilty". Currently, there are only two ways to appeal a move-on direction. If a person chooses to refuse to comply with a direction from a police officer he or she can plead not guilty and, challenge the direction in court or can query the direction by attending the nearest police station to seek an internal review (Queensland Parliament. Record of Proceedings, May 23, 2006a, p. 1814).

Conclusion

Move-on powers were implemented to deal with minor public order and anti-social behaviour issues. They have a strong crime prevention rationale allowing police officers to direct people to move away from an area. They also purport to serve a diversionary function by offering an alternative to arrest. The aim was to give police an additional flexible tool to aid in the prevention of crime. Move-on powers were originally adopted as a restricted power to be used in prescribed circumstances and places. Over time there has been an incremental expansion into a general move-on power, an idea that was originally opposed by the Criminal Justice Commission in 1993. The policy and practice issues canvassed in this Briefing Paper have emphasized the detrimental impact in cases where these powers do not comply with the legislative safeguards. Departures from legality and the procedural safeguards falls heavily on the most vulnerable in the community, though these are capable of affecting all people who utilise public space.

The types of behaviour which attracts a police direction to move-on are not necessarily criminal. Antisocial conduct may be is transformed into an offence when the individual who is directed to move away from an area by police refuses to comply. The high rate at which individuals are disobeying directions in Queensland suggest that instead of diverting individuals from the criminal justice system, it may result in greater criminalisation. Further, the concerns that these powers are used to target disproportionately areas with high populations of marginalised groups appear to be justified. As commentators have noted, the application of a 'law and order' approach to the behaviour and presence of homeless people, Indigenous people, young people and the mentally ill in public spaces simply removes the problem from public sight and fails to deal with the complex social issues of poverty and homelessness. Empirical research suggests that the legislative safeguards and restrictions intended to guide and limit the application of move-on powers have largely failed to prevent misuses. To address these concerns it is timely for the Queensland Police Services (QPS) to undertake a review of its police training and curriculum on the operational procedures governing the use of move-on powers. It is also recommended that officers issue a written notice, where practicable, to those subject to a move-on direction, including the grounds for direction, details of the event and demographic information. Finally, as reasons for the high non-compliance rates in Queensland, relative to other states, is unknown at this stage, further research is needed.

References

ABC New Online. (2006, December 18). *Tougher police powers recommended to target gatecrashers*. Retrieved October 15, 2010, from http://www.abc.net.au/news/newsitems/200512/s1533510.htm

Anti-Discrimination Commission Queensland (ADCQ). (2005). *Submission to Brisbane City Council regarding its application for declarations of notified areas* at *Kurilpa Point, King George Square and New Farm Park*. Retrieved 15 September 15, 2010, from www.adcq.qld.gov.au/docs/Move_on_Powers.rtf

Anti-Discrimination Commission Queensland (ADCQ). (2009). *Submission to Crime and Misconduct Commission regarding its review of Queensland's move-on powers*. Retrieved, October 10, 2010, from http://www.cmc.qld.gov.au/data/portal/00000005/content/51750001243141117410.pdf

Bronitt, S., & McSherry, B. (2010). *Principles of criminal law* (3rd ed.). Pyrmont, NSW: Thomas Reuters.

Cohen, S. (1972). *Fold devils and moral panics*. New York, NY : St. Martin's Press, Inc.

Crime and Misconduct Commission (CMC). (2010a). *Police move-on powers: A CMC review of their use*. Brisbane, Queensland: Crime and Misconduct Commission.

Crime and Misconduct Commission (CMC). (2010b). *Police move-on powers: A* CMC *review of their use. Data Report*. . Brisbane, Queensland: Crime and Misconduct Commission.

Crime and Misconduct Commission (CMC). (2008). *Review of Queensland police move-on powers: Invitation for public comment*. Retrieved June 15, 2010, from http://www.cmc.qld.gov.au/data/portal/00000005/content/74691001228891880795.pdf

Criminal Justice Commission Queensland (CJC). (1993a). *Report on a review of police powers in Queensland - Volume I: An overview*. Brisbane, QLD: Criminal Justice Commission.

Criminal Justice Commission Queensland (CJC). (1993b). *Report on a review of police powers in Queensland - Volume III: Arrest without warrant, demand name and address and move-on powers*. Brisbane, QLD: Criminal Justice Commission.

Criminal Justice Commission Queensland (CJC). (1997). *Submission in response to the Police Powers and Responsibilities Bill*. Retrieved October 12, 2010, from http://www.cmc.qld.gov.au/data/portal/00000005/content/34400001201575281730.pdf

Criminal Justice Commission Queensland (CJC). (2000). *Police powers briefing paper* No: 1. Retrieved October 10, 2010, from http://www.cmc.qld.gov.au/data/portal/00000005/content/94166001131403329213.pdf

Dixon, N. (2006). *Police 'move-on" powers*. (Research Brief No 2006/16). QLD: Queensland Parliamentary Library.

Dudley, J. (2005, November 21). Move-on laws to go ahead. *The Courier Mail*.

Giles, D. (2006, January 1). Beattie wants move-on powers to avoid race riots. The

Goode, E., & Ben-Yehuda, N. (1994a). Moral panics: Culture, politics, and social construction. *Annual Review of Sociology*, 20, 149-171.

Goode, E., & Ben-Yehuda, N. (1994b). *Moral panics: The social construction of deviance*. Massachusetts, USA: Blackwell Publishers.

Hinds, L., & Murphy, K. (2007). Public satisfaction with police: Using procedural justice to improve police legitimacy. *Australian and New Zealand Journal of Criminology*, 40, 27-42.

Hogg, R., & Brown, D. (1998). *Rethinking law and order*. Annandale, NSW: Pluto Press Australian Limited.

Honourable Judy Spence. (2006, April 21). Move-on powers for all public spaces in Queensland. Ministerial Media Statement, Retrieved August 13, 2010 from http://www.cabinet.qld.gov.au/MMS/StatementDisplaySingle.aspx?id=45735

Honourable Russell Cooper. (1998a, January 19). *Protection for automatic teller machine users*. Retrieved August 13, 2010, from http://www.cabinet.qld.gov.au/MMS/StatementDisplaySingle.aspx?id=5098

Honourable Russell Cooper. (1998b, February 4). *Protection for automatic teller machine users*. Retrieved August 13, 2010, from http://www.cabinet.qld.gov.au/MMS/StatementDisplaySingle.aspx?id=5177

Honourable Tom Barton. (2000, May 17). *Move-on powers to be extended to war memorials*. Retrieved August 13, 2010, from http://www.cabinet.qld.gov.au/MMS/StatementDisplaySingle.aspx?id=30133

Jochelson, R. (1997). Aborigines and public order legislation in New South Wales. *Crime and Justice Bulletin*, 34, 1-20.

Parliamentary Criminal Justice Committee (PCJC). (1994). *Review of the Criminal Justice Commission's report of police powers in Queensland: Volumes I-III, Report 23B*.

Queensland Parliament. (1997a). Record of proceedings (Hansard). Retrieved August 13, 2010, from http://www.parliament.qld.gov.au/view/legislativeAssembly/hansard/documents/1997/971118ha.pdf

Queensland Parliament. (1997b). Record of proceedings (Hansard). Retrieved August 13, 2010, from http://www.parliament.qld.gov.au/view/legislativeAssembly/hansard/documents/1997/971119ha.pdf

Queensland Parliament. (2006a). Records of proceedings (Hansard). Retrieved August 8, 2010, from http://www.parliament.qld.gov.au/view/legislativeAssembly/hansard/documents/2006.pdf/2006_05_23_WEEKLY.pdf

Queensland Parliament. (2006b). Weekly Hansard. Retrieved August 8, 2010, from http://www.parliament.qld.gov.au/view/legislativeAssembly/hansard/documents/2006.pdf/2006_03_28_WEEKLY.pdf

Queensland Parliament. (2006c). Record of proceedings (Hansard). Retrieved August 13, 2010, from http://www.parliament.qld.gov.au/view/legislativeAssembly/hansard/documents/2006.pdf/2006_05_11_WEEKLY.pdf

Queensland Police Union (QPUE). (2009). *Submission to the Crime and Misconduct Commission Review of Queensland's police move-on powers*. Retrieved October 6, 2010, from http://www.cmc.qld.gov.au/data/portal/00000005/content/94355001243141509220.pdf

Queensland Public Interest Law Clearing House (QPILCH). (2005). *Homeless Persons' Legal Clinic submission to Brisbane City Council on move-on power applications*. Retrieved August 13, 2010 from http://www.qpilch.org.au/_dbase_upl/Move%20On%20Powers.pdf

Queensland Public Interest Law Clearing House (QPILCH). (2005). *Homeless Persons' Legal Clinic submission: Brisbane City Council move-on power application. Community development services*. Retrieved October 10, 2010, from http://www.qpilch.org.au/_dbase_upl/Move%20On%20Powers.pdf

Queensland Public Interest Law Clearing House (QPILCH). (2009). *Homeless Persons' Legal Clinic submission to the Crime and Misconduct Commission's review of Queensland's police move-on powers*. Retrieved, October 10, 2010, from http://www.cmc.qld.gov.au/data/portal/00000005/content/21085001243141319143.pdf

Rae, H., Nettheim, G., Beacroft, L., & McNamara, L. (2003). *Indigenous legal issues: commentary and materials*. Sydney: Lawbook Co.

Safe Youth Parties Taskforce. (2006, March 28). *Safe celebrations: A report into out-of-control youth parties in Queensland*. Retrieved 12 November, 2010 from http://www.police.qld.gov.au/Resources/Internet/services/reportsPublications/documents/Safe%20Celebrations.pdf

Spooner, P. (2001). Moving in the wrong direction: An analysis of police move-on powers in Queensland. *Youth Studies Australia*, 20(1), 27-31.

Sunday Mail.

Sunshine, J., & Tyler, T. R. (2003). The role of procedural justice and legitimacy in shaping public support for policing. *Law & Society Review,* 37(3), 513-548.

Taylor, M., & Walsh, T. (Eds.). (2006). *Nowhere to go: The impact of police move-on powers on homeless people in Queensland*. Retrieved June 25, 2010, from http://www.qpilch.org.au/_dbase_upl/Nowhere%20To%20Go.pdf

Tyler, T. R., & Blader, S. L. (2000). *Cooperation in groups: Procedural justice, social identity, and behavioural engagement*. Ann Arbor, MI: Taylor & Francis.

Walsh, T. (2004a). *From park bench to court bench: Developing a response to breached of public space law and marginalised people*. Retrieved August 8, 2010, from http://www.law.uq.edu.au/staffprofiles/publications/Walsh_T_ParkBenchToCourtBench_Combined.pdf

Walsh, T. (2004b). Who is the 'public' in 'public space'? A Queensland perspective on poverty, homelessness and vagrancy. *Alternative Law Journal*, 29(20), 81-86.

Walsh, T. (2005). Won't pay or can't pay? Exploring the use of fines as sentencing alternative for public nuisance type offences in Queensland. *Current Issues in Criminal Justice*, 17(2), 217-238.

Walsh, T. (2006). *No offence: The enforcement of offensive language and behaviour offences in Queensland*. Retrieved November 18, 2010, from http://www.law.uq.edu.au/staffprofiles/publications/Walsh_T_NoOffence_Combined.pdf

Walsh, T. (2007). *No vagrancy: An examination of the impact of the criminal justice system on people living in poverty in Queensland*. Retrieved November 18, 2010, from http://www.law.uq.edu.au/staffprofiles/publications/Walsh_T_No-Vagrancy-CombinedIncCover-LoRes.pdf

Walsh, T., & Taylor, M. (2007). 'You're not welcome here': Police move-on powers and discrimination law. *The University of New South Wales Law Journal*, 30, 151-173.

Wenham, M. (2005, May 6). Mayor seeks police move-on action. *The Courier Mail*.

White, S. (2008). The politics of indifference. *Alternative Law Journal*, 33(3), 182.

Legislation

Crime Prevention Powers Act 1998 (ACT)

Criminal Investigation Act 2006 (WA)

Law Enforcement (Powers and Responsibilities) Act 2002 (NSW)

Police Offences Act 1935 (TAS)

Police Powers and Responsibilities Act 1997 (QLD)

Police Powers and Responsibilities Act 2000 (QLD)

Police Powers and Responsibilities Regulation 2000 (QLD)

Summary Offences Act (NT)

Summary Offences Act 1953 (SA)

Summary Offences Act 1966 (VIC)

Summary Offences Act 1988 (NSW)

About the Author

Helen Punter graduated from Griffith University in 2010 with a Bachelor in Criminology and Criminal Justice. Helen is currently undertaking her honours in Criminology and Criminal Justice, on the effects of early non-parental child care on adolescent antisocial behaviour. This research provides the opportunity to explore an interest in developmental criminology and bioecological influences on individual criminality. Further interests include policy and practice issues of the criminal justice system. Helen hopes to pursue a PhD in the near future.

All papers in this series are subject to expert peer review.

General Editor of this series: Professor Simon Bronitt, Director, ARC Centre of Excellence in Policing and Security.

For a complete list and the full text of the papers in this series, please visit www.ceps.edu.au.

ARC Centre of Excellence in Policing and Security

M10_3.01
Mt Gravatt Campus
170 Kessels Road
NATHAN QLD 4122
Ph: 07 3735 6903
Fax: 07 3735 1033

www.ceps.edu.au

Views expressed are personal to the author, and should not be attributed to CEPS or its industry partners.