

**FREQUENTLY ASKED QUESTIONS ABOUT
BILL 7 SAFER COMMUNITIES AND NEIGHBOURHOODS ACT**

Prepared by the Department of Justice, August 21, 2007.

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SAFER COMMUNITIES AND NEIGHBOURHOODS ACT (SCAN)
Frequently Asked Questions

Question: Why do we need this legislation?

- During consultations on a variety of justice issues, residents of large and small communities repeatedly complained about the impact of drug dealing and bootlegging in their neighbourhoods.
- The legislation provides a new way to deal with properties where people are continually disturbing their neighbours with illegal activities like bootlegging and drug dealing.
- SCAN provides a complaint driven process where action can be taken to stop these activities.
- SCAN investigators would work with other groups, like the RCMP, social agencies and housing organizations to provide appropriate supports for people who need them.
- SCAN gives people an opportunity to change their harmful behaviour. Investigators will not take action against people who choose to stop their activities.

Legislative Questions:

Question: Does the proposed legislation need to be reworked significantly?

- No. The proposed NWT SCAN legislation is built upon successful and proven SCAN legislation in Manitoba, Saskatchewan, Nova Scotia, Yukon and Newfoundland. Ontario and Alberta are also considering this legislative model to respond to acute problems in their neighbourhoods and communities.
- A few amendments have been proposed to respond to concerns or suggestions raised by NWT residents and/or Members of the Legislative Assembly.

Amendments for consideration include:

1. providing for automatic stay of a community safety order if an application is made by a resident to vary the order;
2. ensuring that when an application for a court-ordered community safety order is necessary, tenants receive formal notice of the application in addition to the notices they would receive through the informal process (this would make sure that they have the opportunity to be involved in the court process);
3. changing the appeal provisions so that an appeal can be made on grounds other than a point of law;

4. allowing the director to seek a court order if information critical to the investigation is not provided (similar to a provision in the Human Rights Act); and
5. removing penalties for people who do not provide information to the SCAN investigator when asked.

Question: Do SCAN investigators have an unusual amount of discretionary power?

- No. SCAN investigators would have similar powers to other statutory officers, like liquor inspectors, fire marshals, wildlife officers, safety officers and environmental health officers. They would be bound by the rules governing public officials and by policies that would be developed to guide their work. Many public officials have power to make discretionary decisions under NWT legislation.
- Court applications for evictions or property closures are not necessary if the person agrees to stop the activity. Judges, not SCAN investigators, make community safety orders.
- No person would be evicted from his or her home without warning or recourse. If there is evidence of specified uses that habitually disturb the community, the investigator's first step is to try to stop the activity informally.
- The powers of SCAN investigators are quite limited, especially compared to the RCMP. For example, SCAN investigators will only be able to monitor activity at a property from outside the building.
- A Code of Conduct will be developed to ensure that SCAN investigators operate within the context of the Act. This will be similar to the code the RCMP currently use.

Question: Is the standard of proof unusually low?

- No. The "balance of probabilities" is the usual standard of proof in civil matters. It means that when the judge looks at all of the evidence, he or she makes an order based on a belief that it is more likely than not the specified activities are habitually disturbing the neighbourhood.
- The outcomes are limited to eviction and property closure, not the more severe penalties that can come with a charge under the federal *Criminal Code*.

Question: Will SCAN result in the eviction of people who aren't bothering anyone, like people who play occasional card games?

- No. Occasional card games are not covered by the Act.
- People who are not disturbing anyone will not attract complaints. Even if a SCAN investigator looked into this type of complaint, the file would be quickly closed: there simply would be no evidence of habitual disturbance to the neighbourhood.

Question: Will people be thrown out of their houses with no warning, no chance to hear or speak to the evidence against them, and no way to appeal?

- No. The goal of this legislation is to stop illegal activity that harms a community and residents (usually bootlegging or drug dealing). People will be warned, and if they choose to stop their disruptive activity, further action like eviction or property closure will not be pursued. A court application for eviction or property closure would only be made after all else fails.
- Owners and occupants will receive the application for a community safety order and will be able to speak to the evidence in court. They can also apply to stay, vary or appeal the order in the same way they could for orders made under other territorial legislation.
- Experience from other jurisdictions has shown that in almost all cases a complaint is resolved through informal actions and a court order is not required. In five years, there has only been one community safety order in Manitoba.

Question: If there is evidence of specified activities that are habitually disturbing the neighbourhood, will people always be evicted?

- No. People will be given a choice: they can stop their activity or face the consequences of eviction or property closure. For example, people may be running a drug house. If they choose to stop selling drugs from the property (and therefore stop the disruptive activity), they will not be evicted under SCAN.
- Evictions are only necessary when people continue to disturb the community with their activities. The investigator can even put the person in touch with social agencies who can support that individual's efforts to change their behaviour and help deal with underlying issues.

Question: Can people have their neighbours evicted without evidence?

- No. This is inaccurate and cannot happen under the legislation. No one can be evicted simply on the basis of the original confidential complaint.
- The complaint triggers an investigation. All evidence used in an application for a community safety order comes from this investigation. When the SCAN director applies for a community safety order, the "accuser" is the investigator, not the complainant. The investigator's testimony and physical evidence would be the evidence in court.
- Frivolous complaints will happen – they are a normal part of all investigative work. Such complaints are quickly screened out and even if they did proceed to the investigation stage, there would be no evidence to support any further action.

Question: Can families be evicted even though only one person is involved in the disruptive behaviour?

- No. SCAN is designed to target specific individuals who are responsible for the disruptive behaviour. If only one person was involved in the activity, the entire family would not be evicted. Only the person involved in the activity would have to leave.
- If a warning was enough to stop the disruptive activity, no further action would be taken. If an eviction was necessary, only the person who was causing the problem would be evicted.

Question: Are court orders made in secret hearings?

- No. Community safety orders are made in open court. Anyone can attend court, and the property owner and occupants will receive the application. They can hear the evidence against them and present their own evidence.

Question: Does this legislation allow people to face their accusers?

- Yes. When the SCAN director applies for a community safety order, the “accuser” is the SCAN investigator, not the original complainant. All evidence comes from the investigation, not the confidential complaint that triggered the investigation.
- People phone the RCMP anonymously regularly and the implications for reporting to a criminal enforcement agency are potentially much more serious than this civil remedy.

Question: Could people be evicted under SCAN for hosting loud parties?

- No. Loud parties are not covered by the legislation.
- SCAN investigators would only get involved if the activity met three criteria:
 - the activity involved a “specified use” as indicated in the legislation;
 - the activity was habitually happening at the property; and,
 - the community was negatively affected or there was a serious threat to the health, safety or security of the community
- Landlords already have the right under the *Residential Tenancies Act* to bring proceedings to evict tenants for hosting loud parties, but this situation **would not** be covered under SCAN legislation.

Question: Will illegal operations simply be moved to new locations?

- This does happen sometimes. However, experience clearly shows that disrupting an illegal operation has a big impact on the activity, and business decreases with each

disruption. The new location often does not have the features that made the old location attractive, and the move alerts customers that they are being watched.

- The goal is to stop activities that disrupt and tear apart our communities. Investigators may be able to put people in touch with social supports to help them stop their behaviour and deal with root causes, not simply continue their activities in a new location.
- A SCAN investigation is triggered by a complaint. If the activity moved to a new location, the director would act on any new complaints that were received.

Operational/Implementation Questions:

Question: Are SCAN investigators qualified to know if the activity is actually happening or make appropriate decisions in light of evidence they collect?

- Yes. Investigators would have the same experience as seasoned RCMP officers with significant experience in drug and/or vice investigations. We are proposing only to hire ex-law enforcement officials who are familiar with investigative techniques and the Charter.

Question: Will the SCAN office be established in Yellowknife and address only Yellowknife problems?

- Implementation planning and preparation would take at least one year after the bill receives assent. The legislation is aimed at addressing problems across the NWT. No final decisions have been made on the SCAN staffing model. For discussion and planning purposes we costed the program using a Yellowknife-based model. The 16th Assembly will debate and discuss various models for program delivery. This will require broad consultation with stakeholders.
- The planning process will review the working experience of all other jurisdictions that have implemented SCAN, including how the legislation works in smaller and more isolated communities. Saskatchewan and Manitoba are having success in both large and small communities, including their northern regions. The Yukon office has already been able to stop disruptive activities at twenty properties.

Question: Do toll-free numbers work from every community in the NWT?

- Yes. There are toll-free numbers used for other programs in the NWT that have been tested from every community.
- Residents from across the NWT will be able to contact the SCAN office for assistance.

Question: Will Legal Aid be available for those who face applications for community safety orders?

- Yes. Legal aid can and does cover civil matters. They have provided lawyers for *Protection Against Family Violence Act* hearings and in workers' compensation and rental matters.
- We have every confidence that the Legal Services Board would provide legal services for SCAN hearings for residents who are eligible for coverage.

Question: Will people in smaller communities have access to court to vary or appeal a community safety order?

- Yes. Residents of a small community would be able to make an application to vary or appeal a community safety order. Courts travel to smaller communities, as do lawyers. The court also has the discretion to hear matters by teleconference, and lawyers often meet with clients by telephone. If a person has a difficult time finding a lawyer, they can apply to have their court date delayed – just as they can now in criminal matters.

Question: Would enforcement be needed if more/different treatment was available?

- Yes. SCAN legislation is not intended to work in isolation. Healing and treatment will always be essential. However, enforcement is also important.
- SCAN legislation would not be implemented without policies and agreements with other social-programs departments and appropriate non-government organizations. There is no single solution to reducing crime rates. The solution requires a broad range of services, supports and interventions. SCAN is a proven tool in other jurisdictions that can be added to the things we are already doing.
- This Act would provide another way to deal with some of the chronic social issues that exist, because it focuses on stopping activities that have a negative effect on the community. It would raise the profile of these disruptive activities within communities and provide an opportunity for people involved to access assistance.

Attachments:

- 1) Letter from Yukon Minister of Justice Hon. Marian Horne
- 2) Letter from RCMP Superintendent Rick Roy



Office of the Minister
Box 2703, Whitehorse, Yukon Y1A 2C6

MINISTER BELL 17

Date Rec'd: 14/8/07
Log #: _____ File: _____
To Minister: ✓
Copy to: Justice
Brief. Req'd: _____
Response Req'd: ✓
Info Item: _____
Other: _____

July 31, 2007

Honourable Brendan Bell
Minister of Public Justice
Government of the Northwest Territories
P.O Box 1320
Yellowknife, NT
X1A 2L9

Initial(s): RB 14-8-07

Brendan
Dear Minister Bell:

RE: SAFER COMMUNITIES AND NEIGHBOURHOODS LEGISLATION

I thought you may be interested in the progress of the implementation of our legislation. The Yukon Government developed a *Safer Communities and Neighbourhoods Act* (also called "SCAN"), which was passed with all party support in May 2006 and proclaimed in force in November 2006.

The legislation provides for the eviction of tenants where specified use has been taking place, such as drug dealing, bootlegging, or activities involving other intoxicating substances, or for the short-term removal of a property owner. The act sets a civil, rather than a criminal, standard of enforcement.

Since coming into force the SCAN office has dealt with over 95 complaints on 75 locations. Ten terminations have resulted, seven locations have voluntarily ceased activity, and three locations have received warnings. Significantly, this legislation was used to cease the activities of a notorious downtown "crack house", resulting in a safer environment for neighbours and their families.

One of the keys to successful implementation of our legislation has been the ability to work closely with other departments, non-governmental organizations, and the federal and First Nations governments, to ensure coordinated support for those affected by SCAN actions. Work with First Nations governments to facilitate application on settlement land, as desired, is ongoing.

We are grateful to Manitoba and Saskatchewan for their invaluable help and support in developing and implementing this legislation.

I would be pleased to speak further with you about Yukon's experience with this legislation.

Yours very truly,

A handwritten signature in black ink, appearing to read 'M. Horne', with a long, sweeping flourish extending to the right.

Marian C. Horne
Minister of Justice



Royal
Canadian
Mounted
Police

Gendarmerie
royale
du
Canada

Commanding
Officer

Commandant
divisionnaire

Bag 5000
Yellowknife, NT
X1A 2R3

August 21, 2007

The Honourable Brendan Bell
Minister of Justice, GNWT
P.O. Box 1320
Yellowknife, NT X1A 2L9

Dear Minister Bell:


Over the past year, "G" Division RCMP has been keenly interested in the development of the proposed Safer Communities and Neighbourhoods legislation by the Government of the Northwest Territories.

Similar legislation has been enacted in the provinces of Manitoba, Saskatchewan, Nova Scotia and in the Yukon Territory, where it is proving to be a viable option in curtailing illegal activities, negatively affecting our communities.

From the outset, "G" Division RCMP has endorsed this GNWT initiative both in the media and through our attendance and participation in community consultation forums across the Northwest Territories. We consider it to be a progressive approach by a committed and concerned government, complementing our *raison d'etre* of Safe Homes and Communities.

Your continuing interest in promoting public safety is appreciated.

Very sincerely,



R.T. (Rick) Roy, Superintendent
Acting Commanding Officer
"G" Division

MTC:lb

Canada

