



Proposed *Safer Communities and Neighbourhoods Act* Public Consultation Results

Introduction

The Department of Justice held consultations for the proposed *Safer Communities and Neighbourhoods Act* from November 1, 2006 to January 19, 2007. The purpose of the consultations was to gauge public interest in this type of legislation for the NWT, and identify issues or concerns.

Members of the public were invited to attend public meetings and submit responses by fax, e-mail or regular mail. An online survey was also made available on the Department's website. This survey asked the same questions as those in the consultation paper.

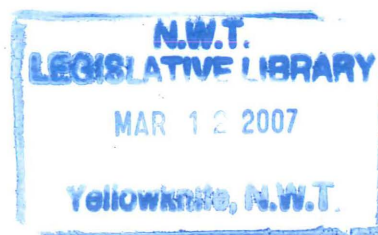
Consultations included travel to eight communities: Yellowknife (November 20), Fort Smith (November 21), Inuvik (November 22), Norman Wells (November 23), Fort Good Hope (November 24), Hay River (November 27), Fort Simpson (November 29) and Behchokò (December 13). Arrangements were made for representatives from other communities to attend one of these meetings, based on interest from communities.

Materials were produced in English, French and Tłıchǵ and interpretation into North Slavey and Tłıchǵ was provided (upon request) at public meetings. Department officials were joined by the director of the Saskatchewan SCAN unit (November 20-24 meetings) and by RCMP representatives from the local detachment. RCMP from "G" Division were also able to attend some meetings, as available.

General Findings

236 people responded: 200 were generally in favour of the Department's proposal and 36 were generally opposed to it. These responses varied widely, especially in Yellowknife where some residents indicated strong opposition and others indicated there was an urgent need for this legislation to be implemented immediately. Outside Yellowknife, residents were overwhelmingly in favour of the proposal.

Appendix 1 includes information on questions frequently raised during consultations. Appendix 2 presents a summary on how the legislation works (based on Saskatchewan's Act).



Summary of Results According to Consultation Paper Questions

The consultation paper posed nine questions and the online survey asked the same questions in a slightly different format. People at public meetings generally did not answer the questions in order: rather, they asked questions and stated their opinions about different parts of the proposal.

Each question is listed below, with the responses summarized and some quotes from participants. Information that would identify the speaker has not been included in this report.

1. Based on the information you have seen, do you believe this is an initiative the government should pursue? Why or why not?

85% of the submissions indicated support for the proposal.

"This type of legislation is long overdue. I fully support and urge the GNWT to accelerate its implementation."

"I don't think the GNWT will really do this. People say drugs are horrible, but they turn around and say they don't want to offend drug dealers, or it will send a bad message."

"Chasing people from their homes will not solve anything. What will happen will be an increase in violence and homelessness and an increase in illegal activity in public places."

"I nearly jumped out of my seat when the flyer came to the house. People are suffering everywhere. People are afraid to complain now because of family and personal threats. Violence and property damage often result from people speaking out."

"For far too long the hands of the police have been tied when trying to protect citizens from substance abuse and crime that has taken over the city, in particular the downtown core. It has gotten so that upstanding, moral people do not want to be in the downtown area past 6pm any day of the week."

2. Will this work in your community? Why or why not?

Most respondents indicated that the proposed process would work well in their communities. A few asked questions about how it would work in very small communities with no road access.

"People who engage in these activities cannot be evicted under current rules. Thanks for pursuing this. A few evictions might smarten up others."

"It would give law enforcement the leverage they need to put an end to these illegal activities and also help police officers to maintain peace in the communities. In the near future the communities will get flooded with hard-core drug use. This Act will help prevent or maintain what comes into the communities."

"There is a property near our home where illegal alcohol is being sold, individuals are urinating on our property and a crowd of regulars from the community attend. SCAN is a good thing and we support it 100%."

"If drug dealers and bootleggers could be evicted it might slow down the use or at least contain it."

3. What advantages do you see in having this proposed Act?

Most respondents indicated that the main advantages would be the ability to take action quickly to stop the disruption to the neighbourhood without sending a person to jail. A few people indicated that there would be no advantages.

"A community-driven initiative like this is more important than a justice-driven initiative."

"People wouldn't lose faith in the system any more. This could be a safe town again."

"Preventing crime on the front end would be a huge benefit to all residents."

"There would be no advantage. This money should be spent on policing."

4. What challenges do you see with the proposed Act?

There was a range of opinion about the potential challenges. The majority of responses involved the Department's capacity to hire enough investigators with the proper training. A few residents indicated that the proposal could dramatically increase social problems.

"Two to four investigators would be insufficient. I suggest a minimum of eight investigators with two placed south of the lake."

"Sorting out real from frivolous complaints."

"The clear challenge will be evicting people in the wintertime. Clearly the eviction is the penalty and if word gets out, finding accommodation in the community will be difficult. With this said, we can see no other way and we are pleased to see that consideration has already been given to the emergency needs of children and other people who live in the property who are not involved."

"As long as there is a market for the drugs and social problems are not addressed, the drugs will come from somewhere. I am also concerned with the ability of individuals to fight false allegations."

5. Is this the right way for the government to deal with these illegal activities in communities? Why or why not?

Most respondents indicated that the police should continue to arrest people for crimes, but that the proposed legislation would be welcome. Some respondents indicated that the RCMP should be the only law-enforcement agency to deal with the specified activities.

"It's one way, but maybe not the right way all the time. Some of these guys should go to jail."

"I think it's about time the government is taking the steps to deal with this issue."

"I'm scared that this may infringe on civil liberties."

"There is a crisis out there. This may prevent vigilantism by the public. The dealers basically thumb their noses at the police."

6. Would you feel empowered to make your community safer if this Act was in place?

Most respondents indicated that they would feel empowered to make their communities safer. A few respondents indicated that they would feel less safe if this Act was in place.

"I know of two houses on my city block that engage in bootlegging and drug dealing. I have only once called the RCMP but with this new legislation to deal specifically with these issues, I will be more comfortable making those calls."

"Residents will feel safe in making complaints if their identity is protected. Under the Act this is so, and the investigator takes over the task of collecting the evidence and providing proof to the police and courts."

"As my children are on these streets, anything I can do to make them safer is a good thing."

"I would contact the RCMP and have done so concerning problems in my neighbourhood, so this Act will not change my behaviour or thinking."

7. Would you provide information to investigators or place a complaint if illegal activities were affecting your neighbourhood? Why or why not?

Most respondents indicated that they would place a complaint. A few respondents stated that only the RCMP should investigate these activities.

"I would report to Crime Stoppers or the RCMP. I don't know how I would begin to trust a new organization."

"Over the last 3-5 years I have watched as drug use and alcohol abuse has become more and more visible on the streets. I can't go downtown without seeing people under the influence or clearly suffering from the after-effects. I think it is time that we as law-abiding people raising children stand up and take back our streets."

"It is up to the individual to make the community a safer place. Turning a blind eye to illegal doings does not negate our responsibility."

"It's good to have a range of tools to keep neighbourhoods safe."

8. What would you expect to happen if you placed a complaint?

Most respondents indicated that they would expect investigators to follow up on a complaint to determine if it was valid and to let them know the results of the investigation.

"I would expect to have prompt contact with an investigator and feedback about what has been determined."

"Hopefully some action could take place rather than the nothing that is happening currently."

"I would hope the legitimacy of the complaint would be looked into before actual steps are taken to investigate."

"The complaint should be heard, documented, legitimized (based on criteria and definitions of behaviour in the Act) and then investigated. Also, it should be shared with the RCMP and contact with the RCMP made to find out any other complaints or history with the persons they have had, to help substantiate the complaint. Complainants should have the choice to be contacted with follow-up or progress that is happening, if it's a legitimate complaint."

9. Are there any other situations where you think this legislation could apply?

Most respondents indicated that the proposed specified activities were appropriate. Others suggested that family violence, public drunkenness or illegal use of snowmobiles should be included. Others stated that the proposed legislation is already too broad.

"It would be good if this could be used or adapted for public areas or parks."

"You're kidding, right? What about the Constitution?"

"These are good for a start. If it works, I'm sure people will suggest other areas."

Written Submissions

The Department received 65 written submissions: 39 completed online surveys, 20 responses by e-mail, four submissions by fax and two responses by regular mail.¹ In addition, one submission was received by phone. Forty-two (42) submissions were in favour of the proposal, while 17 were opposed to it. The remaining respondents did not take a firm position: they generally asked questions, described the complex issues involved with crime, and/or were not convinced that Safer Communities legislation would be either helpful or harmful.

Comments in favour of the proposal:

- Confidentiality of complainants is crucial because people are afraid to testify in court.
- Our current laws are ineffective at getting rid of drug dealers and bootleggers.

¹ It is recognized that some of the people who provided written submissions may have also attended public meetings.

- We need a way to keep people from dealing drugs and bootlegging.

Comments critical of the proposal:

- Drug dealing and bootlegging should be dealt with by the police, not by a new agency.
- People may make vexatious complaints to harass their neighbours.
- This will not decrease addictions; it will only create homelessness.

Summaries of Public Meetings

Yellowknife Public Meeting: November 20, 2006

Twenty-four (24) people attended the public meeting in Yellowknife. Most participants were affiliated with City Council, the Legislative Assembly or local non-government organizations.

Participants were generally critical of the Safer Communities proposal and raised concerns in a number of areas, especially:

- People may make complaints just to harass their neighbours.
- There are not enough social supports to help addicts.
- Investigators may not be qualified to know if the activity is actually happening at a property.
- Homeless people will end up in Yellowknife.

A few participants were in favour of the proposal and made the following comments:

- This will target drug dealers, not their victims.
- Our biggest problem is that people are scared to come forward. This would protect the complainant.

Fort Smith Public Meeting: November 21, 2006

Twenty-seven (27) people attended the public meeting in Fort Smith. Most were supportive of the proposal, with some reservations about how it would operate in the NWT.

Comments in favour of the proposal:

- Confidentiality is important. People are afraid of the dealers.
- We must get rid of the traffickers.
- This legislation would be good as one part of our larger justice system.

Comments critical of the proposal:

- People should be able to face their accuser.
- People should be charged and rehabilitated instead of using this law.

General comments:

- The courts should give harsher sentences for these offenses.
- We should be lobbying Ottawa to change current federal laws and untie the hands of the RCMP.

Inuvik Public Meeting: November 22, 2006

Nineteen (19) people attended the public meeting in Inuvik. All but one expressed significant support for the proposal. Participants also stressed the need to visit more communities to ensure that residents would be aware of this new legislation, if passed.

Comments in favour of the proposal:

- Violence keeps people from speaking out. People are afraid to complain because they have no protection.
- These are huge problems that are killing people. We need to stop the drugs and bootlegging.
- Right now, people in public housing are dealing drugs and can't be evicted.
- A few evictions might smarten up the rest of the bootleggers.

Comments critical of the proposal:

- This is a strong piece of legislation and there should be more opportunity for an appeal.

General comments:

- The Department should visit more communities.
- Where will the investigators be based? We need jobs.

Norman Wells Public Meeting: November 23, 2006

Nine (9) people attended the public meeting in Norman Wells. The community was supportive and asked questions about how investigations would work. Participants also asked the Department to visit more communities to talk about the Safer Communities legislation.

Comments in favour of the proposal:

- Drug and solvent abuse is a big problem. The RCMP and Social Services do not do anything about it and it causes many suicides.
- This is a good Act. We must be flexible for different communities.

General comments:

- SCAN investigators should be able to refer people to justice committees.
- Translation should be provided when the investigators take complaints and work on investigations.

- The Department should visit more communities and tell people about this law, if it is passed.
- Investigators should be armed.

Fort Good Hope Public Meeting: November 24, 2006

Twenty (20) people attended the public meeting in Fort Good Hope. Residents were very supportive and felt that the legislation might help them reclaim some of their residents from existing problems while taking a hard line against people who choose to come to the community to engage in illegal activities.

Comments in favour of the proposal:

- Drugs should be the first target. In Yellowknife there are houses that have nothing in them but drugs.
- We should do this right away and people should pressure their MLAs to pass the legislation quickly.
- Prostitution is very serious. People are selling themselves for alcohol and drugs.

General comments:

- Wilderness camps could be used to rehabilitate people.
- There should be more meetings, more media coverage and more communication.

Hay River Public Meeting: November 27, 2006

Seventeen (17) people attended the public meeting in Hay River. Residents were very supportive and were clear that their community has a need for this legislation. A number of residents asked questions about the Legislative Assembly's ability to pass the legislation quickly.

Comments in favour of the proposal:

- This legislation needs to be put in place right away.
- This is a good idea, as long as our current policing resources are not strained.
- We need to be stricter with dealers. They move from place to place and they certainly have the means to find a place to stay.

Comments critical of the proposal:

- This legislation may not be tough enough. Housing lets people back in when they shouldn't. Drug dealers are getting off too easy.

General comments:

- The GNWT needs to provide enough money to hire an appropriate number of investigators. Four investigators would not be enough.

Fort Simpson Public Meeting: November 29, 2006

Seven (7) people attended the public meeting in Fort Simpson.²

Comments in favour of the proposal:

- People get too many chances. It is time to get tough on people who deal drugs.
- This is a great idea. People often have difficulties speaking about the problems in the community, so confidentiality is important.
- I am afraid that people will know that I talked to you. My community is overrun with drugs and alcohol. This legislation would work very well in a tiny community like mine.

General comments:

- Family violence should be included in the legislation.

Behchokò Public Meeting: December 13, 2006

Sixty (60) people attended the public meeting in Behchokò, including Tłıchò leadership. The community was supportive and thanked the Department for proposing this legislation.

Comments in favour of the proposal:

- Bootlegging is a huge problem and people are dying. All of the elders support this legislation.
- Our kids need a safe place to live. Elders have to leave their homes because people are partying.
- Everyone here agrees that this is good.

General comments:

- We would like to look at the draft legislation.
- Please come back to our communities to talk about this.

² Due to the tragic death of an elder, attendance was lower than expected.

Appendix 1

Frequently Asked Questions About the Proposed *Safer Communities and Neighbourhoods Act*

The Department of Justice held consultations for the proposed *Safer Communities and Neighbourhoods Act* from November 1, 2006 to January 19, 2007. Most, but not all, people that participated in the consultation were in support of bringing forward this kind of legislation in the NWT. People that participated also had questions and some had some concerns about the legislation. The following addresses concerns and questions raised.

Is this law fair?

One of the most common concerns about the proposed legislation is that it may not be fair. During the consultations some people said that they were worried that this legislation may violate the rights of individuals, that people will be wrongfully or maliciously accused of illegal activities, that the level of proof is too low, and that some people will be thrown out of their homes without anywhere to go.

Rights of Individuals – This kind of legislation is in place in the Yukon, Saskatchewan, Manitoba and Nova Scotia. All of these places reviewed the legislation to make sure that it did not violate their residents' rights as protected under the *Charter of Rights and Freedoms*. The NWT has also carried out its own review and reached the same conclusion.

Complaints will be investigated to find out if someone is really involved in illegal activities. If there is proof of illegal activities, the person(s) involved will have an opportunity to stop the activity before any application is made to the Court to evict the person(s) or close the building. If an order is made by the Court and the people involved think it is wrong, they can make an application to change or stop the order.

Malicious Complaints – All complaints will be looked at to determine if they should be investigated. If an investigation shows that someone made a complaint that is not true, no further work will be done – the file will be closed. The person who complained can choose to bring an application to the court even if the investigator closed the file. If the court determines their application is "vexatious or frivolous", the complainant can be fined or spend time in jail.

Level of Proof – In most civil legislation, including *Safer Communities*, the judge must be convinced "on a balance of probabilities" that illegal activities are regularly occurring and that they are disturbing the community. This level of proof means that the judge, based on the evidence provided, must believe that it is more likely than not that these kind of activities have occurred. In criminal matters the judge must be convinced "beyond a reasonable doubt". This higher standard of proof often requires more time and resources, and reflects the kind of sentence that a criminal conviction may bring,

i.e. jail time and a criminal record. With Safer Communities legislation, the outcomes are limited to an eviction or temporary closure of the property.

Homelessness – Homelessness is a serious issue in the NWT. The government is taking steps to address homelessness, as it recognizes there are individuals and families who need assistance in finding a secure, safe place to live.

Safer Communities legislation is not about evicting innocent people who simply wish for a secure, safe place for themselves and their families. This legislation targets people shown to be involved in an illegal activity that disrupts or harms the neighbourhood. These people have a choice to stop the activity or be evicted. Those who choose to continue these activities could end up homeless if they have no place to go following their eviction, but it is important to recognize it is their decision to continue with the illegal activities.

The legislation is set up to permit informal actions rather than court-ordered actions. Property owners or tenants (if the complaint involves tenants) receive warnings before formal evictions and property closures are considered. As well, the legislation allows for the eviction of some but not necessarily all of the people in the building, so those not involved with the illegal activity are not evicted. If they are included in the eviction order, they can still apply to the court to have the order changed so that they don't have to leave.

Wouldn't we be better off dealing with the root causes?

This is another basic concern that people had. They wondered if there are other more effective ways of dealing with people who become involved in illegal activities. Poverty, drug and alcohol addiction, family breakdown, as well as lack of education and marginalization, are some of the reasons that people become involved in illegal activities.

The Government of the NWT offers a number of programs and services that aim to address these root causes. Safer Communities legislation could compliment these efforts by connecting those involved with the helping programs. As part of the implementation of the legislation, protocols could be developed with various social and policing agencies. These protocols could establish the conditions where another agency might become involved in a matter to provide alternative housing, to protect children, to connect people with alcohol or drug counselling, or to pursue criminal charges.

Is this a good way to spend our money?

People who participated in the consultation also expressed concern and asked questions about the costs associated with this initiative. Some people thought that the money might be more effectively spent on increasing the number of RCMP in the NWT and that, with more RCMP, the existing criminal system should be able to handle the problem of illegal activities in our neighbourhoods. Other participants were concerned

that the money spent on investigations would be wasted if the illegal activity just moved to another location.

Costs – Other jurisdictions required about \$350,000 for equipment purchases and start-up of the investigative unit, and about \$500,000 a year to cover staff salaries, benefits, travel, office and equipment costs. Ongoing costs have risen in these jurisdictions, as they have had to add staff and open new offices to meet the demand.

If the NWT were to proceed with this legislation, it is estimated that a single office in Yellowknife with four staff would require a one time start up cost of \$350,000 and about \$825,000 a year for staffing, travel and other ongoing costs.

RCMP Positions – This legislation gives us a civil remedy that is outside the current role of the RCMP. According to the RCMP, even with more officers they would not be able to do what this legislation allows for. They could investigate the activities but would only be able to arrest individuals involved if and when sufficient evidence was collected. Arresting one or more individuals may not stop the activity at the building. Stopping the activity by informal actions or by eviction may be more effective.

Criminal Justice System – Safer Communities legislation can be quicker and more responsive than criminal legislation when it comes to closing down an entire operation. A criminal process usually targets individuals involved and requires a higher level of proof. More resources and investigative time are typically required to prove a criminal offence.

Moving the Problem Around – Based on the experience of other jurisdictions, it is true that illegal operations may move to a new location if targeted by a Safer Communities investigation. However, disrupting an illegal operation can have a big impact on the activity, and with each disruption business decreases. The new location usually does not have the features that made the old location attractive and the move alerts customers that they are being watched. A new complaint and investigation would be necessary for the new location, but a sustained effort by the Safer Communities can eventually make the activity stop.

Why is this law being proposed?

Across Canada, people are frustrated by drug dealing in their communities. The RCMP repeatedly arrest the dealers, but someone else may take over the drug house and continue the operation. Sometimes police are unable to make a criminal case because the drugs have been destroyed when they arrive at the property. In some communities, including here in the NWT, residents have taken vigilante actions to deal with people they think are dealing drugs or bootlegging.

The Minister, MLAs, the Department, the police and the media have received many pleas for “someone to do something” about the fact that drugs and alcohol are being openly sold from dwellings in their neighbourhoods. The RCMP enthusiastically support this program here and in the other jurisdictions that have this legislation.

When would this law come into effect?

Implementation would probably take about a year after the legislation was proclaimed.

Where will the investigators be based?

If this initiative proceeds, the Safer Communities staff would be based in Yellowknife. If there is adequate demand, investigators may be transferred to or hired from other communities to carry out investigations in that region.

What has been the experience in other parts of Canada that have this legislation?

Manitoba and Saskatchewan: After four years of operation, Manitoba investigators have closed 200 operations. 300 other operations were closed in other ways: for example, the file was referred to another agency or the people moved before the investigation was complete. After two years of operation, Saskatchewan investigators have closed 200 operations. 150 others were closed in other ways: for example, by issuing a warning letter or referring the file to another agency.

In both Manitoba and Saskatchewan, a combined total of four community safety orders have been granted. These orders are almost never necessary because the people agree to move or to stop their illegal operations. In both jurisdictions, about half of the files do not show enough evidence to proceed with any remedy. These files are closed and no action is taken on them.

Yukon: Yukon began operations in late November 2006, and 18 complaints were received in the first six weeks. Nova Scotia just began operation of their legislation in January 2007.

Can charges be laid?

Yes, the evidence can be turned over to police for use in a criminal investigation.

Could Community Justice Committees be involved?

Prior to an offence, and as part of an informal action, there may be a role for Community Justice Committees. This role (if any) would need to be worked out with the Justice Committees.

What qualifications will the investigators have?

The investigators would have the same qualifications as seasoned RCMP officers. The investigators in other Safer Communities units are former police officers with years of experience. It is essential that investigators have significant experience in drug and vice policing.

Will investigators carry firearms?

Investigators would be designated "Peace Officers" under the Act and would be qualified and licensed to carry a sidearm. All four jurisdictions that currently have Safer Communities legislation have armed their investigators. This is in recognition of the seriousness of the illegal activities they are investigating and the potential risks.

Why is complainant identity protected?

The complainant's confidentiality is crucial. Information that would identify the complainant is never released to anyone, even to a judge, to protect him or her from intimidation or retribution. If the matter proceeds to court, it is the investigator's testimony that becomes evidence, not information from the complainant. The investigator must confirm through his/her own investigations that an illegal activity is regularly happening at the property.

Complaints are not anonymous: investigators take identifying information from the complainant (name, address, contact information) as part of building the file, but this information is kept confidential.

People now phone the RCMP anonymously and the implications for reporting to a criminal enforcement agency are potentially much more serious than this civil remedy. No one would ever be evicted on the basis of a complaint lodged with the Safer Communities office.

Will this affect people who aren't bothering anyone, like people who play occasional poker games?

No. People who are not disturbing their neighbours will not attract any complaints. A Safer Communities investigator would also not find evidence of habitual disturbances if they did look into a complaint like this. Such a complaint would be closed.

Who is responsible for properties that are closed?

If the landlord has evicted the tenants, the property can be rented to other tenants immediately. In the rare case that a judge orders a CSO that includes closing the property, the Safer Communities office is responsible for securing the property, but the owner is responsible for costs. For example, investigators may board up the windows and doors and hire a security firm to patrol the property, and these costs will be billed to the property owner.

Appendix 2

How does the *Safer Communities and Neighbourhoods* legislation work?

As this is new legislation, many people had questions about how it might be structured as well as what can be done under the legislation. The following details how legislation for the NWT (modeled on Saskatchewan's Act) may work.

Part 1 – Community Safety Orders and Closure of Buildings

This section sets up the process for making a complaint when a neighbourhood or community is adversely affected by illegal activities. This part also sets out the responsibilities of the Director and what they can do to resolve the complaint prior to applying for a Community Safety Order. The purpose of a Community Safety Order is to impose conditions on a property that will stop its use for habitual and illegal activities. The proposed Act imposes responsibility for these illegal activities on the owner of the property.

Complaint – The process starts with a complaint from a member of the public. It is made to the Director, who will investigate it. The Director may decide not to act on the complaint, in which case, the complainant shall be informed.¹

Informal Action – If the Director decides to go ahead they can do certain things, including asking the complainant to give more information, sending a warning letter to the owner of the property, or trying to resolve the complaint by agreement or informal action. Informal action could include things like talking to the people involved or giving them notice to leave the property. It is expected that, in most situations, informal action will be enough to stop the illegal activity. In other jurisdictions, approximately 99% of complaints are resolved by informal action.

Community Safety Order (CSO) – If none of the previous actions are successful and the illegal activity continues, the Director can decide to apply to the Court for a community safety order. There needs to be sufficient evidence for doing so. The owner of the property is given notice of the application and has the opportunity to participate fully in any hearing. If the court is satisfied that the grounds for issuing a CSO exist, then it may issue it. The owner of the property must arrange to have the order served on tenants who may be in the property, or if they fear for their safety they can ask for the assistance of the Director to serve the order.

¹ A complainant may pursue a Community Safety Order on his/her own, should the director not do so. There are certain procedures that must be followed in this case.

The CSO may:

- require all persons to vacate the property
- terminate a tenancy or lease;
- require the Director to “close” the property from use or occupation for up to 90 days;
- include any other provisions that the court considers necessary

Variation / Appeal – CSOs can be varied (changed) on application of the Director or a complainant. As well, an owner, tenant of a lease, or resident who is affected by a CSO can apply to court to set aside or vary the order. An order arising out of CSO proceedings may be appealed on a point of law. Permission from the Court of Appeal is required.

Closure – If a CSO contains a provision allowing the Director to “close” the property, then the Director may enter the property *without* the consents of the occupant(s) or owner, and take certain measures, including:

- ordering any remaining occupants and others to leave and, if they do not, obtain the assistance of a peace officer to remove them;
- attaching locks, hoarding or other security devices;
- erecting fences;
- changing or terminating utility services;
- making exterior or interior alterations to the property so it is not a hazard while closed.

The costs of closing the property are the responsibility of the owner and must be paid to the government. Where an owner objects to the amount of costs, they may write to the Director. Should the owner and Director still not agree on the costs, the owner can appeal to the court.

Part II – Fortified Buildings

This section deals with the designation and closure of fortified buildings.² The purpose of this part of the legislation is to allow the removal of fortifications if they are determined to be a threat to public safety.

Investigation – This process begins with an investigation by an inspector. Among other things, the inspector may, with consent or with a warrant issued by a Justice of the Peace or a Judge of the Territorial Court,³ enter into any building that he or she believes, on reasonable grounds, to be fortified. The inspector may also take measurements and photographs, and make copies of records.

² The Act specifically exempts buildings that are fortified in a manner that is consistent with and does not exceed the reasonable security measures taken for a specific type of business, such as bars on the window of the liquor store, or a residential dwelling.

³ The warrant may be issued only if certain prerequisites are met.

Designation – The Director may designate a fortified building as a threat to public safety. The proposed legislation sets out several factors which must be taken into account in making this designation, including:

- the number and type of fortifications;
- whether the fortifications could significantly impair access by emergency and law enforcement officials to gain access to the building;
- whether they impair the ability of persons inside the building to escape;
- the nature of the neighbourhood;
- proximity of the building to schools;
- the persons who own, occupy or visit the building

Removal Order – Where the building is designated as fortified, the Director may issue a removal order specifying that the fortifications must be removed. The order must be served on owner and occupant. The date of removal is at least 21 days after the order is made.

Appeal – The Director's order must, among other things, indicate that the owner has a right to appeal the order. The appeal must be filed and served on the Director within 14 days. The appeal stops the order and no further action may be taken on the removal order that is not ordered by the court hearing the appeal.

Closure Order – If the removal order is not obeyed, and no appeal is filed, the Director may issue a closure order and may take action to remove the fortifications, and any persons at the building, in virtually the same manner as described in Part I, above. Costs of the removal of fortifications are the responsibility of the owner. The owner may appeal the costs to the Court.

PROPOSED PROCESS PART 1 – COMPLAINT TO COMMUNITY SAFETY ORDER

