

LEGISLATIVE RETURN



SUBMITTED BY: Hon. Tracy-Anne McPhee, Minister of Justice

1. On November 23, 2023, Annie Blake, Member for Vuntut Gwitchin
- asked the following question during the Oral Question Period at page(s) [page numbers] of *Hansard*
 - submitted the following written question – WQ No. 45
 - gave notice of the following motion for the production of papers – MPP No. #

RE: Safer Communities and Neighbourhoods Act (SCAN Act) - Implementation and Review

OR

2. This legislative return relates to a matter outstanding from discussion with [MLA] on [date] related to:

Bill No. # Second Reading Third Reading

Committee of the Whole: [Vote]

Motion No. # RE: [subject]

at page(s) [page numbers] of *Hansard*.

The response is as follows:

1. Impacts of SCAN on marginalized communities

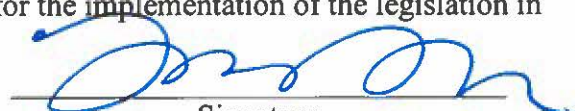
The SCAN Unit supports community safety and wellbeing for all Yukoners by responding to complaints of concerns and disrupting activities that adversely impact communities. The use of civil legislation, rather than criminal, increases the public's access to justice in a timely manner by providing a confidential means of redress. SCAN is a complaint-driven process related to property; SCAN does not proactively investigate properties. When there is suspicion that a specified activity is habitually occurring on a property and a complaint is received, the SCAN Unit investigates to determine if the complaint can be substantiated. The SCAN Unit can investigate complaints concerning:

- illegal sale of liquor and other contraventions of the *Liquor Act*;
- trafficking of illegal drugs or illegal distribution of cannabis;
- illegal activities related to prostitution;
- sexual abuse or exploitation of a child;
- possession or storage of prohibited, restricted or stolen firearms, explosives or other restricted weapons in contravention of the *Firearms Act*, the *Explosives Act*, and other laws; and
- organized crime.

Drug trafficking is the most common type of activity for which complaints are received and investigations are undertaken. Investigations are often resolved in other ways prior to consideration of an eviction. Various types of non-enforcement resolutions are used, which can include a verbal or written warning, referrals to suitable support services, or the use of a restorative process. Complaints can also be solved by agreement or informal action. On rare occasions, SCAN assists a landlord with terminating a tenancy agreement or applies to the Court for a Community Safety Order. If the investigation finds a serious and immediate threat to the safety and security of the occupants or persons in the community/neighbourhood, the SCAN Director can apply to the Supreme Court and the Court can require closure of the property for up to 90 days, specify a date by which the property must be vacated, or terminate a tenancy agreement.

The SCAN Unit works collaboratively with all communities, including First Nations governments, ten of whom have protocols in place for the implementation of the legislation in their communities.

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2. Measures to address impacts on Yukoners who are marginalized

Once SCAN receives a complaint, the unit usually conducts an initial visit to the property, known as a 'door-knock warning'. Part of this initial visit allows investigators to talk to the occupants and determine whether there are vulnerable persons, including children, present. The SCAN Unit considers the unique needs of vulnerable persons and children and makes, by consent, referrals to support agencies when there is a need for protection or assistance. These referral sources can include Government of Yukon Adult Support Services, First Nations, Council of Yukon First Nations, and non-governmental organizations such as Fetal Alcohol Syndrome Society Yukon, and Safe at Home Society. If there is a child present under the age of 19, SCAN has a duty to report these concerns to Family and Children's Services (FCS). SCAN investigators will attempt to work with the individual on the report to FCS, however, if they do not agree nor consent, SCAN will continue the report to FCS as legally required.

3. SCAN and the current housing crisis

If, after a thorough investigation, a complaint is substantiated, the SCAN Unit typically issues a verbal or written warning and works with the tenant and the landlord to encourage cessation of the illegal activities and/or if necessary, eviction of persons who caused or contributed to any of the activities. As previously mentioned, the SCAN Unit considers the unique needs of vulnerable persons and works with support agencies for protection or assistance. SCAN Investigators are aware of the impacts caused by someone being evicted. SCAN also considers the impacts to those in multi-unit apartments or residences who are trying to work on or maintain their own healing path.

4. Due process for Yukoners at risk of or being evicted under SCAN Act

If there is a landlord assisted eviction, the tenant has the rights afforded them in the *Residential Landlord and Tenant Act*. There is also a process in place for residents to appeal to the SCAN Director if they are affected by actions under SCAN legislation. For impacts of Community Safety Orders issued by the Court, there is also a process for residents to appeal provisions of those orders through the Court as well.

5. Appealing an order to vacate

The Supreme Court considers whether the resident will suffer any undue hardship that would be caused by ending a tenancy agreement. The Court also considers whether the landlord would be opposed to the tenant re-entering and re-occupying the property. The Court may

- alter the date
 - ending the tenancy agreement,
 - requiring residents to vacate the premises, or
 - closing the property;
- set aside or reinstate the tenancy agreement;
- set aside the order to vacate or close the property;
- allow the residents to re-enter or re-occupy the property, and
- if the property is closed, requiring the landlord to open it and make it ready for occupation.

The Court may also determine that the resident was not the source of the adverse impacts, and set conditions of named individuals identified as the source of the adverse impacts who would not be allowed to return to the property.

If it is a landlord assisted eviction, the tenant has five days to appeal to the Residential Tenancies Office, as do all tenants that are served the 14-day notice to end tenancy with cause.

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6. Addressing and preventing racism and discrimination

SCAN is a property-based, complaint-driven process. As such, SCAN does not investigate people, but rather properties. When a complaint is received, an investigation is conducted on the property to determine whether or not one or more of the specified uses is being habitually conducted at the property, and if the activity is negatively affecting the neighbourhood/community.

SCAN has ten protocols in place with First Nations that have been developed to support communication and decision-making related to SCAN investigations on Settlement Land. The protocols also assist the Unit in providing culturally appropriate services to the territory's First Nations citizens. The agreements support First Nations community safety through the SCAN Act and through community justice processes, such as community conferences, peace-making circles or other restorative justice practices. The protocols are also guided by principles of respect for both parties and a commitment to work together in an inclusive and transparent manner that fosters trust. As each community in the Yukon is unique with its own set of customs, issues and concerns, the SCAN Unit ensures that they are serving the needs of each community in a way that is most appropriate for them.

7. Supports available to Yukoners evicted by SCAN

At the initial door-knock warning, investigators determine if there are any vulnerable persons present. If there are vulnerable persons present or children under the age of 19, referrals are made to support services, which can include Family and Children's Services, Social Services, Mental Wellness and Substance Use, First Nations governments, Yukon Housing, Housing First and/or any other agency that may be applicable.

8. Alternate measures to ensure community safety

SCAN has ten protocols in place with First Nations governments that have been developed to support communication and decision-making related to SCAN investigations on Settlement Land. The protocols also assist the Unit in providing culturally appropriate services to the territory's First Nations citizens. The agreements support safety through the SCAN Act and through community justice processes, such as community conferences, peace-making circles or other restorative justice practices. The protocols are also guided by principles of respect for both parties and a commitment to work together in an inclusive and transparent manner that fosters trust. As each community in the Yukon is unique with its own set of customs, issues and concerns, the SCAN Unit ensures that they are serving the needs of each community in a way that is most appropriate for them. In addition, the Government of Yukon is pursuing many different measures to support community safety across the territory, including investments in policing and community safety planning. A number of these initiatives are described within the community safety and wellbeing pillar of the *Substance Use Health Emergency Strategy*. We are also investing in community safety through initiatives under the federal Gun and Gang Violence Action Fund. Many of the initiatives underway to advance work to implement the territory's Missing and Murdered Indigenous Women and Girls and Two-Spirit People Strategy support advancements to community safety. The Government of Yukon is also providing funding to community safety officer programs which are designed and led by Yukon First Nations.

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