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Media Release

PAPERLESS ARRESTS LATEST EXAMPLE OF POWER SHIFT IN THE NORTHERN TERRITORY

The paperless arrests regime is just another brick in the wall of the Northern Territory's obsession with mass incarceration, argues North Australian Aboriginal Justice Agency's Jonathon Hunyor in the latest edition of the *Indigenous Law Bulletin*.

The paperless arrests regime, contained in Div 4AA of the *Police Administration Act (NT)*, enables police to arrest someone because they believe on reasonable grounds that they have committed or are about to commit an infringement notice offence, after which police can hold that individual for up to four hours, or until they are no longer intoxicated. At the end of the period, police can either release the individual unconditionally, issue them with an infringement notice, release them on bail, or bring them before a court.

In the first seven months of the regime's operation, 1295 people were arrested and over 70 per cent of those people were Aboriginal. NAAJA, with another plaintiff, challenged the validity of the laws in the High Court of Australia in *North Australian Aboriginal Justice Agency Ltd v Northern Territory* [2015] HCA 41. On 11 November 2015, the High Court handed down its decision, dismissing the challenge and upholding the validity of the 'paperless arrest' laws by a majority of six to one.

In his article, Hunyor examines this regime in light of other laws and policies that also excessively promote incarceration—such as mandatory sentencing, mandatory alcohol treatment and alcohol protection orders—and argues that as a whole, coercive power is being concentrated in the hands of executive government in the NT, shifting power away from the courts.

Hunyor notes that the introduction of mandatory sentencing laws brought about 'a disturbing concentration of power' and exemplified 'a style of governance characterised by punitive and socially divisive targeting of already disempowered groups in the community'.

'The more recent laws highlight that power in the NT has continued to be concentrated in the hands of the executive, with the judiciary increasingly having their powers circumscribed. Mandatory sentencing regimes not only take power from the courts, but give significant power to police and prosecutions, whose discretionary decisions can have a bigger impact on whether a person goes to jail and for how long than the decisions of judges and magistrates do.'

'The power given to police by laws such as APOs and paperless arrests is also extraordinary and the potential for policy impunity is a particular cause for concern,' Hunyor concludes.

[Click here](#) to access a copy of 'IMPRISON ME NT: PAPERLESS ARRESTS AND THE RISE OF EXECUTIVE POWER IN THE NORTHERN TERRITORY' by *Jonathon Hunyor*.

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