

Stalk and intimidate offences in NSW: summary of BOCSAR findings

BOCSAR, *Indigenous imprisonment in NSW: A closer look at the trend, 2017*

- The growth in Indigenous imprisonment in NSW between January 2012 and September 2016 was a result of three main factors:
 - (1) an increase in the number of Indigenous defendants charged with criminal offences, especially those in the categories of stalking/intimidation, and breaching ss 9 and 12 Bonds;
 - (2) an increase in the proportion of convicted Indigenous offenders receiving a prison sentence for the offence of stalking/intimidation; and
 - (3) an increase in the length of time being spent on remand by Indigenous defendants refused bail, in large part because of a growth in court delay in the NSW District Criminal Court (p8).
- The number of Indigenous Australians in NSW imprisoned for stalking/intimidation offences was more than eight times higher in 2016 than it was in 2012 (p6).¹
- The abrupt nature of the increase in convictions for stalking/intimidation offences around 2013 suggests that it was more likely to reflect changes in policing policy than a real increase in the incidence of stalking/intimidation (p8).
- The offence of stalking/intimidation does not require proof or evidence that the victim actually felt physical or mental harm yet carries a maximum penalty of five years imprisonment and attracts the 'show cause' requirement for bail, thus making it more likely that someone charged with this offence will be remanded in custody (p8).
- The principal contributors to the number of Indigenous offenders given a sentence of imprisonment for an act intended to cause injury included stalking/intimidation (25.42%) (p5).

BOCSAR, *What's causing the growth in Indigenous Imprisonment in NSW?, 2016*

- Between 2001 and 2015 the rate of Indigenous arrest for violent offences declined by nearly 37% while the rate of Indigenous arrest for property crime declined by almost 33%.
- However, the decline in Indigenous arrest rates for violent and property crime was not accompanied by a decrease in Indigenous imprisonment - on an age-standardised basis, the rate of Indigenous imprisonment rose by 40%.

¹ The number is now 10 times higher (336 defendants in 2020 compared to 32 in 2011)

- The rise in Indigenous imprisonment in NSW during this period was due to a combination of higher rates of arrest resulting in conviction, a greater likelihood of imprisonment given conviction and a higher rate of bail refusal.
 - The growth in number of arrests, percentage imprisoned and percentage bail refused was especially large in the categories justice procedure offences and acts intended to cause injury.
 - Most of the growth in justice procedure offences is coming from arrests for breach of custodial orders (e.g. breach of a community-based order) and breach of Apprehended Violence Orders.
 - The most common conviction in the category acts intended to cause injury was stalking/intimidation, which increased from just 108 convictions in 2001 to 826 in 2015 (p6).

BOCSAR, Breach rate of Apprehended Domestic Violence Orders in NSW, 2016

- Approximately one quarter of final ADVOs granted between 1 July 2013 and 30 June 2014 were granted against an Indigenous POI and less than one in five (first named) victims were Indigenous. (p4)
- A higher proportion of Indigenous POIs breached a final ADVO compared with non-Indigenous POIs (27% vs. 18%) (p4).
- Indigenous victims were also at a higher risk of having their final ADVO being breached sooner (p5).

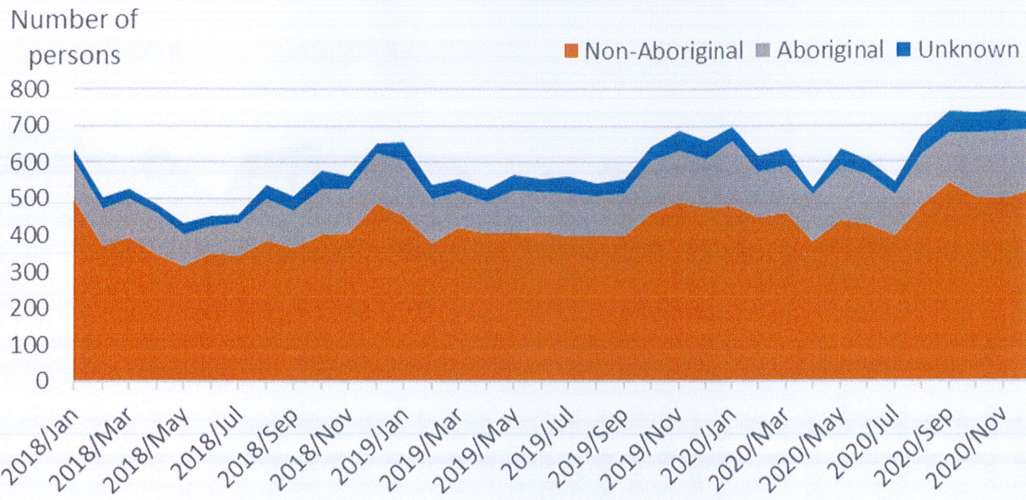
BOCSAR, Who goes to prison for breaching an Apprehended Domestic Violence Order? An analysis of police narratives, 2015

- A higher proportion of offenders in the prison group were Indigenous (27.2%) compared with the non-prison group (14.8%) (p5).

BOCSAR NSW Criminal Courts Statistics Jul 2015-Jun 2020 – convictions and charges proven for stalk/intimidate offences

- When Aboriginal and Torres Strait Islander defendants are convicted of stalk/intimidate offences, they are more likely to receive a custodial sentence compared to convicted non-Indigenous defendants.
- Almost half of those defendants that received a custodial sentence for stalk/intimidate offences in the years June 2015 to June 2020 were Aboriginal and Torres Strait Islander defendants (between 46% and 49%).
- Over the years 2015-2020, there was an increase in the proportion of Aboriginal and Torres Strait Islander defendants who had a charge proven for the offence of stalk/intimidate, such that by 2020 almost one in three was an Aboriginal and Torres Strait Islander defendant.

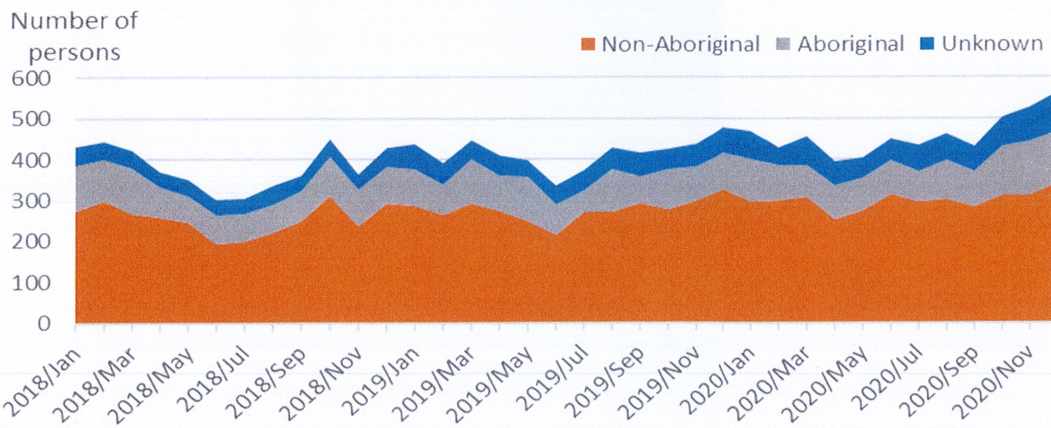
Figure 1. Persons of interest proceeded against for DV-related Intimidation, stalking and harassment incident by Aboriginality



Trends 2019-2020

Persons proceeded against for DV-related Intimidation, stalking and harassment:
 Aboriginal: up 21.1%
 Non-Aboriginal: up 9.7%

Figure 2. Persons of interest proceeded against for Non DV-related Intimidation, stalking and harassment incident by Aboriginality



Trends 2019-2020

Persons proceeded against for Non DV-related Intimidation, stalking and harassment:
 Aboriginal: Stable
 Non-Aboriginal: up 8.2%

Figure 3. Incidents of Intimidation, stalking and harassment incidents reported to NSW Police Force, by DV-related flag

