NSW GOVERNMENT Health

OoN

High Levels of First Nations People in Custody and Oversight and Review of Deaths in Custody

Hearing – 8 December 2020

Questions on Notice

QUESTION 1 – Page 25

Ms HOEY: Certainly. That is true. There are a lot of people in custody with mental health issues and mental illness. The fact that it is not diagnosed, there has been some research to say that our screening process is—although it could be better—that we are picking up a lot of it. I can certainly provide you with evidence about that. The process when somebody comes into any prison across the State is that they are seen initially by a reception nurse or a primary care nurse. That nurse does an assessment and there are four key things we are looking for in that assessment: one of them is chronic disease; one of them is drug and alcohol; one of them is population health, so any sexual health or infections that we have to look at; and the fourth and very important one is mental health. We do those four key areas.

The Hon. TREVOR KHAN: When is that done relative to reception?

Ms HOEY: Within 24 hours we give them—now, we hit pretty good target with that. Clearly, there are times that is not possible depending on the presentation of somebody coming into custody, but it is more the exception that we do not get it done within 24 hours, and we do measure that.

The Hon. PENNY SHARPE: What percentage do you get to in 24 hours?

Ms HOEY: I do not have the exact one, but I can certainly take on notice.

The Hon. PENNY SHARPE: If you could take it on notice that would be great.

Ms HOEY: There were so many figures preparing for this that I might take figures on notice. I do not want to mislead you.

The Hon. PENNY SHARPE: That is fine. We have had a lot of data, but we really appreciate what you can provide to us.

The Hon. TREVOR KHAN: In providing that data, are you able to break it down by way of facility or is it only an overall one?

The CHAIR: By prison

Ms HOEY: You are interested to see Broken Hill compared to Tamworth?

The Hon. TREVOR KHAN: I am interested in if you are hitting your targets in Tamworth whether it might be a bit different in Silverwater.

Ms HOEY: Sure. I will give you what I can and as much detail as I can. So, we are back to that the person has arrived within 24 hours?

The Hon. PENNY SHARPE: Yes, assuming they get it within 24 hours, what happens?

Ms HOEY: Yes. There is an assessment done by a primary care nurse and that is in the context of the reception process, so there is a lot of people seeing them at that point in time.

ANSWER

The Reception Screening Assessment (RSA) is a process undertaken by a Primary Health Nurse who assesses a person new to custody for signs, symptoms, their health history (acute, chronic, mental, drug and alcohol, and population), and whether there is a need for immediate or ongoing treatment. The RSA should be completed within 24 hours of reception to the health centre.

A clinician may not be able to perform an RSA in certain situations, including where the patient is uncooperative, confused, violent, or sedated. In these situations, an initial observation must still be conducted to provide important information. Screening is then completed as soon as the situation allows.

In the period 1 January 2020 to 18 December 2020, 81 per cent of RSAs for all Justice Health and Forensic Mental Health Network (the Network) operated centres that receive new custodies in NSW were completed within 24 hours. However, this does not include operated intake and transit facilities, or privately managed correctional centres.

Table 1:
RSAs completed within 24 hours of reception from 1 January to 18 December 2020

Location	Percentage (%) of RSA forms completed within 24 hours*
Bathurst Correctional Centre	91
Broken Hill Correctional Centre	93
Goulburn Correctional Centre	86
Mid North Correctional Centre	79
Metropolitan Remand and Reception Centre (MRRC)	81
Shortland Correctional Centre	66**
Silverwater Women's Correctional Centre	89
South Coast Correctional Centre	89
Tamworth Correctional Centre	97
Wellington Correctional Centre	90
Total	**81**

* These figures are manually extracted and are correct at time of reporting
** A large number of patients arriving at Shortland Correctional Centre arrive via an intake and transit centre, where screening may have already commenced. Due to travelling through the transit centre, patients may arrive at Shortland a few days after leaving the local police station, which impacts on the number of RSA forms completed within the 24 hour period.

QUESTION 2 – Page 25-26

The Hon. PENNY SHARPE: Acute psychosis?

Ms HOEY: Acute psychosis, yes. If somebody comes in in an acute psychosis, we would be phoning their psychiatrist and get some intervention there if we can. If somebody is particularly unwell and they are not in the metropolitan remand centres, we would ask for them to be moved into the metropolitan remand centres where they can be managed more appropriately. It is quite difficult out in the more rural areas.

The Hon. PENNY SHARPE: I assume you recall the number of transfers for that purpose. Would you be able to provide the Committee with that over a couple of years?

Ms HOEY: I would probably have to do that in collaboration with Corrective Services. They would keep transport data probably more than us.

The Hon. PENNY SHARPE: If you are able to tell us just in terms of the number of people who you have referred but matching those. Obviously, what I am interested in is how many people from regional areas are in acute psychosis and have to end up a long way from home in Metropolitan?

Ms HOEY: Yes.

ANSWER

The Network provides mental health services in all correctional centres across NSW, so patients with acute psychosis can be treated at their current centre. Patients who have complex presentations and require more intensive multi-disciplinary treatment can only be facilitated in Sydney. This occurs in the Mental Health Screening Units (MHSU), which are in the Silverwater Complex.

In the last two financial years, 113 Aboriginal male patients were admitted to the MHSU. Of these, 42 (37 per cent) were moved from their gaol of reception to the MHSU, and 54 (48 per cent) were moved from their last known NSW place of residence (excluding those from interstate and with no known fixed address).

In the same period, 87 Aboriginal female patients were admitted to the MHSU. Of these, 26 (30 per cent) were moved from their gaol of reception to the MHSU, and 34 (39 per cent) were moved from their last known NSW place of residence (excluding those from interstate and with no known fixed address).

Note that patients may be sentenced to a regional correctional centre that is not near their residential address. Therefore, the number of patients being transferred away from their gaol of classification, or their last known NSW place of residence to the MHSU, may vary.

QUESTION 3 – Page 30

Ms HOEY: Clearly it is something we think about every day. The first thing we have to do is invest in and improve our diversion through the courts. Currently, we provide diversion to 22 of the adult courts out of some 54. So clearly we are not covering all of the State in court diversion. Where we are involved in court diversion we get good results. That is diversion into local mental health services, so it is taking people out of the system before they enter the system. I really think there is a lot of attention and work that could be done in that area.

Mr DAVID SHOEBRIDGE: On notice can you tell us where that is and is not operating in the State?

Ms HOEY: Yes, for the courts?

Mr DAVID SHOEBRIDGE: Yes. Is that simply a question of resources?

Ms HOEY: Yes.

Mr DAVID SHOEBRIDGE: So there are people in—I assume it is largely regional New South Wales where these services are not being provided? Or is it also western Sydney or somewhere else?

Ms HOEY: It is mostly in the metropolitan—the big areas. We provide some in regional areas but I will take it on notice and give you a list of the courts we provide the services to.

Mr DAVID SHOEBRIDGE: Do you have an indication of what budget would be required to provide that uniformly across the State?

Ms HOEY: I will take that on notice and provide that.

ANSWER

The Network State-Wide Court and Community Liaison Service (SCCLS) provides diversional services to 22 (16 per cent) of 137 local courts (refer to table 3). These 22 courts account for 54 per cent of matters heard by a local court.

Since July 2019, a Network clinical nurse consultant based at Dubbo Local Court has provided telehealth mental health assessments to Aboriginal people appearing before Broken Hill, Forbes, and Parkes Local Courts. To date, 19 Aboriginal people have been referred to the service, of which 12 (63 per cent) were diverted from custody. None of these clients would have been able to access

this service prior to the project, which had support from the Office of the Chief Magistrate, the Aboriginal Legal Service and Legal Aid.

In 2019-20, the SCCLS assisted with the diversion of 2,116 defendants, with more than 585 Aboriginal people assessed (21 per cent of the total number of patients assessed) and 412 diverted into community-based care.

Table 2: SCCLS locations in NSW

Metropolitan courts	Regional courts
Bankstown	Wagga Wagga
Campbelltown	Tamworth
Burwood	Port Macquarie
Blacktown	Milton
Central Sydney	Nowra
Downing Centre	Lismore
Gosford	Kempsey
Liverpool	Coffs Harbour
Parramatta	Dubbo with telehealth mental health assessments offered to Aboriginal people appearing before Broken Hill, Forbes and Parkes Local Courts
Penrith	
Sutherland	
Wollongong	
Wyong	

In October 2020, the Network developed a business case in consultation with the Chief Magistrates Office to expand the SCCLS program to provide a service to all 137 local courts, either by face to face or via audio visual link. This would allow staff to work across multiple sites to maximise service delivery since not all NSW courts sit five days a week.

The service will provide an additional 11.5 full-time equivalent Network clinical nurse consultants for face-to-face assessments at an additional 35 local courts. This will increase capacity at high demand courts, expanding assessments by audio visual link to courts in remote locations and improving support provided to Aboriginal people.

It is estimated that by expanding to the additional Local Courts, the Network would increase the number of mental health assessments by approximately 3,441 per annum.

The cost for the expansion is estimated to be an increase of more than $4.2 million per annum, inclusive of salaries, goods and services and hardware.

QUESTION 4 – Page 32

The Hon. TREVOR KHAN: When you talk about screening in terms of those circumstances—and not all of illicit drug use involves injection—are inmates on reception the subject of screening for hepatitis C and the like?

Ms HOEY: Yes. We have a really robust hepatitis screening program and hepatitis C specifically. We have got some really good outcomes with that. We are really on top with that process. I can give you the figures for our screening and the number of people. But certainly we do hepatitis C and hepatitis B vaccinations. We measure that. That gets reported up to our board level.

ANSWER

Every patient is asked screening questions regarding Blood Borne Viruses (BBV) and risks on reception as part of the RSA. If they are identified as having been at risk, they are referred for testing by the Network. If a patient tests positive for any BBV, including for hepatitis B and hepatitis C, they will be reviewed by a Public Sexual Health Nurse for treatment and management.

If they test negative for hepatitis B, they are placed on a vaccination regime. If patients test positive to hepatitis B, they are placed on an assessment and treatment regime. There is no vaccination for hepatitis C to prevent infections, however the current recommended treatments are approximately 98 per cent effective in clearing the virus.

In 2019-20, 13,940 patients were screened for BBV within the New South Wales correctional system. On average, there are 13,495 patients in full time custody each month. On average, 8.6 per cent are screened per month and of those screened, 29.5 per cent are Aboriginal. It is important to note that patients are risk assessed for BBV screening, and only those identified as at risk are referred for screening. Of those referred, some may refuse to be screened.

In the 2019-20 financial year, 1,236 patients began hepatitis C treatment, of which 42 per cent were Aboriginal. During the same period, 1,670 patients started on a hepatitis B vaccination regime of which 16.6 per cent were Aboriginal.

QUESTION 5 – Page 34

The CHAIR: A situation where those prisoners coming into prison are properly diagnosed and then given an active regime of treatment that would help them really address those conditions to the extent that treatment can help them do so—to try to avoid reoffending on those bases—would require a significant enhancement of the resources that you currently have. Is that correct?

Ms HOEY: I will take that on notice and I will be able to tell you. What we are talking about is equivalency to what people receive in the community.

The CHAIR: Using that as the benchmark, then, what level of increased resourcing would Justice Health need to be able to do that?

Ms HOEY: I will take that on notice.

ANSWER

The Network has developed a model of care to improve access to multidisciplinary step-down care at the major metropolitan correctional centres, including the provision of a hub and spoke telehealth model of care to regional and remote centres.

An analysis of additional resources required will be the subject of regular service agreement discussions between the Network and NSW Ministry of Health, in order to ensure activity is outcome focussed and value-based.

QUESTION 6 – Page 39

The Hon. PENNY SHARPE: Yes. Ms Hoey, would you be able to provide to the Committee—I know that you will not know the answer to this today—an idea of the numbers of root cause analysis that are participated in every year and, where a First Nations person has died, whether there is an involvement through Justice Health of your First Nations staff?

Ms HOEY: Certainly, yes.

The Hon. PENNY SHARPE: I was up to know what the gap is between what you would like to have and how many you are able to do, given the difficulties that you have outlined. Thank you.

ANSWER

Between 1 January 2015 and 31 December 2020, there were 16 Root Cause Analysis investigations undertaken for Aboriginal people who had an unexpected death in custody while in the care of the Network.

Unexpected deaths can be classified as natural, for example through strokes, asthma, or heart attacks that were not expected but caused by underlying health conditions. Unexpected deaths can also be classified as not natural, for example falls from heights.

Since 2016, for all deaths in custody of an Aboriginal person, the Network's Clinical Governance Unit notifies the Network's Aboriginal Strategy and Culture Unit of the death. A staff member from Aboriginal Strategy and Culture then participates in the investigation if the patient is not a known associate of the staff member. The Network is 100 per cent compliant in this process.

QUESTION 7 – Page 41

Mr DAVID SHOEBRIDGE: Because I have seen significant reporting about the lack of medical care being a causal element in Aboriginal deaths in custody. There is a variety of statistics I could cite to you that have been reported in the past two years. Are you aware of any data yourself?

Ms HOEY: I would take that on notice to be able to give you that data. I do have all the data of all the recommendations that we have had from coronial investigations, but I certainly could not spout them today. I will take that on notice if you tell me exactly what you want, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: To the extent to which lack of medical care or inadequate medical care was in whole or in part causative of a death in custody, do you have any data on that?

Ms HOEY: I will take that on notice.

ANSWER

From 1 January 2019 to 31 December 2020, there were eight Aboriginal deaths in custody of which two were expected and six were unexpected. This accounts for 11 per cent of all deaths in custody over this period.

The two expected deaths were due to terminal illness, and there was no indication that there was a lack of medical care for these patients. Autopsy results indicate that a further two deaths (that were unexpected) were the result of heart disease and one death was due to misadventure (fall from a height). The Network is awaiting the autopsy reports for the other deaths.

None of the investigations indicate a lack of medical care for the eight Aboriginal deaths in custody during this period. Root Cause Analysis investigations were conducted on the six unexpected deaths, and no deficits in medical care were identified that contributed to the deaths.

In September 2018, there was an unexpected death of an Aboriginal man due to asthma. The Network is awaiting the coronial findings. However, the root cause analysis investigation did identify deficits in his medical care.

All deaths in custody are reported to the Coroner, who determines the nature and cause of death, and may provide recommendations to the Network. Implementation of these recommendations are monitored through the *Network Clinical Governance* frameworks and at a system level progress, is

reported to the NSW Ministry of Health to ensure that improvements are implemented and sustained to reduce the likelihood of a similar death in custody happening in the future.