

## INQUIRY INTO OVERCOMING INDIGENOUS DISADVANTAGE

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**Position:** Commissioner of Police

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## **Inquiry into Closing the Gap – Overcoming Indigenous Disadvantage**

Legislative Council – Standing Committee on Social Justice Issues

February 2008

### **NSW POLICE FORCE (NSWPF) - SUBMISSION**

The NSW Police Force (NSWPF) welcomes the opportunity to make a contribution to the *Inquiry Into Closing the Gap – Overcoming Indigenous Disadvantage*, being undertaken by the Standing Committee on Social Justice Issues in the NSW Legislative Council.

This paper builds upon the submission provided to the Standing Committee in December 2007 which articulated the measures the NSWPF is taking regarding its management of Aboriginal policy, the diversion of Aboriginal people from the criminal justice system and collaborative partnerships between police and Aboriginal people. That submission was accompanied by a copy of the *NSW Police Force Aboriginal Strategic Direction 2007-2011* (ASD) document, a copy of which again is attached. The ASD sets out a direction for the NSWPF to pursue in its management of Aboriginal issues and is underpinned by four principles:

- Aboriginal people know their communities and their problems;
- Aboriginal people want to be actively involved in identifying solutions;
- The opportunity to discuss crime and policing is central to gaining community support and community commitment; and
- Establishing a plan in partnership with the community ensures that our responses are focussed and give the community ownership.

This submission provides further detail about the measures the NSWPF is taking, some in cooperation with other government agencies and community groups. These are grouped under the seven objectives in the *NSW Police Force Aboriginal Strategic Direction 2007-2011*, namely;

- Improving communication and understanding between police and Aboriginal people;
- Improving community safety and reducing fear of crime;
- Seeking innovation in the provision of Aboriginal Cultural Awareness training and Aboriginal recruitment and retention;
- Diverting Aboriginal youth from crime and anti-social behaviour;
- Establishing an integrated approach to managing Aboriginal family violence (domestic violence and sexual assault);
- Developing a strategic response to Aboriginal substance abuse; and
- Reducing offending and over-representation of Aboriginal people in the criminal justice system.

The NSWPF cannot directly address the issue of closing the gap on lifetime expectancy. However, an indirect effect may result from the application of NSWPF corporate policy, procedures and practices, including the measures articulated in this submission. The NSWPF has identified that it often has to deal with the direct *effect* of disadvantage confronted by Aboriginal people and believes strongly that preventable measures have to be addressed by all government and non-government agencies. A police response is not always appropriate as many Aboriginal people need a broader based social welfare approach, rather than a legal remedy.

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There follows a list of measures which the NSWPF is undertaking to manage Aboriginal issues and deliver policing services to Aboriginal people, some in cooperation with other government agencies and community groups.

### **Improving communication and understanding between police and Aboriginal people**

The NSWPF is committed to developing and maintaining productive relationships with the Aboriginal community in NSW.

- The NSWPF employs 56 Aboriginal Community Liaison Officers, in metropolitan and rural and remote locations across NSW. These officers work closely with police, the Aboriginal community, Aboriginal community organisations and other service providers on a face-to-face basis. They assist Aboriginal people to understand the police perspective on related issues, whilst ensuring that police stay well informed of the Aboriginal community's perspective.
- The NSWPF has three tiers of Aboriginal Consultative Committees;
  - Local Area Command Aboriginal Consultative Committees (LACACCs), with some LACs establishing sub-LACACCs to ensure wider consultation, where necessary;
  - Regional Aboriginal Advisory Committee (RAAC); and
  - Police Aboriginal Strategic Advisory Council (PASAC).
- The NSWPF Aboriginal Coordination Team has developed a package to assist Local Area Commands in developing LAC Aboriginal Action Plans.
- The Aboriginal community co-own Local Area Command Aboriginal Action Plans.
- Consistent with Aboriginal Cultural Protocols and Practices recognised by the NSW Government and the *NSWPF Statement of Aboriginal Reconciliation*, the NSWPF acknowledges Aboriginal people as the original owners of the land at all official police functions and training courses at a state level. Local Area Commands are encouraged to fly the Aboriginal flag during times of Aboriginal significance such as Reconciliation Week.
- The NSWPF also recognises the significance of Aboriginal Elders as custodians of knowledge and teachers of lore and customs to Aboriginal people and where appropriate, seeks their input on matters affecting their communities.

### **Improving community safety and reducing fear of crime**

The NSWPF recognises that partnerships with Aboriginal communities must be based on shared problem solving, greater cross cultural understanding and increased consultation with Aboriginal people at all levels to help ensure that Aboriginal people are able to live in safe and secure communities.

- Local Area Command Aboriginal Consultative Committees (LACACC) and other community forums are used to engage with Aboriginal communities and seek support from those communities for programs to enhance community safety and reduce the fear of crime.
- Training material that specifically addresses Aboriginal mental health issues is included in NSWPF Safe Custody training and in the Aboriginal Community Liaison Officers (ACLO) Development Course.
- Training material for police on suicide prevention, with specific reference to Aboriginal issues is being developed. The NSWPF will continue to progress issues involving suicide prevention through its representation on the NSW Suicide Prevention Committee, which is chaired by the NSW Health Department.
- The NSWPF Mental Health Implementation Plan 2006-2009 specifically notes that when responding to people with a mental illness, police will take into account the diverse needs of Aboriginal people.
- The NSW Aboriginal Cell Support Group was established to provide support to Aboriginal people in police custody by raising their awareness of police arrest and custodial practices and procedures. On a related note, the NSWPF informs Aboriginal people in custody that they are entitled to a support person and when an Aboriginal person is arrested or detained, police must contact the Aboriginal Legal Service. Aboriginal Community Liaison Officers also provide support and assistance to Aboriginal people in custody by contacting family or relatives and providing interpreting services, where required. Additionally, an Aboriginal child should not be placed in a police cell, except in rare circumstances, where it is necessary for the health and welfare of the child. If a child is detained overnight in a police cell, the custody manager should attempt to arrange for a support person to attend and remain with the child. If an Aboriginal person is placed in a cell, they should not be placed alone, unless there is no reasonably practical alternative. Wherever possible, they should be placed with another Aboriginal person.
- The NSWPF supports Aboriginal Night Patrols by rostering Aboriginal Community Liaison Officers to support the volunteers who undertake the patrols.
- The NSWPF believes that the COAG Murdi Paaki trial and other similar trials are valuable in supporting and driving positive change in Aboriginal communities. However, the NSWPF believes that such trials could benefit from an increased presence of operatives and managers living in the communities they are assisting. It is often the case that support and coordination of such programs is managed from regional centres, which may detract from their effectiveness. Whilst the NSWPF believes that the Murdi Paaki trial is working, a greater emphasis on accountability with an increased focus on outcome

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driven strategies would further improve the program. Currently, there are no other COAG trials in which the NSWPF is involved.

### **Seeking innovation in the provision of Aboriginal Cultural Awareness training and Aboriginal recruitment and retention**

The NSWPF seeks to provide employment, education and training to Aboriginal people at every opportunity while at the same time educating our employees on Aboriginal history, culture and society.

- The Aboriginal Lecturer at NSWPF Education Services delivers Aboriginal Cultural Awareness programs to police in partnership with Aboriginal Community Liaison Officers (ACLOs) and Aboriginal people throughout NSW.
- Local Area Commands co-ordinate their own local Aboriginal Awareness Courses in partnership with members of Aboriginal communities. This aims to improve understanding of social and historical issues confronting Aboriginal communities. In acknowledgement of the importance of local issues, police officers transferring from one command to another undertake this training again.
- The Aboriginal Lecturer also delivers a Corporate Training Module in Aboriginal Cultural Awareness.
- With the aim of increasing the numbers of Aboriginal people in the NSWPF, and following negotiations with TAFE, the NSWPF has developed the Access to Further Studies course, a bridging course to assist Aboriginal people to enter the Police College. Currently, this course is being offered at Bankstown and Randwick TAFE and whilst we acknowledge the commitment of these TAFE Colleges, we have identified that the provision of the course by additional TAFE colleges in areas with Aboriginal communities would encourage greater opportunities for Aboriginal people. With this in mind, the NSWPF has recently negotiated with the Dubbo TAFE and understands they may soon be offering the Course from their campus.
- A partnership has been formed between the Lake Illawarra Local Area Command, Department of Technical & Further Education (TAFE), NSW Department of Education and Training, the Federal Department of Education, Employment and Workplace Relations (DEWER) and Warrigal Employment for a School Based Traineeship in Policing, catering for Aboriginal students from years 11 and 12. This will entail 100 days paid employment with the LAC and partners over the course of the traineeship, while at the same time completing Certificate Three level training to qualify for recruitment to the NSWPF College. This initiative is expected to commence in 2008.
- The NSWPF Aboriginal Employees Network has been re-established to provide support to existing Aboriginal employees and provide a platform for the identification and discussion of issues.
- A new Aboriginal Employment Strategy is currently being developed to replace the NSWPF Aboriginal Employment and Development Initiative (PAEDI). It became apparent that the PAEDI was not delivering to the standard expected and other options were explored to remedy this situation. The new strategy will include a career

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management strategy for existing Aboriginal employees, with a draft expected in March 2008.

### **The diversion of Aboriginal youth from crime and anti-social behaviour**

Diversion programs and related initiatives aim to divert Aboriginal people from ongoing and intensive involvement in the criminal justice system by providing an alternative means for dealing with offenders outside usual criminal justice processes<sup>1</sup>. The NSWPF has implemented a range of programs to divert Aboriginal people from crime and anti-social behaviour, which include:

- CINS (Criminal Infringement Notices), which provide police officers with a speedy alternative to arrest when dealing with relatively minor criminal matters. One of the outcomes of this is to reduce the number of people taken to police stations to be charged. The NSW Ombudsman has commenced a review of the impact of CINS on Aboriginal and Torres Strait Islander communities and a report detailing their findings will be provided to the Attorney General in May 2009.
- The Young Offenders Legal Referral (YOLR) in response to concerns that well intentioned advice provided to young people not to make admissions to offences, precluded them from taking advantage of the options under available the *Young Offenders Act* (YOA), such as cautioning and youth conferencing. The YOLR encourages young people to admit offences, following legal advice, so as to be able to take advantage of the diversion options under the YOA.
- The Giyalli initiative is undertaken in partnership with the Department of Community Services (DOCS) and the Department of Education and Training and seeks to identify and assist young people with high levels of truancy and those who may be at risk from their association with known offenders.
- The Cautioning Aboriginal Young Persons Protocol was developed to encourage and support members of the Aboriginal community to assist in cautioning young people from their communities. The protocol provides a framework for the NSWPF, through its Youth Liaison Officers (YLOs), to promote, recruit, and train respected Aboriginal community members to play a role in cautioning members of their own community.
- The Wanga Idingii program was established by the Far South Coast Local Area Command and brings together a number of government and non-government agencies. It currently has 20 participants who will be taken through a twelve month program, including the following components: Cultural Awareness, Education, Crime Prevention, Employment Readiness and Life Skills.
- Police use a mobile Police Citizens Youth Club (PCYC) van in Walgett to visit identified 'hotspots' in the town and offer young people a range of alternative activities, build

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<sup>1</sup> *Diverting Aboriginal Adults from the Criminal Justice System, Some background and issues for consideration* Aboriginal Justice Advisory Council, [www.lawlink.nsw.gov.au/ajac](http://www.lawlink.nsw.gov.au/ajac)

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rapport with police, and reduce the likelihood of the young people coming into contact with the criminal justice system.

- The Darling River Local Area Command Youth Liaison Officer (YLO) has been working closely with teachers in Bourke to identify 'at risk' young people, with a particular focus on targeting high risk offenders. The Youth Liaison Officer and other police from Bourke have attended the school's mentoring program, making it clear, in a non-confrontational manner, to the young people concerned that police had an interest in their welfare and reinforcing the need for young people to commit to obtaining education and training.

### **Establishing an integrated approach to managing Aboriginal family violence (Domestic Violence and Sexual Assault)**

Family Violence is the term preferred by most Aboriginal people to describe the extent and severity of violent crime occurring within immediate and extended Aboriginal families. Sexual assault and child abuse are serious crimes that can have long term health and wellbeing consequences for victims and their families. These issues are common to both Aboriginal and non-Aboriginal communities but it is acknowledged that Aboriginal people can face additional barriers in reporting child abuse and sexual assault crimes.

- The NSWPF is implementing actions in which it is either the lead or partner agency of the *NSW Interagency Action Plan to tackle Child Sexual Assault in Aboriginal Communities 2006-2011*. The plan, which was released in January 2007, provides a holistic and coordinated response from the NSW Government to tackle Aboriginal disadvantage and child sexual assault.
- An Aboriginal Family Violence Officer was employed by the NSWPF in September 2007, with a lead role in developing, implementing, monitoring and reviewing policy and programs in this area.
- Existing Standard Operating Procedures for police management of sexual assault are being reviewed to ensure that content relating to Aboriginal people is appropriate.
- The Domestic Violence Court Intervention Model (DVCIM) is an integrated criminal justice and community social/welfare response to domestic violence that aims to improve the victim safety and increase perpetrator accountability through improved management of criminal domestic violence cases by enhancing the management of reported incidents of child sexual assault with a capacity for families to be relocated should this be requested or be required. The model operates at two NSW Local Courts, Campbelltown and Wagga Wagga, encompassing the Campbelltown, Macquarie Fields, and Wagga Wagga LACs.
- The Aboriginal Family Violence Programs Officer is working with the Child Protection & Sex Crimes Squad at the State Crime Command to develop community resource material on family violence including sexual assault. Consultation with local communities is ongoing through Local Area Command Aboriginal Consultative Committee meetings.
- Existing Standard Operating Procedures for police management of sexual assault are being reviewed to ensure that content relating to Aboriginal people is appropriate.
- Two NSWPF officers are seconded to Australian Crime Commission National Indigenous Intelligence Taskforce until 2008. These officers visit Aboriginal communities across

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Australia and gather information to report on the extent of certain crimes including child sexual assault as well as the types of barriers to reporting these crimes.

- All Joint Investigation Response Team (JIRT) officers are in the process of undergoing Aboriginal cultural awareness training and, where applicable, will also complete local cultural awareness training run by local communities.
- Following a joint agency review of Joint Investigation Response Team (JIRT) practice in 2006, the NSWPF, NSW Health and DOCS identified opportunities to improve the way in which JIRTs investigated child abuse, particularly in Aboriginal communities. These include ensuring that a suitable support person is available for children who are participating in the investigative process; improvements to rapport building to increase the likelihood of a child disclosing abuse; better sharing of information to improve decision making on safety, welfare and wellbeing of children; engaging more effectively with communities to improve reporting of child abuse and strengthen community capacity to prevent abuse. The recommendations of the review are currently being implemented and a trial of increased JIRT engagement with local Aboriginal communities is planned in 2008 for the Nowra area.
- The NSWPF contributes information to assist in the assessment of re-offending rates and evaluation of treatment programs for the NSW Health New Street (young people aged 10-17 years who have sexually offended) and Cedar Cottage (parents who have sexually offended against their children) programs.
- Eleven NSW Police Force officers were seconded to the Northern Territory in October 2007 to participate in the Federal Government's intervention to support Aboriginal communities and protect children. The officers are currently on secondment until approximately mid-February 2008.

### **Developing a strategic response to Aboriginal substance abuse**

The NSWPF acknowledges that patterns of alcohol and illicit drug use put Aboriginal people at greater risk of being either perpetrators or victims of a wide range of crimes, and of incarceration, and are highly associated with greater morbidity and mortality and believes that a whole of government approach is imperative to achieving good outcomes for Aboriginal people.

With respect to alcohol use, although 21% of Aboriginal people are ex-drinkers or abstainers (compared to 16% of other Australians), 39% of those who drink, do so at levels that expose them to short-term risk (compared to 21% of other Australians), and 23% at levels that expose them to long-term risk (compared to 10% of other Australians). Higher proportions of Aboriginal people commence using illicit drugs (50% compared with 38% of other Australians), and report use in the previous 12 months (27% compared with 15% of other Australians). Higher proportions of Aboriginal people report recent use of illicit drugs other than cannabis than other Australians (12% compared with 8% of other Australians)<sup>2</sup>.

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<sup>2</sup> *Australian Institute of Health and Welfare, 2004 National Drug Strategy Household Survey*



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Accordingly, the NSWPF is undertaking a range of strategies to better understand and seek to address the contribution of law enforcement responses to drug and alcohol misuse to Aboriginal disadvantage.

- The NSWPF is conducting an environmental scan on inhalant use in NSW to enhance the capacity of police to respond to this issue. While there is a paucity of research, available evidence suggests that the prevalence of inhalant abuse is higher among Aboriginals and young people. Accordingly, the NSWPF believes that the primary concern should be the impact on the health and welfare of the individual and any negative impact on the community, without necessarily criminalising this behaviour. To that end, this research project will consider policing responses to this issue, including whether it would be useful for police to have the authority to confiscate volatile substances (as is the case in some other jurisdictions) and care for the individual under the provisions that apply to other intoxicated persons.
- The NSWPF is conducting research into patterns and trends of drug use among Aboriginal populations to improve understanding of its nature and dynamics. This research will inform current and future policies and programs for Aboriginal people, and is being undertaken as part of the Aboriginal Strategic Direction plan.

*Your Choice* is a diversionary program targeting minors detected consuming or possessing alcohol in contravention of the law, primarily in public spaces. Those detected are afforded the opportunity of attending a two hour seminar addressing legal, societal and health issues surrounding underage alcohol consumption, in company with their parents/carers. The NSWPF has received funding from the Alcohol Education and Rehabilitation (AER) Foundation to implement this program state-wide. This will include the development of an Aboriginal specific version of the program, drawing upon Aboriginal culture and respect for Elders in a similar application to that of the Circle Sentencing program. It is anticipated that the Shoalhaven LAC will be the location of the Aboriginal Your Choice pilot.

- The Cannabis Cautioning Scheme is a mechanism through which police divert naïve drug users away from the criminal justice system, and alert them to the negative health and social impacts of cannabis use. Approximately 7% of those cautioned under the scheme are members of the Aboriginal community. Reviews of the Cannabis Cautioning Scheme have found that adult Aboriginal people are more likely than other adult Australians to be charged than cautioned for minor cannabis offences, despite the criteria being appropriately applied, and despite police issuing cautions to Aboriginal people with more extensive prior criminal histories than other Australians. Further research may indicate points at which interventions may be more successful for Aboriginal people detected for minor cannabis offences.
- The Magistrates' Early Referral Into Treatment (MERIT) scheme is a Local Court based diversion initiative that seeks to address the health and criminal justice issues of adult offenders who are eligible and suitable for release on bail and who have a demonstrable and treatable drug problem. MERIT operates as a pre-plea program, with court matters adjourned until the completion of the treatment program, which is usually of three months' duration. The MERIT program is operated by the NSW Attorney-General's Department; NSW Health

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and NSW Police Force are partner agencies. The police role in MERIT is primarily one of early referral of offenders to the program as well as monitoring and applying police bail conditions.

### **Reduce offending and over-representation of Aboriginal people in the criminal justice system**

The NSWPF acknowledges that there are a range of factors that contribute to the over-representation of Aboriginal people in the criminal justice system<sup>3</sup>, including substance abuse, high risk alcohol use, unemployment, financial stress and residency in a crime prone area. The NSWPF has a number of initiatives aimed at reducing offending and over-representation of Aboriginal people in the criminal justice system.

- A corporate budget has been established in the NSWPF to fund Aboriginal crime prevention programs and support Aboriginal cultural activities.
- Data from the Computerised Operational System (COPS) is monitored to allow the provision of advice to the Police Aboriginal Strategic Advisory Council (PASAC) on emerging trends concerning the involvement of Aboriginal people in the criminal justice system.
- Aboriginal Crime Prevention Grants (CPGs) commenced in January 2008 for Local Area Command based initiatives that seek to identify and promote innovative ways of decreasing the over-representation of Aboriginal people in the criminal justice system.
- LACs are finalising Aboriginal Environmental Scans, which are expected to assist in identifying key areas for the focussing of local resources.
- The importance of recording the Aboriginality of victims and offenders by police on the Computerised Operational Policing System (COPS) database is emphasised and monitored.
- Statistical reports are regularly provided to the Police Advisory Strategic Aboriginal Council (PASAC) by the Planning & Results Team to assist the council in meeting the objectives of the *Aboriginal Strategic Direction 2007-2011* (ASD) policy document, including the reduction of offending and over-representation of Aboriginal people in the criminal justice system.
- LACs have developed a reporting framework which provides quarterly reports to the Corporate Spokesperson for Aboriginal Issues on progress in implementing the objectives of the ASD, including the reduction of offending and over-representation of Aboriginal people in the criminal justice system.
- Regular audits are undertaken of the compliance by LACs with corporate policies and procedures, including the ASD.

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<sup>3</sup> *The economic and social factors underpinning Indigenous contact with the justice system: Results from the 2002 NATSISS survey – NSW Bureau of Crime Statistics and Research – October 2006*

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With reference to the Committee's request for advice on the Federal Government intervention in the Northern Territory, the NSWPF seconded 11 officers to the Northern Territory in October 2007 to participate in the Federal Government's intervention to support Aboriginal communities and protect children. The officers are currently on secondment until approximately mid-February 2008.

Whilst the NSWPF is following the intervention with interest, it is ongoing and we have yet to evaluate whether it has any implications for policing of Aboriginal communities in NSW. More generally, police should always act forcefully to maintain safety in all communities, including Aboriginal communities and should have the means to do so whenever necessary.

In respect of point C of the Committee's Terms of Reference, the NSWPF notes that the most directly relevant report for police is the Legislative Council Standing Committee on Social Issues *Final Report - Inquiry into Issues Relating to Redfern and Waterloo*. All recommendations from this report have been implemented. A whole-of Government response to the Interim and Final Parliamentary reports into Redfern-Waterloo was provided to the Parliament in February 2005. The Government's approach to Redfern has been completely overhauled through new police initiatives, the creation of the Redfern-Waterloo Authority and the appointment of a Minister with special responsibility for the area.