

**INQUIRY INTO HIGH LEVEL OF FIRST NATIONS
PEOPLE IN CUSTODY AND OVERSIGHT AND REVIEW OF
DEATHS IN CUSTODY**

Organisation: New South Wales Nurses and Midwives' Association
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The Hon Adam Searle MLC
Chair
Select Committee on the high level of First Nations people in custody
Legislative Council
Parliament House
6 Macquarie Street
Sydney NSW 2000

By email: First.Nations@parliament.nsw.gov.au

Dear Chair

RE: Select Committee on the high level of First Nations People in custody and oversight and review of deaths in custody

The New South Wales Nurses and Midwives' Association (NSWNMA) welcomes the opportunity to provide our perspective on the issues under consideration. We believe that the problems that have evolved through generations of accumulated loss and dispossession cannot be resolved without the cooperation of governments and non-government organisations, as well as the community as a whole. Nurses and midwives have a vital role to play in improving the quality and accessibility of health services for Aboriginal and Torres Strait Islander peoples. The NSWNMA is committed to working to address the inequalities experienced by many Aboriginal and Torres Strait Islander peoples and to achieve health equality for First Nations peoples.

In terms of the excessive rates of incarceration of Aboriginal and Torres Strait Islander people in NSW, we are deeply concerned and support prioritisation of actions that address this travesty of justice. Urgent and sincere action is required. We note that there is a widespread view among First Nations advocates that the recommendations of the Royal Commission into Aboriginal Deaths in Custody (1991)

and the Australian Law Reform Commission's 2018 report should be implemented. We support the urgent allocation of resources to achieve this.

The Association is very much committed to supporting the principle of self-determination for First Nations people. Self-determination must be a key characteristic of measures aimed at improving the health of Aboriginal and Torres Strait Islander peoples and therefore we support Aboriginal and Torres Strait Islander community control in health as a key means of reducing health inequalities. We are not an Indigenous organisation so we defer to the expertise of the many First Nations organisations that will put forward their views in terms of what needs to be done to address the high rates of Aboriginal and Torres Strait Islander peoples in custody in NSW. The notion that effective solutions can be formulated by non-Aboriginal authorities and imposed on First Nations people is not supported.

In more general terms, we know that the health of Aboriginal and Torres Strait Islander people is poorer than other people in NSW. We see a close correlation between poor health and imprisonment and believe that the social determinants of health and wellbeing are major factors that drive the higher rates of First Nations people in custody. First Nations people frequently do not have access to culturally sensitive healthcare, appropriate drug and alcohol support, education, housing services, mental health interventions or support for cognitive disabilities. Over the long term this leads to contact with law enforcement and incarceration. The social determinants of health and wellbeing must therefore be a key concept that underpins the conclusions of this Inquiry.

We support the campaign to raise the age of criminal responsibility to 14. We can and must find alternative means to support these children who are experiencing distress. Socialising children into the criminal justice system is not an acceptable response to childhood behavioural problems and it feeds a cycle of disadvantage. First Nations children represent the future for the longest continuing culture on the planet. They must be cherished, their wellbeing supported, and their talents developed. No expense should be spared in this regard.

We also believe that more First Nations people should be diverted into treatment for mental health conditions, cognitive disabilities and drug and alcohol problems. These alternative programs must be fully integrated with First Nations Elders, organisations and service providers.

In terms of healthcare provided within custodial settings, our members provide health care to Aboriginal and Torres Strait Islander people in a range of complex custodial environments, ranging from adult correctional environments, to those in courts and police cells, to juvenile detainees and to those within the NSW forensic mental health system and in the community.

The health care needs of people in custody are complex and significant, with rates of mental health conditions, drug and alcohol issues, cancer, heart disease, diabetes, hepatitis C, intellectual disabilities substantially higher than in the general community. This high level of need for health care reflects the generally disadvantaged socioeconomic backgrounds of people in custody, and in the case of Aboriginal and Torres Strait Islander peoples, this disadvantage is compounded by the intergenerational trauma that is the product of colonisation.

Nurses working in custodial environments are exposed to occupational violence and aggression by nature of the patient group that they work with. The key controls in place to ensure their safety at work relate to having adequate numbers of staff employed to enable safe systems of work.

Members of the Association who work in custodial settings frequently raise concerns with us relating to the adequacy of staffing, both in terms of correctional officers and nurses, and the impact this has on their ability to provide the level of health care required for the population they care for. Nurses report that a range of indicated healthcare interventions are regularly unable to occur as they should due to inadequate staffing of corrections officers. Similarly, off site specialist medical appointments are often missed or delayed due to inadequate staffing of correctional officers for safe escorts.

In terms of the professional practice environment, our members report a number of concerns. Despite the fact that the custodial setting is equivalent to a primary care setting, there is limited opportunity to educate inmates on the need to seek assistance early to enable early intervention. There should be roles established for Aboriginal chronic care workers, diabetes and asthma educators.

Low staffing levels by Justice Health mean the nurses on shift ordinarily end up busy with day to day work with little opportunity for file review to pick up potential underlying conditions, follow up with patients who are non-compliant or provide holistic care. Protocols are required to provide guidance in relation to the limited role a sole after hours nurse can play if there is an emergency and the need to call an ambulance and escalate to a hospital. We are also aware of nurses who are on call for multiple prisons overnight and are required to travel between prisons alone at night to provide care.

This bare-bones approach to access to healthcare for people in custody is unsatisfactory. It is unsatisfactory for all people in custody, and even more so for vulnerable groups such as First Nations prisoners.

Aboriginal Community Controlled Health Organisations are well known to enhance equitable access to healthcare and effectively manage chronic diseases. First Nations people in NSW gaols should have access to their services.

Similarly, we support the appointment of Aboriginal health workers within gaols and juvenile detention settings. The role of such workers would be similar to that of those workers employed by Local Health Districts. Such workers can provide an important link between the consumers of the health service and the medical staff.

The NSWNMA calls for greater funding to the NSW Coroner's Court to reduce delays and to employ and appoint the staff referred to below.

Coronial investigations should be supported by Aboriginal Liaison Officers employed within the Coroner's Court, supporting the investigation and providing a source of contact for Aboriginal and Torres Strait Islanders' families and liaison between the police and the Court.

The NSWNMA supports proposals for the Coroners to be supported throughout the Inquest itself by an appointee from the Aboriginal and Torres Strait Islander community (an Aboriginal Elder) to sit with the Coroner. This model is reflected not only in Land and Environment Court matters, but more generally in matters before the NSW Civil and Administrative Appeals Tribunal. Such appointments will support the Coroner and, hopefully add some comfort to families and their communities.

Thank you again for the opportunity to provide our views. This is an opportunity to affect meaningful change in NSW that I hope will not be wasted.

Yours sincerely

BRETT HOLMES

General Secretary

NSW Nurses and Midwives' Association