

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

**Organisation:** Assistant Commissioner Anthony Crandell APM, NSW Police  
Force - Introductory address for the purpose of giving evidence  
to the committee

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**NSW Police Force**

Select Committee on the High Level of First Nations People in Custody and Oversight and Review of Deaths in Custody

**Inquiry into High Level of First Nations People in Custody and Oversight and Review of Deaths in Custody**

Inquiry hearing: Monday 7 December 2020  
Macquarie Room, Parliament House, Sydney

**OPENING STATEMENT**

Provided by Assistant Commissioner Tony Crandell APM,  
NSW Police Force

## **OPENING STATEMENT**

Thank you for the opportunity of addressing the Select Committee Inquiry into the unacceptably high level of First Nations people in custody; and the suitability of oversight bodies tasked with inquiries into all deaths in custody in NSW.

On behalf of the NSW Police Force (NSWPF) I would like to acknowledge the Gadigal People as the traditional custodians of this land. I also pay respect to the elders past, present and emerging of the Eora Nation. I extend that respect to other First Nations people present or watching proceedings.

The NSWPF recognises appropriate and preferred terminology for First Nations people in Australia. In line with widely accepted terminology and NSWPF recording and writing standards, the use of the term Aboriginal or Indigenous within this briefing refers to Aboriginal and Torres Strait Islander people, acknowledging them as the First Peoples of Australia.

The NSWPF has many responsibilities to the many diverse communities of NSW. The focus of Police is not solely upon perpetrators of crime. Within any modern policing framework there must be an overriding responsibility for community safety brought about by preventing, disrupting and effectively responding to crime. Within this framework consideration must be given to vulnerable communities, including First Nations People, those affected by disabilities or simply those that are the subject of bias or hate. At the forefront is preventing victims of crime by engaging prevention and protection strategies to ultimately deliver impartial policing services to the people of NSW.

The NSW Police Force acknowledges the overrepresentation of First Nations (Aboriginal and Torres Strait Islander) people in the criminal justice system, and the complexities of this disadvantage. This context presents many challenges.

The NSWPF is committed to working with policy makers to develop strategies to meet these challenges. It is acknowledged that developing trust is a crucial element of upholding our primary responsibility to maintain safe and secure environments. To that end the NSWPF must support positive and long-term engagement of Aboriginal and Torres Strait Islander communities.

### Aboriginal Deaths in Custody

According to the National Deaths in Custody Program from the Australian Institute of Criminology, over 28 years between 1990 and 2018, 490 First Nations people died in custody. 29 deaths were in NSW and classified as in police custody or related to custody operations. Locations of those deaths are recorded as: within a public place (14); on private property (4); in a public hospital (8); another custodial environment (1); and in a police cell (2).

In 2019 the Australian Institute of Criminology (AIC) published "Indigenous deaths in custody: 25 years since the Royal Commission into Aboriginal Deaths in Custody". NDICP data show Indigenous people are now less likely than non-Indigenous people to die in prison custody.

According to the ABS, over the past 12 months, the imprisonment rate of Aboriginal people nationally decreased by 2%. In NSW the reduction was 7.5%.

The NSWPF has learnt lessons from deaths in custody and implemented many new procedures, systems and educational programs that prevent deaths in custody. Learning products and programs are continually evolving. They address heightened vigilance and awareness of early danger signs for people in custody and now expand to reduce the number of people being brought into custody through use of alternative pathways to Justice.

### Diversion

Measures to divert Indigenous people from NSWPF custody have increased by 54% between 2010 and 2019, compared with a 5% increase for non-Indigenous people.

It is important to note that offending does not stop at diversion and does not necessarily stop people in a life of crime. Further support is required beyond the simple act of diversion. Delaying entry into the Criminal Justice System is equally unacceptable because the NSWPF cannot support creating more victims of crime. Turning a blind eye to recidivism is not effective diversion.

A whole-of-Government approach is necessary with engagement much earlier in a vulnerable person's life, and well before first and subsequent contacts with the criminal justice system. The NSWPF has recognised the value of early intervention with introduction of the Commissioner's

youth-specific 'Rise-Up' program designed to address drivers of antisocial behaviour including learning, work and employment opportunities.

Early measurement indicators are extremely positive with several young people being placed into employment and provided more educational opportunities in positive environments of support that have directly impacted recidivism.

#### Victimisation

Victimisation rates of Aboriginal people are concerning. The Australian Bureau of Statistics (ABS, 2016) found Aboriginal people in NSW 2.6 times more likely to be victims of assault. Aboriginal females make up 65% of all Aboriginal assault victims and nine out of ten times will know their attacker. Aboriginal females in NSW are 2.4 times more likely to be victims of sexual assault. Approximately 16% of all domestic violence related incidents over the past 12 months in NSW involved both a Person of Interest and Victim identified as Aboriginal.

The NSWPF must protect victims of crime and balance the needs of perpetrators, especially those involved in incidents of violence where victim protection measures are likely to be required.

#### STMP

The NSW Police Commissioner and Executive Team are committed to the Suspect Targeting Management Plan strategy. The latest iteration of the Suspect Targeting Management Plan (STMP III) was introduced into the NSWPF on 4 November 2020. Additional streams of targeting now allow greater flexibility to engage recidivist offenders in plans designed to remove them from the criminal justice system.

There is considerable independent research showing evidence in support of proactive police interventions that target recidivist criminal behaviour to prevent and deter ongoing criminal activity. "The Long-Term effect of routine police activity on property and violent crime in NSW, Australia." (Wang J; Weatherburn D; November 2019) found that sustained increases in police activity, whether in the form of move on directions or person searches suppress break and entry, motor vehicle theft, and robbery offences.

Research entitled "Crime Deterrence and Punishment Revisited" (Maurice J G; Weatherburn D; and ors September 2019) found that "Criminal activity is highly responsive to the prospect of arrest and conviction, but much less responsive to the prospect or severity of imprisonment. Results show that increasing the risk of apprehension and conviction exhibits a much larger effect in reducing crime compared to raising the expected severity of punishment." The authors indicated the significance of implications because imprisoning more people for longer is not optimal from a policy perspective. The best policing activities (including forms of alternative intervention) will be those that exert the strongest influence on the perceived risks of apprehension.

Most recently, research entitled "An evaluation of the Suspect Target Management Plan" (Yeong S. October 2020) found that the NSWPF STMP II Policy is an effective tool for reducing crime among high risk individuals through proactive policing strategies. The study found:

- A 16% decrease in the probability of at least one new violent or property crime within 12 months of being placed on STMP II; and
- A 43% reduction in the probability of at least one new DV offence within 12 months of being placed on DV STMP;
- A 10% deterrence effect for First Nations People.

The crime reduction benefit was found to be predominantly through deterrence rather than incapacitation by imprisonment, especially for domestic violence offenders. Deterrence is created by lowering an individual's intent to offend by increasing the likelihood of apprehension and punishment.

The NSWPF currently has 79 Aboriginal adult people listed as active under STMP which is 23% of the total STMP cohort. Sixteen Aboriginal young people are listed as active under STMP which is 5% of the total STMP cohort. For Domestic Violence, 27 Aboriginal people are listed as active under DV STMP which is 24% of the total STMP cohort. No Aboriginal young people are active under DV STMP.

Strategies of diversion and engagement attract support from the NSWPF when measures show reduced recidivism and therefore victims of crime.

Other Engagement Programs Supported by the NSWPF

**Rise Up Strategy (NSW)** Launched in 2018 comprises a suite of 8 programs to positively engage young people. More than 300 young people have been engaged and obtained employment including over 50 Aboriginal youth.

Circle Sentencing

**Project Walwaay (Dubbo)** developed in 2019 targeting over-representation of Aboriginal youth in the criminal justice system by engaging the Rise-Up Program methodology has seen a reduction in recidivism among Aboriginal youth after 6 months of operation.

**Maranguka Program (Bourke)** developed in 2013 as a multi-agency diversionary program remains in operation and engages the Bourke Tribal Council with daily communication and organised events to reduce Aboriginal youth in the criminal justice system. Maranguka has been independently assessed as positively associated with reducing domestic violence and Aboriginal incarceration rates; increasing vocational education and achievement of drivers licenses.

**Indigenous Police Recruitment Our Way Delivery (iProud) Program (NSW)** is a joint initiative developed to attract educational and employment opportunities for Aboriginal people in policing and across NSW Government Agencies.

The NSWPF has 3.1% or 658 Aboriginal or Torres Strait Islander identified employees (470 police officers and 188 administration staff), including 55 Aboriginal Community Liaison Officers.

Improvements to Custody Facilities and Procedures

Over the past 10 years the NSWPF replaced and upgraded custody areas and holding cells to meet the best possible safety standards. Upgrades include increased CCTV cameras and TV monitors; better design and location of custody areas, cells and charge desks; improved safety finishes to walls and floors, cell doors and fixing points. Self-harm points, such as gaps between fittings and unsecured grates have been rectified. A budget of \$19.5m was approved for the Program, later increased to \$23.5m, which was fully expended. 86 sites, being police stations across metropolitan and regional areas of NSW have had ongoing upgrades to custody facilities at an ongoing cost, presently \$3.8 million in 2020.

Oversight

Investigative oversight is appropriate given the breadth of oversight bodies listed in the Inquiry Terms of Reference. However, it is not for the NSWPF to determine an appropriate oversight structure, notwithstanding the NSWPF contribution to oversight inquiries reflects our maturity as an organisation.

Statistics

Many submissions to this Inquiry have referenced statistics relating to the number of Aboriginal people targeted under STMP II. The LECC indicated an estimation of 72% as opposed to the NSWPF estimation of 47%. The NSWPF has since commenced a review of statistical methodology within this difficult environment. Aboriginality is not a feature easily confirmed. Some assessments are made by officer's unilaterally based upon a person's appearance and conversation, whereas others rely upon self-identification as in custody settings. If a person identifies as Aboriginal or Torres Strait Islander, or is identified as such by any means, that person is always treated as potentially vulnerable. The 'once identified, always Aboriginal' tenet is misleading from a statistical perspective. The process for determining highest likelihood of Aboriginality is under review and will attract peer review processes once determined.

The NSWPF has developed many positive and supportive relationships with First Nations communities all across NSW and is committed to improving outcomes for all indigenous citizens of NSW.

**END**