

LECC

Law Enforcement
Conduct Commission

An investigation into the
formulation and use of the NSW
Police Force Suspect Targeting
Management Plan on children and
young people

Operation Tepito
Interim Report pursuant to Part 6
LECC Act

January 2020

LECC

Law Enforcement Conduct Commission

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FOREWORD

A key component of modern policing is the application of proactive policing methods to reduce crime in local communities committed by known repeat offenders. For the last two decades, the NSW Police Force has applied the intelligence-led proactive policing policy called the Suspect Targeting Management Plan (STMP) to seek to reduce crime committed by such offenders across NSW.

Prior to the Commission's initiation of its investigation into the use of the STMP, there existed a degree of public debate and commentary which pointed to concerns about the application of this policy to children and young people, as well as other vulnerable populations such as Aboriginal and Torres Strait Islanders. The Commission was further drawn to this issue because of the apparent absence of any particular consideration of the unique characteristics of children and young people in the development of the STMP, and the risks that its application to this population would be unreasonable.

The Commission thanks the NSW Police Force for the collaborative approach applied throughout this investigation, most notably for sharing large amounts of source documentation with the Commission. Scrutiny of this information has enabled the development of evidence-based recommendations, to which the NSW Police Force has responded with thoughtful consideration. The Commission also thanks the NSW Police Force for the willingness to engage in ongoing and productive dialogue to progress this investigation.

The Commission acknowledges the complexities of service provision to young people, their varied and potentially complex needs and the effects of this in day-to-day policing environments. The Commission supports continued attempts to integrate services across Government for at-risk youth, which is a necessary step for reducing recidivist offending, and to ensuring that crime prevention strategies such as the STMP are best placed to make the improvements that the NSW Police Force is seeking to achieve in this population.

The Commission is hopeful that as a result of this investigation into the application of the STMP policy to children and young people a more robust, informed and appropriate mechanism for policing young recidivist offenders in NSW will transpire. The large-scale policy and program changes initiated by the NSW Police Force in response to our research is a commendable first step, and while there is some way to go in rectifying the full spectrum of issues we have identified, there now exists a basis upon which progress can be made and measured.



The Hon M F Adams QC
Chief Commissioner



The Hon L Drake
Commissioner for Integrity

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1. INTRODUCTION

This report presents the interim findings of an investigation conducted by the Law Enforcement Conduct Commission (the Commission) into the use of the NSW Police Force Suspect Targeting Management Plan II (STMP) on children and young people.

The STMP is a predictive policing strategy introduced by the NSW Police Force in January 2000 and revised in May 2005.¹

The NSW Commissioner of Police, Mr Michael Fuller, APM, has publically stated that the STMP is designed to disrupt and prevent recidivist offenders to minimise opportunities for them to commit crimes.² The NSW Police Force STMP II Policy³ (the policy) involves local commands selecting known offenders in the local community for assessment, and developing a Target Action Plan (TAP) listing the strategies police will implement to disrupt the person's criminal behaviour.

There is no separate STMP for children and young people. Adult and child targets are subject to the same process although, as discussed in Chapter 2, significant changes are now proposed in this area.

The Commission initiated this investigation in June 2018 pursuant to s 51 (1) of the *Law Enforcement Conduct Commission Act 2016* (LECC Act). The purpose of the Commission's investigation was to examine -

- (i) the potential unreasonableness of the application of a risk assessment tool, created for adult offenders, to children and young people, without substantial modification to account for the unique characteristics of young people, including the age of criminal responsibility (LECC Act s 11(1)(b)(i));
- (ii) concerns that have been raised with the Commission that indicate that the STMP may be applied in a discriminatory manner (LECC Act s 11(1)(b)(i), s 11(1)(c)), and
- (iii) information received by the Commission that indicates that a person's STMP status may be being used as a justification (in and of itself) to stop and search a target. This would constitute a breach of the *Law Enforcement (Powers and Responsibilities) Act 2002* (LECC Act s 11(3)(b)).

This interim report was prepared primarily to inform a re-design of the STMP II that the NSW Police Force commenced after the Commission's investigation was announced. It presents the methodology adopted for our systemic investigation into the application of the STMP on children and young people, as well as findings and recommendations.

1.1 WHAT IS THE SUSPECT TARGETING MANAGEMENT PLAN (STMP)?

The STMP seeks to reduce recidivist offending by increasing policing activities targeted at an individual offender. It is a pre-emptive policing tool - designed to prevent crime before it occurs. According to the policy, the aim of the STMP is to provide a structure for commands to

¹ *STMP Policy Timeline*, provided by the State Intelligence Command to the Commission in June 2018.

² Michael Fuller APM, quoted in *DRF v Commissioner of Police, NSW Police Force* [2019] NSWCATAD 5, [45].

³ *The NSWPF STMP II Policy*. This policy is referenced extensively in this report. It is an operational document corporately managed by the NSWPF State Intelligence Command.

precisely identify and target repeat offenders to disrupt their criminal behaviour. Police working in intelligence, investigations and crime prevention teams share information and develop individualised action plans which aim to disrupt the criminal behaviour of a targeted offender.

The NSW Police Force defines a properly managed STMP as involving identification of a suitable target, a standardised risk assessment to assess the risk posed by the target, assessment by commands about whether and how to target a person, the development of a TAP which documents the actions police will take in relation to the target, records of all interactions between police and the target and a review of the impact of the police actions on the target's behaviour.⁴

Each of these aspects of the policy is analysed in detail in the chapters that follow. However, it is useful to provide some further detail about the TAP here, as it sets the direction for how police are to disrupt the target's criminal behaviour. The policy sets out a range of strategies or categories of action that police can be tasked to do when interacting with the STMP target. These strategies include -

- (i) Positive strategies – such as crime diversion programs or Police Citizens Youth Club (PCYC) referrals. They are 'designed to assist the target in relation to their individual situation'.
- (ii) Compliance strategies – such as enforcing bail or Juvenile Justice conditions. The aim is to 'ensure targets are abiding by sanctions the legal system has imposed upon them'.
- (iii) Information gathering – obtaining information from various sources about the individual or the prevalence of relevant crime issues.
- (iv) Overt strategies – these are described as 'active visible targeting strategies' and include issuing consorting warnings, patrols of the target's address, and 'stop, search and detain'. These were the most commonly applied strategies in the TAPs reviewed by the Commission.

Specific officers or groups of officers are tasked at fortnightly Tasking and Deployment meetings to carry out the actions for each STMP target. Police are expected to make a record of the interactions they have with the STMP target in a special part of the Computerised Operational Policing System (COPS) database reserved for recording STMP interactions (this is called the STMP COPS Case). These interactions are meant to be reviewed by a case officer assigned to review the application of the STMP to the target.

The policy is designed as a framework for local responses to crime issues. Each local command has discretion as to whether a person is chosen for targeting or not, and local commands are encouraged to apply a 'flexible and coordinated approach in the application of the strategy.'⁵ This is an indication that local commands have a significant degree of discretion in selecting who to target, and how this targeting occurs.

⁴ Chapter 5 of this report details some of the actions that police can list in Target Action Plans. These range from overt targeting, such as stop and search, to positive strategies, such as encouraging engagement in diversion programs or referral to the PCYC.

⁵ Email from the Professional Standards Command to the Commission, 25 May 2019, attaching the NSWPF response to Questions on Notice taken at a meeting between the Commission and the State Intelligence Command on 6 February 2019, point 1.

The Commission recognises that pre-emptive, intelligence-led policing programs designed to prevent criminal activity are established and accepted modern policing methodologies. However, the way that police manage recidivist offending in children and young people should be different to the management of recidivist offending in adults. It is clear from advice provided by the NSW Police Force that the development of STMP II did not acknowledge any need for a different approach when dealing with children and young people.

The initial development of the STMP was informed by a paper commissioned by the United States (US) Congress *Preventing Crime: What Works, What Doesn't, What's Promising*,⁶ which was an independent review of the effectiveness of state and local crime prevention programs funded by the US Department of Justice.⁷ Aside from that research, the NSW Police Force STMP policy appears to have largely been informed by 'common sense' approaches to policing recidivist offenders. No significant studies or evaluations of the STMP have been undertaken by, or on behalf of, the NSW Police Force.

Given the lack of evidence-based input into the development of the STMP II framework, particularly regarding issues relevant to the criminality of young people, it is not surprising that the STMP II policy contains no youth-specific considerations.

1.2 OUR INVESTIGATION – OPERATION TEPITO

In October 2017 the Commission initiated preliminary inquiries into how the NSW Police Force applied the STMP to children and young people. Our decision to investigate was partly informed by the work of the Youth Justice Coalition *Policing Young People in NSW: A Study of the Suspect Targeting Management Plan* published by the Youth Justice Coalition (YJC) in October 2017. The YJC's report focussed on how the STMP is used in relation to children and young people, their experiences with the STMP, the impact that the STMP is having on children and young people's interactions with police and criminal justice, as well as the impact of the STMP on policing practice and police's application of the law.⁸

The Commission has also considered the discussion and findings of the NSW Parliamentary Inquiry into the Adequacy of Youth Diversionary Programs in NSW. The Legislative Assembly Committee on Law and Safety (the Committee) convened to inquire into and report on the adequacy of diversionary programs to deter juvenile offenders from long term involvement with the criminal justice system.⁹ The Committee's report was released in September 2018 and contains 60 overall findings and recommendations. Two recommendations and two findings

⁶ Lawrence W. Sherman et al, 'Preventing Crime: What Works, What Doesn't, What's Promising' (1998) *United States Department of Justice, Office of Justice Programs, National Institute of Justice: Research in Brief* (NCJ 171676), 1-19.

⁷ Commission Section 55 Notice number 968 of 2018, item 6; Voluntary Request for information in correspondence to NSWPF dated 1 November 2018. The paper provided evidence that the following types of programs work in reducing crime and violence in young people: family and parental training for delinquents and at-risk preadolescents; extra police patrols for high-crime locations; monitoring by specialised police units to reduce the time and opportunity of known high-risk repeat offenders to offend. The paper also refers to evidence that arresting juveniles for minor offences actually causes them to become more delinquent than circumstances where police use other alternatives to formal charging.

⁸ Vicki Sentas and Camilla Pandolfini, *Policing Young People in NSW: A study of the Suspect Targeting Management Plan* (Youth Justice Coalition, 2017) (YJC Report).

⁹ Legislative Assembly Committee on Law and Safety Terms of reference, Parliament of New South Wales, *Terms of Reference – Inquiry into Youth Diversionary Programs in NSW*, available at <https://www.parliament.nsw.gov.au/committees/inquiries/Pages/inquiry-details.aspx?pk=2464#tab-termsreference>.

specifically related to the use of the STMP on children and young people.¹⁰ The Committee's recommendations regarding the use of the STMP on children and young people were -

That the NSW Police Force make the Suspect Targeting Management Plan policy and high level operational arrangements publicly available (Recommendation 8 p. x);

That the NSW Police Force introduce guidelines about the way Suspect Targeting Management Plans are to be policed for people under 18 years to limit confrontational practices and language, maintain respectful lines of communication and avoid the possibility of unnecessary escalation of interactions (Recommendation 9, p. x).

The Committee's findings regarding the use of the STMP for children and young people were -

The NSW Police Force's Suspect Targeting Management Plan is an important community safety tool that should be retained (Finding 1 p. ix).

The Committee supports initiatives within the NSW Police Force so that children under the age of 12 years cannot be placed on a Suspect Targeting Management Plan without approval at the Assistant Commissioner level. It further supports extending this initiative so that it applies to any child under the age of 14 years (Finding 2 p. ix).

The NSW Government response¹¹ to the report was released in August 2019, and did not comment on the STMP. The report did however indicate that a review of the *Young Offenders Act 1997* will be undertaken,¹² and committed the NSW Government to further legislative reforms aimed at improving children and young people's access to diversion.

1.2.1 INDIVIDUAL INVESTIGATIONS INITIATED BY THE COMMISSION

Prior to commencing a systemic investigation, the Commission initiated a series of individual investigations relating to complaints received by, or on behalf of children and young people who appeared to have been subjected to targeting under the STMP.

The YJC referred a number of these complaints, some of which were historical. The Commission has not publically released the findings of these investigations, but can report that these investigations were finalised and no adverse findings were made against the NSW Police Force. In addition to the particular issues raised by these individual complaints; the nature of the complaints; and the NSW Police Force responses to them, the Commission decided that it was appropriate to investigate whether, and to what extent, if any, this area of policing involves unjust, unlawful, unreasonable, oppressive or improperly discriminatory conduct or decisions, both in its formulation and use.

1.2.2 SYSTEMIC INVESTIGATION

To understand the STMP and its application, the Commission analysed STMP source documentation and information stored on COPS for all STMP targets (active and suspended) who were under 18 years at the time of STMP nomination and were nominated for STMP targeting at any time in the period 1 August 2016 to 1 August 2018. A total of 429 children and

¹⁰ Legislative Assembly Committee on Law and Safety, Parliament of New South Wales, *The Adequacy of Youth Diversion Programs in New South Wales* Sydney (2018).

¹¹ NSW Government, *Report of the Legislative Assembly Committee on Law and Safety – Inquiry into the Adequacy of Youth Diversion Programs in New South Wales: NSW Government Response* (August 2019).

NSW Government, *Report of the Legislative Assembly Committee on Law and Safety – Inquiry into the Adequacy of Youth Diversion Programs in New South Wales: NSW Government Response* (August 2019) p 1 and p 6.

young people fell within this cohort.¹³ Our investigation is also informed by information identified during a review of the NSW Police Force intranet, and from meetings that were held between the Commission and the NSW Police Force State Intelligence Command (SIC).

The Commission's investigation sought to understand how the NSW Police Force manages young STMP targets, and to make a determination as to whether the application of the STMP to children and young people amounts to conduct that is unlawful, or conduct that is unreasonable, unjust, oppressive or improperly discriminatory in its effect.¹⁴

The Commission's analysis showed patterns of targeting that appear to have led to unreasonable, unjust and oppressive interactions for young STMP targets. Our analysis suggests -

- (i) a high proportion of young people (72% of the cohort) who the NSW Police Force had identified as 'possibly ATSI' were selected for STMP targeting¹⁵ (the NSW Police Force estimates that the proportion of the cohort that is Aboriginal is actually 42%, and uses a different method for calculating this figure);¹⁶
- (ii) overt and intrusive policing tactics have been applied by the NSW Police Force resulting in apparently unreasonable surveillance and monitoring of children and young people;
- (iii) patterns of interactions that show the NSW Police Force has used a child or young person's STMP status as a basis for ongoing and repeated stops, searches or visits to the young person's home, in lieu of legislative or court ordered frameworks;
- (iv) the target identification and risk assessment process may have introduced unacceptable risks of bias; and

¹³ Findings presented throughout this report are reflected as a percentage of the 429 children and young people who comprised the investigation cohort.

¹⁴ *Law Enforcement Conduct Commission Act 2016* (NSW) (LECC Act) s 11(1).

¹⁵ The Commission undertook a search on the NSWPF COPS system using the name, date of birth and CNI of each young person in the investigation cohort. An Alerts section is contained within COPS under which 'possible ATSI' is, or is not, listed. The cohort contained 307 young people with 'possible ATSI' listed on the alerts page in COPS which represents 72 per cent of the total cohort. Due to the way that the NSWPF records this information, it is not possible to differentiate between these populations. It is also important to note this information may not be self-reported by a young person. It is possible that a NSWPF officer has completed the verification without seeking confirmation from the young person that they do actually identify as an Aboriginal person or as a Torres Strait Islander.

¹⁶ In the *NSW Police Force Response to Operation Tepito - Interim Report*, dated December 2019, on p 7, the NSW Police Force advised the Commission that it did not agree with the Commission's calculation of the number of young Aboriginal targets in the cohort. The NSW Police Force advised it does not rely on self-identification figures as recorded in COPS to calculate the number of people who are Aboriginal and Torres Strait Islander. The NSW Police Force advised:

This method has been shown to be an exaggeration of the actual representation of indigenous persons in crime statistics. There are many instances where a person accidentally (for example, a Pacific Islander thinking that 'Islander' equates to 'Torres Strait Islander') or maliciously, identifies as indigenous in a police interaction.

The statistical standard adopted by BOCSAR, the ABS and internal NSWPF statistics is based on identification in each specific incident. Where identification is inconsistent over time, and algorithm (supplemented by data from the NSWPF custody system) is used to determine the likely indigenous status of an individual. Using this standard approach, it is expected that indigenous people make up 47% (200 of 429) of the cohort, not 72% (307 of 429) as claimed. Importantly, this figure is broadly consistent with information previously supplied to David Shoebridge MLC in GIPA 6021 of 2017 (52% of a similar cohort) and in GIPA 2792 of 2019 (49% of a similar cohort).

- (v) the NSW Police Force did not undertake evidence-based evaluations to assess the success, or otherwise, of the STMP on an individual.

Observations, findings and recommendations are made throughout this report to highlight problems, and potential approaches for improvement.

1.2.3 LEGAL AND OTHER CONSIDERATIONS

The subsequent chapters of this report contain a detailed analysis of the STMP policy and its application to individual targets within the investigation cohort. However, it is useful to commence with some observations about some of the central issues that arose in the research undertaken by the Commission.

Generally, records about the way the STMP is applied to children and young people lacked sufficient detail. The lack of detail was observed in the actions under the TAP, the tasking instructions issued to officers, and the records of the interactions police had with targets. A significant proportion of instructions did not adequately detail what was expected of the officer in the interaction with the target. We observed that the records police made in the STMP part of COPS commonly contained insufficient detail to gauge the nature of the interaction, making it impossible to assess whether the officer had used a police power and whether that use was lawful in the circumstances.

By way of example, is the use of ‘home visits’, where police were tasked to visit the home of the STMP target, seemingly to check on the young person, but usually without any detail in the instructions to police about the purpose of the visit or the nature of the interaction that the command expected in conducting the home visit.

The Commission considers that TAPs should clearly state the aims and intentions of the actions tasked to officers and that comprehensive records of police interactions with targets are to be maintained. This is necessary for police in executing those tasks, as well as for those responsible for managerial review of the officers, and gauging the impact of the strategy on STMP targets.

As is detailed in Chapter 5, the *Law Enforcement (Powers and Responsibilities) Act 2002* (LEPRA) limits the way police may conduct a search of a person without a warrant.¹⁷ Additionally, Part 15 of LEPRA imposes a range of safeguards upon the way police are to exercise powers, such as requiring officers to give their name and place of duty and the reason for the exercise of the power.¹⁸ However, in some circumstances police may informally suggest that a person leave a particular public place without formally issuing a move on direction, or may conduct a search ‘with consent’ pursuant to s 34A of LEPRA. It was not evident from the STMP COPS records we reviewed whether either the officer or the individual was aware of whether the interaction with police was a formal direction, and thereby the exercise of a police power, or merely a request, and therefore not compulsory. In circumstances where police are asking a person to do something informally, or ‘with consent’, the person is entitled to know whether he or she is being requested to consent to some procedure which they can refuse, or is being directed or required to comply with what is being asked. It is also important that the police officer understands whether or not the person is obliged to comply with the request, and that failure to do so is not an offence, nor, in and of itself, reasonable grounds to suspect an offence.

¹⁷ See *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW) (LEPRA) Part 4.

¹⁸ Cf. LEPRA s 202.

Another issue that arises from the lack of sufficient detail, particularly in relation to the records of interactions between police and STMP targets, is that it is difficult to see how relevant officers in the local command, such as STMP case officers, crime managers or commanders can monitor and evaluate the impact of the STMP on individual targets when the nature of interactions between police and targets are not clear and accountable. Records of those interactions are surely key to decisions about whether to modify an approach, or even to cease active STMP targeting. It is noteworthy that the Commission also found that commands do not always make records of such decisions.

Mention has already been made of the cooperation provided by the NSW Police Force with the Commission's investigation, particularly by providing extensive documentation. Some of the details of the STMP documentation is regarded by the NSW Police Force as operationally sensitive. Where, for the purposes of this report, it has been necessary for the Commission to refer to this material, language has been used (following discussions with the NSW Police Force) that takes account of this factor and does not prejudice operational requirements.

2. RECENT CHANGES TO THE SUSPECT TARGETING MANAGEMENT PLAN

Since the Commission's research into the use of the STMP on children and young people commenced, in consultation with the Commission, the NSW Police Force undertook a compliance review, initiated two system changes regarding the management of young STMP targets, released STMP II guidelines, and initiated a re-design of the STMP which culminated in the NSW Police Force Commissioner's Executive Team (CET) endorsing of a new policy, STMP III. That policy is currently in draft form. The NSW Police Force commenced a trial of STMP III in three locations¹⁹ in December 2019, which it anticipates will go for eight weeks.

While this report concentrates on the application of STMP II to children and young people, it is apparent that the STMP III draft policy addresses many of the concerns the Commission identified with STMP II in its application to children and young people. The NSW Police Force responses to recommendations detailed in this report indicate that many concerns appear to have been met under STMP III, although it is too early to assess whether the practices for dealing with children and young people under the STMP III policy have resolved all of the issues we identified. The Commission intends to review the application of STMP III on children and young people at a future date. For the present it is necessary to understand that that references in this report to STMP III apply to the draft. When the trial process is completed, further changes may be made. Accordingly, STMP III should be taken to describe a project as it presently stands, rather than a current NSW Police Force program.

2.1 SUSPECT TARGETING MANAGEMENT PLAN COMPLIANCE REVIEW - JUNE 2018

The SIC STMP Compliance Review (the compliance review)²⁰ was undertaken in response to findings contained within the YJC report, and subsequent NSW Police Force advice prepared for the Commissioner of Police and the NSW Police Force Executive.

The compliance review aimed to identify key issues and themes in the application of the STMP, and ways the NSW Police Force could improve compliance with the policy.²¹ The review made four recommendations.²² In response to the review, the SIC developed and disseminated practice guidelines for Police Area Commands and Police Districts (local commands) about the STMP; the SIC and the Intelligence Training Unit modified the training information provided in Module Two of the Diploma of Police Intelligence Practice to improve compliance with the STMP policy; the Performance and Program Support Command now includes STMP process in region reviews; and Region Intelligence Strategists check on STMP policy compliance when conducting audits of local commands.²³

¹⁹ Mount Druitt and Bankstown Police Area Commands (PACs) and Far South Coast Police District (PD).

²⁰ This report was shared with the Commission by the State Intelligence Command, November 2018.

²¹ State Intelligence Command, *STMP Compliance Review*, June 2018, provided by the State Intelligence Command to the Commission in November 2018, p 2.

²² State Intelligence Command, *STMP Compliance Review*, June 2018, provided by the State Intelligence Command to the Commission in November 2018, p 2.

²³ Email from Professional Standards Command to the Commission, 25 May 2019, attaching the NSWPF Response to Questions on Notice taken at a meeting between the Commission and the State Intelligence Command on 6 February 2019, point 25.

2.2 NSW POLICE FORCE SYSTEM CHANGES

The NSW Police Force has introduced system changes for the approval of young STMP targets and for information sharing about them.

2.2.1 STMP NOMINATION AND APPROVAL PROCESS FOR CHILDREN AGED UNDER 14 YEARS

Since 13 August 2018, STMP nominations for children under 14 years require the approval of the NSW Police Force Assistant Commissioner, Capability, Performance and Youth Command (Youth Command).²⁴

In May 2019, the NSW Police Force advised the Commission that only new juvenile STMP targets would be affected by the policy change – it will not be applied retroactively.²⁵ Two referrals to the Assistant Commissioner of the Youth Command²⁶ had been made as at May 2019.

The revised referral process involves local commands sending a young person's STMP documentation to the Youth Command. The Youth Command reviews the documentation and identifies if they are currently, or have been, engaged by a youth case manager. A report recommending whether the child or young person should be managed by Youth Command is considered by the Assistant Commissioner. In making a recommendation for STMP nomination, the NSW Police Force advised the Commission that 'all measures are taken to find the best possible outcome to divert the youth away from the juvenile court processes.'²⁷ The Youth Command maintains a spreadsheet of all young people affected.²⁸

The draft STMP III policy maintains the requirement that STMP nominations for targets under the age of 14 must be approved by the Assistant Commissioner, Capability, Performance and Youth Command.

2.2.2 ELECTRONIC NOTIFICATIONS

In December 2019, the NSW Police Force advised the Commission that a new 'interaction' incident category had been added to COPS. According to the Commander, State Intelligence Command:

The new COPS Incident category is important because it allows police the ability to record interactions that may not involve or require the use of powers, yet may reflect circumstances of parole breach...The new 'interaction' category in COPS is also applicable to many other engagements that may not involve the exercise of police powers. For example it is especially

²⁴ *NSW Police Force Intel Notes*, October 2018, downloaded from NSW Police Force intranet.

²⁵ Email from Professional Standards Command to the Commission, 25 May 2019, attaching the NSWPF Response to Questions on Notice taken at a meeting between the Commission and the State Intelligence Command on 6 February 2019, point 19.

²⁶ Email from Professional Standards Command to the Commission, 25 May 2019, attaching the NSWPF Response to Questions on Notice taken at a meeting between the Commission and the State Intelligence Command on 6 February 2019, point 21.

²⁷ Email from Professional Standards Command to the Commission, 25 May 2019, attaching the NSWPF Response to Questions on Notice taken at a meeting between the Commission and the State Intelligence Command on 6 February 2019, point 22.

²⁸ Email from Professional Standards Command to the Commission, 25 May 2019, attaching the NSWPF Response to Questions on Notice taken at a meeting between the Commission and the State Intelligence Command on 6 February 2019, point 20.

relevant to new STMP III Target Action Plan strategies of support currently being trialled at Mount Druitt, Bankstown and Far South Coast PACs/PD.²⁹

Changes made by the NSW Police Force to COPS in September 2018 have improved information sharing about a young person's interactions with the Youth Command. It is now possible for police officers *not* attached to the Youth Command to review COPS notifications to determine if a young person is engaged with the Youth Command.³⁰

2.2.3 SUSPECT TARGETING MANAGEMENT PLAN GUIDELINES

On 13 November 2018, the NSW Police Force released the Suspect Targeting Management Plan Practice Guidelines (the guidelines). This two page document outlines the STMP II process, identifies responsible personnel, and emphasises key actions to be completed as part of the STMP nomination process.³¹ This document is separate from the STMP II policy and contains the following additional information (emphasis added) -

- when developing a Target Action Plan consideration should be given to the inclusion of positive strategies;
- strategies included in a Target Action Plan should be individually tailored to each target;
- the exercise of any police powers should only occur when the exercise of those powers can be justified under LEPRA; and
- when targeting juveniles, the NSW Police Force should be reminded of its responsibilities under the Young Offenders Act 1997.³²

These additions provide useful and specific guidance to police officers in policing young STMP targets, and reduce the risk that actions prescribed are unlawful, unreasonable or not individually tailored. The Commission considers these additions as particularly beneficial to STMP targets aged under 18 years.

²⁹ Email from State Intelligence Command to the Commission, 17 December 2019.

³⁰ Correspondence from Professional Standards Command to the Commission, 18 March 2019.

³¹ NSW Police Force *Suspect Target Management Plan Practice Guidelines*, November 2018, p 1.

³² NSW Police Force *Suspect Target Management Plan Practice Guidelines*, November 2018, p 1.

3. KEY COMPONENTS OF THE SUSPECT TARGETING MANAGEMENT PLAN

3.1 TARGET IDENTIFICATION

The first step in the STMP process is the identification of potential STMP targets using locally collected information about known recidivist offenders. The policy indicates that a core function of the crime management unit is to know the active offenders of the local command, and to identify STMP nominations based on information they have collected. The policy recommends intelligence staff review a variety of information sources, such as the charge histories of known offenders, information about crime in the community, and information from Corrections NSW. The policy also indicates that local commands should use a standardised Information Collection Plan (collection plan) to ensure consistency in evaluation and that this should be updated regularly to ensure currency. Target identification occurs before the risk assessment (discussed at 3.2).

A template of the collection plan is not provided in the policy nor is advice about where the collection plan should be stored or accessed, and accordingly, the Commission has not been able to review these documents.³³ While a focus on local information is understandable, the Commission is concerned that the identification of targets appears to occur in an unstructured and ad hoc manner which gives rise to the risk of real or perceived bias in the selection of STMP targets.

The Commission's investigation did not analyse whether the STMP nomination of young people in the cohort can be justified on the information gathered. However, the fact that according to information stored on COPS, 72% of children and young people in the Commission's investigation cohort were recorded by the NSW Police Force as being 'possible ATSI', raises questions about the effects of the target selection process. The Commissioner of Police reported to the 2018 Budget Estimates Committee that in the 12 month period ending 31 August 2018, the total number of juvenile STMP targets was 269, of whom 111 (41%) were Aboriginal.³⁴ The Commissioner further commented that this was not due to racial bias, but because of the assessments undertaken by local commands.³⁵

Our investigation found that the NSW Police Force applies the STMP to children and young people more readily in rural and regional commands than in the Sydney metropolitan commands. Of the 429 young people in the total cohort, we found the highest use of the STMP on children and young people was in the Northern Region (24%) and more than half (53%) of the STMP targets were located in the three NSW Police Force Regions covering rural and remote areas.³⁶ Of the 307 young people identified as 'possible ATSI' by the NSW Police Force in the investigation cohort, we found the highest number (28%) lived in the Northern Region, with more than half (65%) located across the three NSW Police Force Regions covering rural and remote areas.³⁷

³³ The Commission has not undertaken a review of any collection plans for this investigation.

³⁴ Evidence to Portfolio Committee no. 4 - Legal Affairs Parliament of New South Wales, Sydney 31 October 2018, p 15 (Michael Fuller APM).

³⁵ Evidence to Portfolio Committee no. 4 - Legal Affairs Parliament of New South Wales, Sydney 31 October 2018, p 15 (Michael Fuller APM).

³⁶ A breakdown of all young people in the investigation cohort by local command is reflected in full at Appendix one (b).

³⁷ A breakdown of young people in the investigation cohort identified by the NSWPF as 'possible ATSI' on COPS, is reflected by PAC/PAD at Appendix two.

The Commission acknowledges the representation of Aboriginal people in the cohort is reflective of a problem that has been identified generally in the Australian community about how the criminal justice system interacts with Aboriginal people and is not solely derived from interactions with police. However, the Commission has concerns that the local target identification process does not demonstrate sufficient rigour to prevent the unfair targeting of certain types of young offenders and ameliorate officer bias in who gets selected. For obvious reasons, even the appearance of discrimination in the application of a policy such as the STMP can have negative implications for its effectiveness.

The *Young Offenders Act 1997 (NSW)*³⁸ emphasises as one of its principles the need to address the over representation of Aboriginal and Torres Strait Islander children and young people in the criminal justice system. It is important that the NSW Police Force carefully scrutinises the reasons for the high representation of young Indigenous STMP targets, to ensure it is consistent with the intention of Parliament to address the over representation of Aboriginal and Torres Strait Islander children and young people in the criminal justice system.

A review of the police charge histories³⁹ of the investigation cohort showed that, on average, they were charged 26 times before being placed on the STMP. However, the highest number of charges against an individual was 146; and four young people were not charged at all. This discrepancy is concerning to the Commission and shows the variance in the way that local commands apply the policy.

To understand what information the NSW Police Force might have used to support the STMP nomination process and to gain a better understanding of the characteristics of these young people, the Commission undertook a review of information contained within COPS for the four young people who had not been charged prior to police making them active STMP targets; and for the one young person who had been charged 146 times.⁴⁰

The four people with no charge histories ranged in age from nine years old at the time of nomination to 17 years old. Three were Aboriginal (including the youngest three- aged nine, 12 and 14), and there was an even split of those living in the Sydney metropolitan region and rural policing areas. All four had multiple interactions with police as either victims of domestic violence, or children-at-risk prior to their STMP nomination. Police chose to apply positive policing actions (for example referral to a crime diversion program or to the PCYC) to only one of them (a 17 year old non-Aboriginal young person who lived in the Sydney metropolitan area).

The following case studies set out the information we have gathered about these children and young people. They illustrate there is no uniformity across local commands about thresholds for offending to justify target selection. They also illustrate a range of other issues common to the STMP cases reviewed by the Commission: the types of information police rely on to nominate a young person vary greatly; records of interactions between police and the STMP target lack detail; and decisions about STMP suspension and reactivation are not recorded.

³⁸ *Young Offenders Act 1997 (NSW)* (YOA) s 7(h).

³⁹ Information provided by the NSW Police Force in response to Commission Section 54 Notice number 10 of 2019. The Commission requested advice from the NSWPF on each legal action taken against each young person in the investigation cohort while they were under 18 years. Specifically: the dates and types of legal actions; where the legal action was a court action- the court result; and the offence as categorised by NSW law part code and description, Australian and New Zealand Standard Offence Classification (ANZSOC) and National Offence Index (NOI). Information reflected at Appendix Three.

⁴⁰ The Commission undertook a review of NSW Police Force intelligence reports, event reports and custody records screens on COPS.

The fact that the youngest children in the investigation's total cohort of 429 (aged nine and 12 years old) were Aboriginal and did not have a charge history before they were nominated, is a cause for concern. It is even more concerning that police did not apply any positive STMP policing strategies to manage them.

Additional questions arise with the information presented in these case studies, and the high level of generality that is presented here will be expanded upon in a later report prepared by the Commission into the STMP.

More detailed discussion about the activation and suspension of STMPs is included in part 3.6 of this report and further detail about information recording practices is included in part 4.4.

CASE STUDY 1: 12 year old Aboriginal target, no charge history

One Aboriginal person, who lived in metropolitan Sydney was 12 years old when first nominated as an STMP target. The young person's risk assessment score was 83 and they had an overall risk rating of 'medium'.

The Commission's COPS review showed they experienced multiple vulnerabilities, and prior to becoming an active STMP target were identified by the NSW Police Force as a victim of domestic violence and/or a 'child or young person at risk' in at least 18 event reports. COPS holdings prior to their active STMP status also show that this young person was identified by the NSW Police Force as a Person of Interest in one intelligence report, one custody record and 25 event reports. Eleven event reports were for person searches, and twelve for move-on directions. While there were no charge records prior to them becoming an STMP target, the young person was charged 14 times after becoming an active target, the most serious charge being for aggravated robbery.

The young person's TAP was signed by the crime manager in June 2017 and listed no positive strategies. The TAP listed initial notification of STMP status; surveillance and/or proactive patrol of their address; bail compliance checks; a higher priority investigative response; and command-wide promotion for the attention of local police and those from neighbouring areas.

COPS shows in the period 21 June 2017 to 29 May 2019 police attended the young person's home address for bail compliance checks three times; undertook seven home visits/STMP checks with no specific reason recorded; undertook one home visit which was classified as a 'truancy check'; and spoke to them at a local park with no reason provided. The youth liaison officer also conducted one curfew check and discussed the young person's school attendance with a local home school liaison officer. On another occasion police spoke to the young person's family.

The young person's STMP status was suspended on 31 January 2018 and reopened on 12 February 2019; and suspended again on 29 May 2019. No reasons for the decision to suspend or reactivate the young person's STMP status could be located on COPS, nor in the command's Tasking & Deployment meeting information; or other information showing the command's management of STMP targets.

CASE STUDY 2: 17 year old target, no charge history

One person was 17 years old and lived in metropolitan Sydney when first nominated as an STMP target. The young person's risk assessment score was 106 and they had an overall risk rating of 'high'.

The Commission's COPS review showed the young person experienced multiple vulnerabilities, and prior to becoming an active STMP target was identified by the NSW Police Force as a victim of domestic violence and/or a 'child or young person at risk' in at least 26 event reports. COPS holdings prior to their active STMP status also show that this young person was identified by the NSW Police Force as a Person of Interest in one intelligence report, nil custody records and one event report. While there were no charge records prior to them becoming a STMP target, the young person was charged twice after becoming an active target, the most serious charge being for property damage.

The young person's TAP was signed by the crime manager in April 2018 and listed two positive strategies: PCYC referrals and support of parents/guardians. Their TAP also listed initial notification of STMP status; bail and Apprehended Domestic Violence Order (AVO) conditions; mobile, static and foot patrol of their home address; stop, search & detain; monitoring of Juvenile Justice Conditions; offender/police debriefings and surveillance.

COPS records showed in the period 18 April 2018 to 25 July 2018 police informed the young person of their STMP status; undertook five AVO compliance checks; met with the young person at their home address twice; and met with their mother at the home address once.

The young person's STMP status was suspended on 29 May 2018 and reopened on 6 June 2018; and suspended again on 25 July 2018. No reasons for the decision to suspend or reactivate the young person's STMP status could be located on COPS, nor in the command's Tasking & Deployment meeting information; or other information showing the command's management of STMP targets.

CASE STUDY 3: Nine year old Aboriginal target, no charge history

One Aboriginal person was 9 years old when first nominated as an STMP target. This young person lived in rural NSW. Their risk assessment score was 265 and they had an overall risk rating of 'high'.

The Commission's COPS review showed the young person experienced multiple vulnerabilities, and prior to becoming an active STMP target was identified by the NSW Police Force as a victim of domestic violence and/or a 'child or young person at risk' in at least 32 event reports. COPS holdings prior to their active STMP status also show that this young person was identified by the NSW Police Force as a Person of Interest in one intelligence report, nil custody records and 32 event reports. Eight event reports were for break and enter, and seven for malicious damage. While there were no charge records prior to this young person becoming an STMP target, the young person was charged 94 times after becoming an active target, the most serious charge being for aggravated robbery.

The young person's TAP was signed by the crime manager in May 2018 and listed no positive strategies. The TAP listed initial notification of STMP status as well as bail compliance checks; stop search and detain; and liaison with Juvenile Justice to monitor compliance with community orders. COPS records show that in the three year period 6 November 2014 to 7 October 2017 police met with the young person to advise them of their STMP status; searched and spoke to them twice; attended their home address and spoke with their father seven times; police recorded that the young person was seen outside their premises once; police undertook five STMP checks/home visits and ten bail compliance checks; the young person was stopped and spoken to by police in their local area 13 times for things such as being queried on actions in the area. The young person received seven move-on directions; was driven home from local locations four times; and served with a banning notice from the local library. A note was added to the young person's COPS case which indicated involvement with the PCYC, however this was not an action listed on their TAP -

[YP] has promised the PCYC S/C [name] that [they] will not commit crime for 21 days.

The young person's STMP COPS Case history shows their STMP status was suspended on 27 October 2015; reopened on 4 December 2015; suspended on 9 January 2017 and reopened on 6 October 2017; suspended on 6 November 2017 and reopened on 16 May 2018 and suspended again on 12 June 2018. No reason for the decision to suspend or reactivate the young person's STMP status could be located on COPS, nor in the command's Tasking & Deployment meetings; or other information showing the command's management of STMP targets.

CASE STUDY 4: 14 year old Aboriginal target, no charge history

One young Aboriginal person was 14 years old when first nominated as an STMP target and lived in rural NSW. The young person's risk assessment score was 103 and they had an overall risk rating of 'medium'.

The Commission's COPS review showed this young person experienced multiple vulnerabilities, and prior to becoming an active STMP target was identified by the NSW Police Force as a victim of

domestic violence and/or a 'child or young person at risk' in at least seven event reports. COPS holdings prior to the young person's active STMP status also show that this young person was identified by the NSW Police Force as a Person of Interest in two intelligence reports, one custody record and seven event reports. Three event reports were for truancy, and two for a person search. While there were no charge records prior to them becoming a STMP target, the young person was charged twice after becoming an active target, the most serious charge being for 'theft (except motor vehicles)'.

The young person's TAP was signed by the crime manager in June 2017 and listed no positive strategies. The TAP listed initial notification of STMP status as well as higher priority investigative response; foot, mobile patrol & static patrols; stop, search and detain; and surveillance.

A review of actions taken by local police in policing activities related to the young person's STMP status shows that no STMP specific policing actions were undertaken. The young person's STMP status was suspended on 1 November 2017, on which date the OIC wrote -

It appears that little [sic] interaction has been undertaken in relation to this matter. However there is a resubmitted case that requires action by Senior Constable [x] which occurred on the 2/7/2017, where legal action is required. Due to this I believe this YP should still remain a STMP [target].

It appears that police did not reactivate the STMP status of this young person. The Commission could not locate any information about the young person from the command's Tasking & Deployment meetings; or other information showing the command's management of STMP targets.

CASE STUDY 5: 17 year old Aboriginal target, extensive charge history

One Aboriginal person was 17 years old when first nominated as a STMP target. The young person lived in metropolitan Sydney and their risk assessment score was 304, with an overall risk rating of 'extreme'.

The Commission's COPS review showed this young person experienced multiple vulnerabilities, and prior to becoming an active STMP target was identified by the NSW Police Force as a victim of domestic violence and/or a 'child or young person at risk' in at least 37 event reports. COPS holdings prior to their active STMP status also show that this young person was identified by the NSW Police Force as a Person of Interest in 47 intelligence reports, 38 custody records and more than 100 event reports. While there were 146 charges prior to the young person becoming a STMP target, the young person was charged only nine times after becoming an active target, the most serious charge being for 'serious assault resulting in injury'.

The young person's TAP was signed by the crime manager in November 2017 and listed no positive strategies. The TAP listed regular home visits; canvass neighbours; canvass surrounding area; higher priority investigation; Pawnbrokers Act; stop, search and detain; notify and liaise with Transport Command due to use of the rail network and not having valid tickets.

A review of actions taken by local police in relation to the young person's STMP status shows that in the period 21 November 2017 to 16 December 2017 only one STMP home visit was undertaken by police. They visited the young person's home to speak about an alleged assault.

The young person's STMP status was suspended on 19 December 2017; reopened on 13 September 2018 and suspended again on 8 October 2018. The Commission could not locate any additional information to indicate that police had applied the strategies contained within the young person's TAP. No reason for the decision to suspend or reactivate the young person's STMP status could be located on COPS, nor in the command's Tasking & Deployment meetings; or other information showing the command's management of STMP targets.

Information provided to the Commission from the NSW Bureau of Crime Statistics & Research (BOCSAR) showed that the average number of young people with a charge proved at Children's Court across NSW for the period 1 August 2016 to 1 August 2018 (by month) was 362, while the average number of young people with a charge heard at Children's Court across

NSW for same period (by month) was 425.⁴¹ These figures are reflective of the total number of young people who were active STMP targets in the same period, that is, the 429 young people in the Commission's investigation cohort. Notwithstanding, the NSW Police Force practice of relying on a young person's charge history to determine their suitability for STMP targeting may be problematic. A review of court outcomes⁴² for some young people in the investigation cohort showed that many charges are in fact dismissed at court. The Commission is concerned that a potentially inaccurate, or at least misleading, source of information is being relied upon in the selection of young STMP targets. The case study below exemplifies this.

CASE STUDY 6: Police charges vs. court outcomes, an analysis of failed prosecutions data⁴³

The Commission reviewed the charge history of one young person and matched this information to court outcomes. The Commission found that police charged this young person 50 times between August 2014 and June 2018 when they were aged between 14 and 18 years for an alleged 119 offences. However, only eight offences were proven by the courts (6.7%) and 37% of charges dismissed had a recorded finding of 'doli incapax - presumption young person doesn't know seriously wrong'.

The doli incapax court findings were made evenly across the charge period: three in 2014; three in 2015; three in 2016; five in 2017 and two in 2018.

Police flagged this issue on the young person's STMP COPS records on at least one occasion in 2015, however it is not clear what consideration police gave to the court's repeated findings that the young person could not have formed criminal intent, given police continued to charge the young person.

This use of this young person's charge history to determine their suitability for STMP targeting is, in the Commission's view, problematic because information used by police to support their rationale for targeting was found at court to be unsubstantiated. The STMP target selection process might more appropriately be limited to a consideration of sustained court outcomes as the factual basis for a young person's offending history, particularly when the court finds doli incapax⁴⁴ to apply.

The NSW Police Force however, takes the view that limiting the scope of their intelligence analysis to sustained court outcomes might introduce delays in identifying potential STMP targets and miss early intervention opportunities to correct or address offending behaviour.⁴⁵ The NSW Police Force also holds the view that past findings of doli incapax, while relevant, should not be decisive in identifying potential STMP targets because a young person's capacity to understand right from wrong can change with age and life experience.⁴⁶

⁴¹ The Commission requested advice from BOCSAR on the number of young people with a proven charge and a finalised charge from the Children's Court for the period 1 August 2016 to 1 August 2018 which was supplied to the Commission on 7 August 2019.

⁴² The Commission undertook a review of information contained within 'JusticeLink' which is the computer based case management system used by NSW Courts and Tribunal Services.

⁴³ Information provided by NSWPF in response to Commission Section 54 Notice 10 of 2019 and Commission Section 55 Notice 919 of 2019; NSWPF criteria for inclusion: Legal action while under 18 years of age and while on STMP (including Domestic Violence STMP). A failed prosecution is one where all offences are proven not guilty. A successful prosecution is one where at least one offence is proven guilty.

⁴⁴ When a child aged between 10 and 14 years old is charged with an offence, the prosecution must prove beyond reasonable doubt that the child knew that what they did was seriously wrong at the time they committed the offence. If the prosecution does not prove this, then the child is found to be *doli incapax* which means 'incapable of crime.'

⁴⁵ *NSW Police Force Response to Operation Tepito - Interim Report*, December 2019, p 8.

⁴⁶ *NSW Police Force Response to Operation Tepito - Interim Report*, December 2019, p 8.

The NSW Police Force has emphasised to the Commission that the STMP III policy will have a preventative rather than punitive focus. The Commission will further consider the way the revised policy identifies and interacts with young STMP targets in a subsequent report.

3.2 RISK ASSESSMENT

The policy indicates the STMP Risk Assessment Tool (risk assessment) has been created to automatically calculate the risk of a person to the local community, and predicts a nominee's overall likelihood of reoffending by assessing two components: the crime environment and person disposition. The risk assessment process is undertaken after a local command has determined that a person is likely to be a suitable STMP target. The policy does not indicate who in a local command is responsible for completing the risk assessment.

The Commission requested the risk assessments for each young person in the Commission's investigation cohort.⁴⁷ The NSW Police Force provided at least one completed risk assessment for 423 young people (98%). A partially completed risk assessment was provided for one young person;⁴⁸ no risk assessment was provided for six young people;⁴⁹ and more than one risk assessment was provided for four young people.⁵⁰ It was outside of the scope of the Commission's investigation to review the intelligence material used by local commands to complete the risk assessments of young people in the investigation cohort. Therefore no determination has been made as to whether the scores and ratings arrived at are justifiable. Rather, the Commission was concerned with the reliability and validity of the risk assessment as a mechanism for assessing a young person's suitability for STMP targeting.

Crime environment

The first element of the risk assessment addresses the crime environment. Police completing the risk assessment rank up to 13 crime categories (e.g. assault, break and enters) according to the risk they present to the command. This evaluation is typically guided by a local command's business plan, recent crime trends, recent intelligence and outcomes of community forums (e.g. Neighbourhood Watch). The local command then reviews offending and intelligence information relating to each crime category for a particular STMP nominee and gives an overall numeric ranking (score) as to the risk this person presents for engaging in this crime type.

Person disposition

The person disposition is the second element of the STMP risk assessment. It contains six measures that are aimed at examining a nominee's likelihood of recidivist offending by considering the following (static and dynamic) risk factors -

- *volume*: if the nominee is believed to be responsible for multiple offences;
- *imprisonment*: if the nominee has served time in prison or other correctional institutions;

⁴⁷ Information requested under Commission Section 55 Notice number 968 of 2018.

⁴⁸ Information provided by the NSW Police Force in response to Commission Section 54 Notice number 968 of 2018 indicates the State Intelligence Command 'contacted PAC for full Risk Assessment however informed that [officer rank] who is responsible for this STMP is unavailable until after October. No other officers could locate file.'

⁴⁹ The State Intelligence Command advised the Commission that in two matters the target moved out of the area during the nomination process and therefore no Risk Assessment was completed; one target was arrested two days after nomination and therefore no Risk Assessment was completed; in two matters documentation could not be located and no advice was provided in one matter.

⁵⁰ This is due to more than one nomination occurring during our investigation timeframe of 1 August 2016 - 1 August 2018. In reporting the Risk Assessment scores we have used the most recent Risk Assessment documentation which is 2017 for three matters; and 2018 for one matter.

- *addiction*: if the nominee is believed to have an addiction or disorder;
- *violence*: if the nominee uses violence in the commission of offences;
- *networks*: if the nominee is believed to be involved in a criminal network or has criminal associations; or
- *youth*: if the nominee was involved in crime as a juvenile.

A nominee's intelligence information and offending history are assessed against each measure to ascertain the likelihood that the nominee possesses risk factors that are likely to increase their risk of reoffending. The nominee's assessed level of risk for each measure is represented as a numeric ranking (score).

Persistent offenders, and people who are, or have been in prison, are typically from highly disadvantaged backgrounds.⁵¹ The factors that lead to young people becoming involved in crime are complex and varied but are often the same as those that relate to the difficulties young people experience in other aspects of their lives, and can include alcohol and substance abuse, mental health issues, poor parental supervision, difficulties in school and employment, negative peer associations, poor personal and social skills, homelessness, neglect and abuse.⁵²

The Commission undertook a review of information stored on COPS for vulnerabilities⁵³ of the investigation cohort that could influence their offending. We found that 415 young people (97%) were reflected in NSW Police Force records referring to substance use; 361 young people (84%) were reflected in NSW Police Force records referring to mental health; and 156 young people (37%) were reflected in NSW Police Force records referring to living circumstances, such as foster care and out-of-home care.⁵⁴

The factors considered by the risk assessment, and perhaps also the target identification process, are often aligned with socioeconomic status and could affect the overall scores received by certain populations such as Aboriginal youth, and young people from lower socioeconomic areas. The Commission's investigation cohort is reflective of this with more than half (63%) living in the bottom half of postcodes for socioeconomic advantage,⁵⁵ and 72% being possibly Aboriginal or Torres Strait Islander. The Commission holds concerns that the effect of these measures leans towards vulnerable young people being selected for STMP targeting.

Nominee overall risk rating

The risk assessment provides a nominee with an overall risk rating that is arrived at by cross-referencing the crime environment risk rating (described above) with the person disposition risk rating (described above). A nominee will be ranked within a range of very low risk to extreme risk depending on the significance and likelihood of the risk.

No minimum disposition rating is required for target selection – the risk rating is only a guide. A person can be targeted if they are ranked as extreme, high, medium, low, or very low. According to the overall risk rating two young people in the investigation cohort were ranked

⁵¹ Victorian Aboriginal Legal Service Co-operative Limited, *Ending over-representation of Aboriginal and Torres Strait Islander peoples in the criminal justice system*, (webpage, 16 February 2011) <https://vals.org.au/ending-over-representation-of-aboriginal-and-torres-strait-islander-peoples-in-the-criminal-justice-system/>.

⁵² NSW Department of Attorney General and Justice 2010/11 Annual Report, *Young people in the juvenile justice system*, p 147.

⁵³ Defined within the meaning of s 24(1)(d) of *the Law Enforcement Powers and Responsibilities) Regulation 2005* (NSW).

⁵⁴ Refer to Appendix four.

⁵⁵ Refer to Appendix five.

as low; 66 were ranked as medium; 226 were ranked as high; and 130 targets were ranked as extreme. Ultimately, it is for the local command to decide who to target based on local crime problems, however, the risk assessment should note the reasons for any decision to target a person with a low or very low ranking. This means that regardless of the score, local commands are able to nominate people for active STMP targeting.

The Commission undertook a review of the COPS cases⁵⁶ for the two young people with an overall risk rating of 'low'⁵⁷ and found that while police did acknowledge the overall ratings as being 'low', did not explicitly set out a reason for choosing to target them.

3.2.1 THE STMP RISK ASSESSMENT IS NOT FIT FOR PURPOSE

The reliability of a risk assessment tool is based on its ability to measure something consistently. That is, if a group of individuals were repeatedly assessed, the results would be similar each time. The validity of a risk assessment refers to the degree that it actually assesses what it claims or intends to assess. The accuracy of a risk assessment tool is its ability to predict, with a degree of accuracy, the likelihood that an individual will reoffend and is dependent on the validity and reliability of the risk assessment tool itself.⁵⁸

In this sense, the accuracy of the STMP risk assessment tool is calculated by its ability to predict, with a reasonable degree of accuracy, the likelihood that an individual will reoffend. The Commission has not encountered any evidence indicating the STMP risk assessment tool has undergone any (rigorous or otherwise) academic or scientific assessment to measure its reliability and validity; or whether it accurately calculates an individual's risk of reoffending.

This is not to say, however, that it does not provide a reasonable basis for drawing sensible conclusions, though necessarily conditional, about the relevant risk. The problem is inherently difficult with a significant element of incommensurable elements. Whilst accepting, therefore, that it is a rational process informed by experience, it is essential to recognise and make allowances for inevitable uncertainty.

3.2.2 APPLICABILITY TO YOUTH

The STMP risk assessment contains a 'youth measure' which calculates a nominee's risk of reoffending based on whether they were involved in crime as a juvenile, or where the NSW Police Force has intelligence to suggest this is the case.

Where the nominee was involved in crime as a juvenile, police give consideration to a number of elements, such as the nominee's history of involvement in criminal offences, when their first contact with police occurred, their first juvenile conference or official caution, or intelligence about the nominee's involvement in criminal activity. Each element is rated from almost certain to rare, with the highest score allocated to information considered to be almost certain.

The STMP risk assessment youth measure categorises an individual's risk of recidivism based on whether they were involved in criminal offences at less than 16 years old. This is in contrast to other validated frameworks that apply to juvenile offenders, such as the risk assessment tool used by the Youth Command,⁵⁹ and inconsistent, without explanation, with academic research

⁵⁶ Information found in the 'Narratives' tab.

⁵⁷ Police did not initially choose to actively target one particular young person however, it appears that the case did become active given 'Actions' were recorded in the COPS case titled 'STMP Interaction' from 10 June 2017.

⁵⁸ James Austin, 'How much risk can we take - The misuse of risk assessment in corrections' (2006) 70 *Federal Probation*, 58-63.

⁵⁹ The NSW Police Force Youth and Crime Prevention Command currently utilises the Youth Level Service/Case Management Inventory - Australian Adaptation (YLS/CMI-AA) to assess at-risk youth and juvenile offenders.

that has found risk factors assessed at one age may not be significant at later ages. For example, research completed for the Victorian Department of Health and Human Services in 2019 found -

...in childhood (ages six to 11 years), the strongest predictors were committing general offences and using substances (particular tobacco and alcohol) at that age. Static factors were also relevant during childhood, including socio-economic status, male gender and anti-social parents. For older children aged 12-14 years, the strongest predictors of later offending were lack of social ties, anti-social peers, already engaging in general offending, aggressive behaviour, poor school attitudes/performance, presence of psychological conditions and low parent-child interactions.⁶⁰

Research also suggests that contact with the criminal justice system at younger years significantly impacts on an individual's likelihood of recidivism. For example, a study in 2012 found that aggressive behaviour displayed during pre-adolescence is more predictive of risk than aggressive behaviour during mid-adolescence.⁶¹ This is to be expected, given a young person's cognitive, emotional, interpersonal and physical capacities at 13 years old are vastly different to when they are 15, or even 17 years old.⁶² This research also suggests that the best risk assessment tools for recidivist young offenders include considerations about whether a young person has been engaged in offending at pre-adolescence; mid-adolescence; and/or late-adolescence and gives consideration to the consequences of repeated police contact on offending patterns. The current STMP risk assessment tool youth measure uses a catch-all timeframe of 'at the age less than 16 years' which does not account for incremental age differences.

Consequence of not having a youth focussed risk assessment tool for young STMP targets

It is evident that there is no useful trajectory that enables youth crime predictors to be gathered from adult predictors. The Commission is concerned that the NSW Police Force is not utilising a separate risk assessment tool for young people in the STMP risk assessment process. The reasons, motivations, and factors that influence juvenile offending are very different from those of adult offenders and these populations should not be treated in the same way. Children and young people lack maturity, have a propensity for risk taking behaviour, are more susceptible to peer influence, lack intellectual maturity, and are more likely to have mental illnesses and be victimised.⁶³ Research has found the reasons young people commit crimes differs from adults, and that young people often commit offences that are attention-seeking; public and gregarious, episodic, unplanned and opportunistic.⁶⁴

Adult and juvenile risk assessment tools are conceptually at odds. In the criminal justice context juvenile risk assessment tools emphasise welfare and diversion and are typically based on conceptual models of social vulnerabilities and risk factors associated with

Modelled after the Youth Level Service/CMI developed in Canada by Andrews, Bonta and Wormith, the YLS/CMI-AA is a combined standardised actuarial risk/needs assessment tool and a case planning function.

⁶⁰ Penny Armytage and James Ogloff, *Meeting needs and reducing offending Appendices - July 2017* (23 May 2019) Department of Health and Human Services, Victorian Government https://www.justice.vic.gov.au/sites/default/files/embridge_cache/emshare/original/public/2018/08/aa/d9679a716/report_meeting_needs_and_reducing_offending_appendices_2017.pdf.

⁶¹ Christopher Slobogin, 'Risk Assessment and Risk Management in Juvenile Justice' (2012) 27(4) *Criminal Justice* 19.

⁶² Dante Cicchetti and Fred A. Rogosch 'A Developmental Psychopathology Perspective on Adolescence' (2002) 70 *Journal of Consulting and Clinical Psychology* 6.

⁶³ Kelly Richards, 'What makes juvenile offenders different from adult offenders?' (2001) p 1-8. *Trends & Issues in Crime and Criminal Justice*.

⁶⁴ Chris Cunneen and Rob White, *Juvenile Justice: Youth and Crime in Australia* (Oxford University Press, 3rd ed, 2007).

delinquency.⁶⁵ Conversely, adult risk assessment tools are focused on limiting the opportunities for offending, and controlling the risk an offender presents to the community. The failure of the NSW Police Force to modify the STMP risk assessment tool for use on young people has significantly undermined the usefulness of the tool. The current risk assessment disregards the differences between the two populations and therefore does not measure/predict a young offender's risk of recidivism with any accuracy.

The criminal justice system recognises that juvenile offenders differ from adult offenders. One of the objects of the *Young Offenders Act 1997* (NSW) is to 'establish a scheme that provides an alternative process to court proceedings for dealing with children.'⁶⁶ As such, the use of an adult risk assessment tool by the NSW Police Force to assess children and young people for STMP targeting without modification to address the factors separating juvenile from adult offenders is both irrational and unjust. This is especially true given that the motivation for the STMP is to 'reduce crime by targeting repeat offenders.'

Youth Level Service/Case Management Inventory – Australian Adaptation

The NSW Police Force Youth Command assesses risk of recidivism using the Youth Level Service/Case Management Inventory– Australian Adaptation (YLS/CMI-AA) tool which identifies a young person's needs, strengths, barriers and incentives in order to facilitate, create and develop an effective management response. It specifically accounts for the unique circumstances and vulnerabilities of adolescents, and helps to effectively share information on the risk and needs of each individual during their intervention and management planning phase. The YLS/CMI-AA was developed in Canada⁶⁷ and adapted for the Australian context⁶⁸ and measures more than 40 factors that are linked to youth recidivism. It is based on two core principles -

- a young person's criminal activity is caused by a complex network of variables (individual characteristics and personal circumstances); and
- interventions targeting high risk youth can be effective in reducing recidivism - provided the interventions are targeted to a young person's criminogenic needs and are delivered effectively.⁶⁹

In contrast, the STMP risk assessment tool was developed for use on adult offenders and not modified to account for the unique circumstances and vulnerabilities of children and young people. The risk assessment's failure to account for the nuances of juvenile offending, as well as its failure to account for an offender's cultural and ethnic background has significantly undermined its utility. These limitations are a direct result of the lack of research, review and evaluation conducted during the risk assessment's development. Risk assessment used by the NSW Police Force for young STMP targets should -

⁶⁵ Julie Savignac, 'Tools to Identify and Assess the Risk of Offending Among Youth' (2010) *National Crime Prevention Centre Public Safety Canada* 1.

⁶⁶ *Young Offenders Act 1997* (NSW) s 3.

⁶⁷ Robert D. Hoge and Donald A. Andrews, YLS/CMI 2.0: Youth Level of Service/ Case Management Inventory 2.0 (Multi-Health Systems, 2011).

⁶⁸ Anthony Thompson and Zoe Pope, 'Assessing juvenile offenders: Preliminary data for the Australian Adaptation of the Youth Level of Service/Case Management Inventory (Hoge & Andrews, 1995)' (2005) 40(3) *Australian Psychologist* 204-214.

⁶⁹ Robert D. Hoge and Donald A. Andrews, YLS/CMI 2.0: Youth Level of Service/ Case Management Inventory 2.0 (Multi-Health Systems, 2011).

- (i) account for the reasons a child or young person is offending (i.e. criminogenic factors);
- (ii) detail any linkages with other agencies, or service providers, in areas such as disability, health, education and vocational support;
- (iii) focus on rehabilitation and diversion through a structured program or treatment that addresses the individual's criminogenic factors;
- (iv) promote pro-social behaviour by supporting linkages/connections with family and/or networks in the community;
- (v) address any barriers to them attending diversion therapy or programs;
- (vi) reflect the cognitive abilities and communication skills of children and young people;
- (vii) address the specific needs of Indigenous children and young people; and
- (viii) differentiate children and young people by age range.

These elements are already found in the Youth Command's risk assessment tool.

RECOMMENDATION 1: The NSW Police Force create a risk assessment tool for the STMP that has been assessed as valid and reliable for use in relation to children and young people.

In response to this recommendation, the NSW Police Force advised the Commission that under STMP III, a person will be assessed on indicators of potential recidivism and previous offending using a Crime Severity Index (CSI), and that a new risk assessment tool has been developed and is being assessed within trial environments to ensure its validity.⁷⁰ It is unclear what role the Youth Command has played in the development of this risk assessment tool, and the Commission has not received a copy of it. We look forward to receiving this information to inform a future report on the STMP.

3.3 COMPREHENSIVE PROFILE

Part of the STMP assessment process is the creation of a comprehensive profile (profile) by intelligence staff. This profile provides information about an offender so that police can tailor their management of the target. The Commission undertook a search of NSW Police Force records to find out how many people in the Commission's investigation cohort had a profile.⁷¹ The Commission found a profile for 197 (46%) of cohort members.

In the absence of the profile, it is unclear how police can develop an individualised response to the criminal behaviours of each STMP target.

RECOMMENDATION 2: Completion of the comprehensive profile should become a requirement of the STMP process.

The NSW Police Force has responded positively to this recommendation and advised the Commission that STMP III will involve the mandatory completion of a comprehensive profile generated in the 'Chimera' system. This system draws data from other NSW Police Force

⁷⁰ *New South Wales Police Force Response to Operation Tepito – Interim Report*, December 2019, p 2.

⁷¹ The NSW Police Force case manage STMP targets using COPS. Each target has a unique case number and all documents and records of interaction with a target are stored in a case. The Commission reviewed the 'Case File Items' tab on the STMP COPS Case for each cohort member to see if a profile had been uploaded.

systems, and allows analysis and comments to be added by a qualified intelligence officer.⁷² The Commission does not have access to the Chimera system, and therefore no appraisal of this response can be made. However the Commission supports the mandatory completion of the profile.

3.4 TARGET ACTION PLAN

The central component of the STMP targeting process is the Target Action Plan (TAP). The TAP sets out the strategies police will apply to actively monitor and target an individual, also known as ‘taskings’. These taskings should be informed by intelligence information contained in the target’s profile.

The policy sets out a range of suggested actions that can be applied to each target and police are asked to consider the possible detrimental effects of these actions on the target, and whether such effects are proportionate to the target’s behaviour. The Commission reviewed and analysed the taskings listed in the TAPs of all children and young people in the investigation cohort. A detailed discussion of this analysis is provided in Chapter 5. Here we consider compliance with requirements for developing a TAP for each target.

Of the 429 young people in the Commission’s investigation cohort-⁷³

- 401 (93%) had at least one completed TAP;
- seven had more than one TAP;⁷⁴ and
- 28 (6.5%) had no TAP.

The Commission also found that 27 TAPs were not changed from the template and/or had no responsible officer assigned to any taskings;⁷⁵ and that five different TAP templates were used.⁷⁶

The Commission found that TAPs did not contain detailed advice about the reason for interactions, when they should occur, or the desired outcome. Little advice was found in TAPs about the living circumstances and/or vulnerabilities of the children and young people subject to STMP policing actions.

Police who undertake the actions set out in the TAP are meant to make a record of the interactions in the STMP COPS case. A review of the STMP COPS case⁷⁷ for each of those 28 children and young people with no TAP showed that police recorded interactions with 21 of them, varying in number from one interaction to 52 interactions.

A review of the STMP COPS case⁷⁸ for a sample of five of the 27 young people whose TAP had not been changed from the template showed that police interactions were recorded for all five, ranging in number from three interactions to 26 interactions. Some of the most common police interactions identified were - home visits, bail compliance checks and stopping and searching or stopping and speaking to these young people in their local community.

⁷² *New South Wales Police Force Response to Operation Tepito – Interim Report*, December 2019, p 2.

⁷³ Information provided by the NSW Police Force in response to Commission Section 55 Notice Number 10 of 2019.

⁷⁴ This is due to more than one nomination occurring during our investigation timeframe of 1 August 2016 – 1 August 2018.

⁷⁵ Apart from ‘initial notification.’

⁷⁶ Email from the State Intelligence Command to the Commission, 31 May 2019, attaching the NSWPF response to Questions on Notice taken at a meeting between the Commission and the State Intelligence Command on 6 February 2019, point 1 – ‘No format is more correct than the others.’

⁷⁷ ‘Actions’ tab.

⁷⁸ ‘Actions’ tab.

A crime manager has overall responsibility for the TAP while a case officer is given responsibility for the development of the policing activities applied to an individual target. The policy indicates each TAP 'must be approved and signed by a crime manager prior to implementation'. The template contains space for both 'case officer' sign off and 'authorising officer' sign off.

The Commission found TAPs were generally signed off by both a case officer and authorising officer with 266 TAPs (62%) receiving full endorsement. However 81 TAPs (19%) were unsigned, and the remaining TAPs were signed off by either a case officer or an authorising officer but not both.

The NSW Police Force's compliance in authorising TAPs can be improved and should be prioritised. When TAPs are not endorsed there is a risk that inappropriate and unregulated police interactions may occur, to the detriment of a young person. Lack of endorsement can also mean that police interactions with young STMP targets are not monitored, reviewed and evaluated correctly. It is imperative that proper accountability mechanisms are in place to prevent these outcomes.

3.5 IMPLEMENTATION OF TARGET ACTION PLANS

The NSW Police Force utilises the case management function of COPS to store STMP related information. Each STMP target is given a unique COPS case which police use to store STMP nomination documentation and records of STMP related police/target interactions.

3.5.1 OFFICERS TASKED

According to the policy, each STMP target is allocated a case officer whose role it is to develop a TAP that details the strategies police intend to use to target an offender. Case officers also endorse the TAP, and in some scenarios will also undertake active policing of the target. Their role is to regularly review a target's COPS case to ensure police are complying with strategies authorised in the TAP.⁷⁹

The Commission reviewed the TAP for each young person to identify the name of their case officer, and found that a total of 277 different police officers were tasked with this role.⁸⁰ The policy also indicates each STMP target is allocated an 'Officer in Charge' (OIC) whose role it is to task police in accordance with the TAP. The Commission undertook a review of the name of the OIC listed on COPS for each target,⁸¹ and found that a total number of 339 different police officers were tasked with this role.

No additional detail is provided in the policy to define or differentiate these roles, or how their roles intersect. However the NSW Police Force advised the Commission that whenever a police interaction occurs with the target, a notification is sent to the case officer.⁸² This is presumably so they are informed of the types and frequency of interactions. The same police officer was

⁷⁹ Email from the State Intelligence Command to the Commission, 25 May 2019, attaching the NSWPF response to Questions on Notice taken at a meeting between the Commission and the State Intelligence Command on 6 February 2019, point 14.

⁸⁰ This is the Commission's best estimate given that some TAPs only contained an officer's surname and it was not possible to corroborate the full name to determine if it was the same officer.

⁸¹ Extracted from the front page of each STMP COPS Case front screen.

⁸² Email from the State Intelligence Command to the Commission, 25 May 2019, attaching the NSWPF response to Questions on Notice taken at a meeting between the Commission and the State Intelligence Command on 6 February 2019, point 14.

listed as the OIC and the case officer for 158 young people, but it was a different officer for 218 young people.⁸³

The Commission's review of COPS cases showed that police are sent 'taskings' by way of electronic COPS notifications, some examples are -

A.M crews tasked for STMP visit.

Nightshift tasked.

Crews tasked to attend STMP address [on date and time].

The Commission's review of TAPs also found that multiple officers may be tasked with carrying out individual targeting strategies. For example, some TAPs listed 'all police' or 'all officers' as being responsible for undertaking a specific targeting activity. A case officer was the only officer tasked in just nine TAPs (2%).

A review of actions applied in the 'case officer only' TAPs showed that it was usual for young people to have interactions with multiple officers, even when the case officer was the only officer listed on the TAP.

The NSW Police Force advised the Commission that enlisting 'all police' as responsible for undertaking police actions listed on a young person's TAP allows the case officer to share the workload with other police officers.⁸⁴ The Commission considers the breadth of staff being tasked with policing young STMP targets increases the risk that officers may undertake actions in contravention of the TAP, or not in line with the best interests of a young person. It can also result in a young person feeling harassed as there is no continuity of interaction, multiplications of interactions, and no sense of personalisation to the police interacting with them. Continuity can reduce the likelihood that a young person will feel victimised and unfairly targeted.

A youth liaison officer (YLO) or PCYC staff member was listed as being responsible for undertaking a specific targeting activity in just 44 TAPs⁸⁵ and the Aboriginal Community Liaison Officer (ACLO) was similarly only listed in nine TAPs.⁸⁶ This is a very low rate of engaging specialised police, whose role may be of considerable benefit to young STMP targets.

RECOMMENDATION 3: The NSW Police Force consider how police interactions with young STMP targets can be limited to NSW Police Force officers trained in youth policing strategies.

The NSW Police Force responded positively to this recommendation and advised the Commission that STMP III will involve three core strategies, supported by specific toolkits:

- Youth;
- Prevention; and
- Disruption.

⁸³ In 54 cases it is unknown if the same officer was listed as some TAPS did not list a case officer and some TAPs were not supplied to the Commission.

⁸⁴ Email from the State Intelligence Command to the Commission, 25 May 2019, attaching the NSWPF response to Questions on Notice taken at a meeting between the Commission and the State Intelligence Command on 6 February 2019, point 14.

⁸⁵ Where an officer's name was listed on the TAP, the position of this officer was not cross-referenced to seek verification of their role. Where a responsible 'Team' was listed the names of these officers were not sought.

⁸⁶ Where an officer's name was listed on the TAP, the position of this officer was not cross-referenced to seek verification of their role. Where a responsible 'Team' was listed the names of these officers were not sought.

The 'youth stream' within STMP III and the supporting youth toolkit has been designed specifically for young people (under 18) and was created in consultation with the NSW Police Force Youth Command. The toolkit lists the types of programs and services that police can include in young people's TAPs with a focus on preventative and therapeutic responses. The NSW Police Force also advised the Commission that a comprehensive education program is being developed to train all police involved in STMP III and that all STMP nominations for children under 14 years of age will continue to require the approval of the Assistant Commissioner, Capability, Performance and Youth Command. This approval process includes a review of the Target Action Plan and all target nomination documents.⁸⁷

RECOMMENDATION 4: The NSW Police Force increase the engagement of Aboriginal Community Liaison Officers in the development and application of Target Action Plans for Aboriginal children and young people.

The NSW Police Force was positive in its response to this recommendation and informed the Commission that STMP III will involve engagement with ACLOs and YLOs, as well as 'appropriate partner agencies' in the development of TAPs. These officers and relevant partner agency representatives will be encouraged to attend Tasking and Deployment meetings to attempt to ensure TAPs are developed collaboratively, and that positive strategies designed to prevent reoffending are prescribed.⁸⁸ The Commission welcomes this response.

3.5.2 RECORDING INTERACTIONS WITH TARGETS

The policy indicates police must record all STMP interactions with a target in the STMP COPS case management section and where relevant, cross-reference this with an event or information report on COPS. These records should inform decisions made within the local command about whether the strategies used on a particular target are having the desired effect or should be modified, whether police interactions are consistent with the plan, and whether those interactions are lawful.

The requirement that police make a record both in the STMP COPS case and in a COPS event or information report effectively means that police record interactions in at least two places.

This requirement creates duplication of efforts, and increases the risk that inaccurate records or inconsistent records are kept of the same interaction. The Commission conducted a limited review of information on COPS for individual cohort members which showed at least one example of missing information, and one example of inaccurate information. The actual number is likely to be much higher.

In these two examples the Commission identified a COPS event report indicating a target was searched with nothing found on [date and time] by a specific officer, but the STMP case contains no record of police interaction with the target on this time and date. Likewise, a COPS event report has been created indicating a target was searched on [date and time] by a specific officer, however, the STMP case indicates that on this date and time the target was 'spoken to' by the same officer. It is unclear which record accurately reflects police interactions with this young person.

There is an additional risk that STMP COPS case records are not always completed, and/or that records are not comprehensive. For example, the Commission found one police record which shows that a 'one hour conversation' with [target's carer] happened over the phone, but no details about the nature of this conversation or any key outcomes were recorded. Similarly,

⁸⁷ *New South Wales Police Force Response to Operation Tepito – Interim Report*, December 2019, p 2.

⁸⁸ *New South Wales Police Force Response to Operation Tepito – Interim Report*, December 2019, p 2.

another record showed that police spoke with a target who said they were ‘staying out of trouble and returning to school’. No additional details of this conversation were recorded.

The NSW Police Force has acknowledged that COPS is ‘not optimised for case management of STMPs and therefore becomes cumbersome for NSW Police Force personnel to manage among their multiple duties.’⁸⁹

The Commission considers that current information recording requirements create an unacceptable risk of inconsistency, duplication and misinformation. The lack of detailed recording of police interactions in COPS also means that there is a real risk that police are interacting with targets in ways that are not correctly reflected in official records, and not in line with approved actions defined within a young person’s TAP.

The risk is compounded in circumstances where multiple officers are tasked with carrying out the strategies listed on TAPs – which, as indicated above, occurred in 79% of TAPs. Detailed information recording is vital to enable consistency of interactions, and an assessment of what does or does not work. The lack of information found in the records reviewed means that it is difficult to assess the lawfulness of interactions and to determine the success, or otherwise, of the strategies employed. This raises questions about how police are assessing the utility of their interactions, and if proper consideration is being given to assessing whether actions taken under the STMP have been appropriate.

In May 2019 the NSW Police Force informed the Commission that part of the STMP re-design ‘will ensure that data management and documentation processes are clarified and made easier for NSW Police Force personnel to manage.’⁹⁰ The Commission looks forward to seeing improvements to the way STMP interactions are documented.

RECOMMENDATION 5: Police records of all STMP interactions involving the exercise of LEPR powers should state the facts which demonstrate compliance with LEPR. The NSW Police Force should consider how to avoid duplication and improve the accuracy and detail of official information recording for STMP-related policing interactions.

The NSW Police Force STMP III Guidelines which were provided to the Commission in draft form in December 2019 appear to include improved instructions for how police are to record interactions with targets. The document also seems to provide officers with a better indication of the types of information to be recorded, and a rationale for why such information should be included. As highlighted at section 2.2.2 above, the NSW Police Force has also introduced a COPS Incident category which should enable police to record all STMP interactions on COPS whether a police power has been utilised or not. The NSW Police Force advised the Commission that ‘the focus of youth strategies will involve preventative actions and programs’ and that ‘any interaction will be recorded as a COPS incident’.⁹¹

3.6 REVIEW AND EVALUATION

The policy provides little detail about how local commands should review the success of strategies listed in TAPs, and assess whether or not police should continue to employ the listed

⁸⁹ Email from the State Intelligence Command to the Commission, 25 May 2019, attaching the NSWPF response to Questions on Notice taken at a meeting between the Commission and the State Intelligence Command on 6 February 2019, point 11.

⁹⁰ Email from the State Intelligence Command to the Commission, 25 May 2019, attaching the NSWPF response to Questions on Notice taken at a meeting between the Commission and the State Intelligence Command on 6 February 2019, point 11.

⁹¹ *New South Wales Police Force Response to Operation Tepito – Interim Report*, December 2019, p 3.

strategies, change or suspend them. No information is provided in the policy about what a successful STMP looks like. The policy indicates that as with all other case management, STMP reviews should be undertaken to ensure targeting is effective, appropriate and tailored to an individual, and the Tasking and Deployment (T&D) meetings held within local commands is the recommended forum for this. These meetings usually occur fortnightly and are managed by the crime prevention unit of each command. Key personnel at the T&D meetings are the -

- crime manager;
- crime coordinator;
- investigations manager;
- intelligence supervisor;
- representative from general duties (duty officer or team leader);
- representative from pro-active team;
- staff member who completed the risk assessment; and
- youth case managers, school liaison officers and youth liaison officers.⁹²

Discussion at these meetings is wide-reaching in scope, covering topics such as command level crime trends, a review of tasking and deployment activities and other key issues relevant to the command. The NSW Police Force advised the Commission that STMP targets might be discussed regularly in other meetings, but the T&D meeting is the mandated forum in which the command considers the effectiveness of the STMP strategies upon the individual targets.⁹³ The Commission understands that discussion of young STMP targets is not ordinarily differentiated from discussion about adult STMP targets.

The policy indicates discussions about the STMP at the T&D meeting should consider if a specific target is being managed effectively and appropriately, review the success of individual targeting strategies, and determine a person's continued suitability for targeting.

The NSW Police Force informed the Commission that STMP effectiveness is -

- determined by local commands at T&D meetings by way of a subjective review, rather than any formal measuring against COMPASS reporting;⁹⁴
- informed by measurements against local command crime numbers as well as specific individual charge numbers; and
- reached for a young person where diversion is occurring, and where this young person is moving away from committing crime.⁹⁵

However, the policy itself does not provide guidance about how local commands should measure the effectiveness of targeting strategies, or how to determine whether someone

⁹² Correspondence from the Professional Standards Command to the Commission, 18 March 2019.

⁹³ Email from the State Intelligence Command to the Commission, 25 May 2019, attaching the NSWPF response to Questions on Notice taken at a meeting between the Commission and the State Intelligence Command on 6 February 2019, point 17.

⁹⁴ 'Command Performance and Accountability System' - a performance management system used by the NSWPF to compare results against state plan, corporate plan and command business plan priorities and targets under the six performance areas in the NSW Police Force Corporate Plan.

⁹⁵ Email from the State Intelligence Command to the Commission, 25 May 2019, attaching the NSWPF response to Questions on Notice taken at a meeting between the Commission and the State Intelligence Command on 6 February 2019, points 27-30.

should remain an active STMP target. Given this, as well as the variety of matters discussed at T&D meetings, and the breadth of officers attending, it is difficult to accept that this is the best forum for reviewing the effectiveness of TAPs and deciding whether the strategies applied to a target have been effective.

There are a number of potential risks that arise with the T&D meeting being the only mandated forum for discussing, evaluating and reviewing young STMP targets, including -

- police attending the T&D meeting are encouraged to actively target a child or young person without the full context of their nomination and offending histories;
- discussions relating to individual targeting strategies may be made in the absence of reminders for these actions to comply with legislative requirements (such as LEPR);
- police with expertise in children and young people or specific targets may not be in attendance; and
- the focus of the T&D meeting is too broad to undertake a detailed review, or any semblance of an evaluation. This is particularly the case when a target's OIC is not in attendance.

Below is a case study illustrating the way an individual's STMP status was reviewed in a T&D meeting.

CASE STUDY 7: Reviewing a young STMP target in a tasking & deployment meeting

The agenda for one local command's T&D meeting canvassing a two week period in early February 2019, covered a broad range of topics including: outstanding actions from previous meetings; professional development for officers; current and proposed tasking of police within the local command; major traffic analysis; consideration of upcoming events; and reports from various officers in the local command. Discussion of STMP targets was one of the many topics on the agenda.

At the meeting, attendees were shown a photo of each STMP target and a summary of their personal details including their name, date of birth and CNI. The targets' STMP COPS case number, targeting status, case start date and OIC name were also shown.

The presentation notes detail issues considered in relation to a 15 year old STMP target -

1 case actions in the past 2 weeks. [date] - [bail compliance check]

Last Event: [date] - [bail compliance check] - Complied

Last Charge: [date] - Detention application arrest, affray, possess prohibited drug

Last Intell: [date] - STMP target nomination

COMMENTS: Currently on bail for Affray & Possess Prohibited drug. [Children's Court March 2019].

The meeting minutes record the decision that the young person is to 'remain active' given there was '1 case action in the past 2 weeks'.

The minutes of the T&D meeting do not document whether the target's offending behaviours were considered. The NSW Police Force indicated that offending behaviours would usually be discussed, and may have been discussed although the minutes do not record this. There is also no clear record of what discussion transpired, the reasons for the continuation of STMP, and no clear indication in the minutes that police undertook an assessment of the effectiveness of the targeting strategies applied in the young person's TAP - although the NSW Police Force has advised the Commission that there is an assumption that if the target continued offending the

target would have been arrested, and it can be implied that if police had not detected further offences the strategies can be considered effective.⁹⁶

Another concerning aspect of the policy is that once a person is placed on the STMP, their STMP status remains in perpetuity. The policy provides that 'NO STMP CASE SHOULD EVER BE FINALISED' [emphasis in original]. However, they may be marked as active or inactive, depending on whether police are actively implementing strategies under a TAP at any given time.

The NSW Police Force advised the Commission that the non-finalisation of STMP cases is to 'ensure officers do not develop multiple STMPs for a single target across PACs/PDs or over the course of the individual's engagement with law enforcement' and aims to 'ensure the target's full context and case history is well documented and housed in a single location [on COPS] without duplication'.⁹⁷

The Commission's analysis of STMP information on COPS shows that some individual targets cycle through an 'active' period of targeting that in turn, becomes 'suspended'. The Commission wanted to understand how the NSW Police Force determines when individual STMPs should be active or suspended, and in some cases reactivated.⁹⁸

The NSW Police Force advised the Commission that an active period of STMP targeting may stop under the following circumstances -

- if a target was incarcerated;
- if a target relocated to another local command;
- if discussions at the T&D meeting determined targeting is no longer required as a 'result of a change in the crime environment and/or the target's personal disposition'; and/or
- if the target stops offending.⁹⁹

Similarly, the NSW Police Force advised the Commission that an active period of targeting may start under the following circumstances -

- if a target was released from incarceration;
- if a target relocated to another local command that deemed it necessary to reactivate the STMP; and/or
- if discussions at the T&D meeting determined targeting should be reactivated as a 'result of a change in the crime environment and/or the target's personal disposition'.¹⁰⁰

However, these criteria are not explicitly defined in the policy.

⁹⁶ Meeting between the Commission and the NSWPF, 20 January 2020.

⁹⁷ Email from the State Intelligence Command to the Commission, 25 May 2019, attaching the NSWPF response to Questions on Notice taken at a meeting between the Commission and the State Intelligence Command on 6 February 2019, point 6.

⁹⁸ Email sent from the Commission to the State Intelligence Command, 20 February 2019.

⁹⁹ Email from the State Intelligence Command to the Commission, 25 May 2019, attaching the NSWPF response to Questions on Notice taken at a meeting between the Commission and the State Intelligence Command on 6 February 2019, point 5.

¹⁰⁰ Email from the State Intelligence Command to the Commission, 25 May 2019, attaching the NSWPF response to Questions on Notice taken at a meeting between the Commission and the State Intelligence Command on 6 February 2019, point 5.

The Commission is concerned that there does not appear to be any clear criteria to guide police about how to review the effectiveness of STMP targeting strategies. The policy indicates 'the ongoing targeting of offenders under STMP require [sic] regular evaluation and review' however no criteria, frameworks, or models for this evaluation and review are provided. In the absence of such criteria, it is likely that decisions are made on an anecdotal or ad-hoc basis and may not appropriately consider all relevant information about the target's offending behaviours, or how the strategies may be working to disrupt/prevent those behaviours.

The Commission would expect that decisions to stop or start actively monitoring a young person, particularly multiple times over the course of their life cycle, would be underpinned and supported by a rigorous review of the strategies implemented by police under the TAP, and an assessment of how these have impacted the target's individual outcomes. It is hard to see how these issues are, or could be, sufficiently addressed in the T&D meeting. As previously illustrated in case studies one - five, in some instances, the reasons for the decision to suspend or activate STMP status are not recorded.

The Commission intends to undertake a review of T&D meeting information for a sample of young STMP targets and will report findings and observations about this in a later report.

The absence of a formalised review and evaluation process for each target creates a risk that young people are effectively placed permanently on a 'list' of targets subject to increased interactions with police, without adequate monitoring of the effects of this increased police attention.

RECOMMENDATION 6: Local commands develop and implement a more rigorous approach to evaluating the effectiveness of STMP targeting strategies applied to individual targets.

The NSW Police Force advised¹⁰¹ that targets nominated under STMP III will be reviewed at T&D meetings, culminating in a three-monthly review to determine whether the TAP should continue or cease. This response is positive as there appears to be a more structured approach to what should be considered at the T&D meetings and the inclusion of a three-monthly review should enable more robust monitoring. The Commission continues to be concerned however, that given the broad nature of the issues considered at the T&D meeting, these meetings are not an ideal forum to discuss STMP targets. The Commission notes that the NSW Police Force proposes to invite other agency representatives to the T&D meeting to discuss individual targets and welcomes this positive enhancement. The NSW Police Force also advised the Commission that STMP III will be reviewed by the State Intelligence Command in consultation with the Youth Command every three months over the first year of implementation, to ensure its effectiveness concerning young people, and that any improvements will be implemented as identified.¹⁰² The Commission welcomes this ongoing and proactive approach to reviewing the impact of STMP on individuals.

At the corporate level, to date, it appears that no analysis has been undertaken either by the NSW Police Force or an external body to evaluate whether the STMP policy has in fact succeeded in its objectives to reduce offending in recidivist populations. The Commission acknowledges the practical difficulties in undertaking this analysis. There are many variables relating to the environmental and individual factors contributing to recidivist offending, yet given the STMP policy has been in operation for nearly two decades, it is important that the NSW Police Force considers conducting an evidence-based evaluation of its efficacy. The Commission shares the views of the YJC that any evaluation of STMP should not be limited to a

¹⁰¹ *New South Wales Police Force Response to Operation Tepito - Interim Report*, December 2019, p 3.

¹⁰² *New South Wales Police Force Response to Operation Tepito - Interim Report*, December 2019, p 3.

statistical analysis, but should also consider the broader 'legislative and policy framework as it relates to children and young people, including against aims such as diversion, reducing the numbers of young people, and Aboriginal and Torres Strait Islander people, involved in the criminal justice system and in custody, and addressing the causes of youth offending'.¹⁰³

It is for the NSW Police Force to decide how best to achieve these aims, but this scope is necessary to properly assess the policy's effect. Given the far reaching and potentially damaging implications of this effect, the Commission calls on the NSW Police Force to initiate this evaluation in a timely way.

RECOMMENDATION 7: The NSW Police Force undertake an evidence-based review and evaluation of the efficacy of the STMP on children and young people.

The NSW Police Force advised the Commission that STMP III is 'fully accountable due to mandatory use of the Chimera system to record STMP identification, risk assessment and targeting processes'.¹⁰⁴ Because the Commission does not have access to this system, we are unable to comment on the efficacy of this response. However, the Commission welcomes the NSW Police Force advice that an external review will be undertaken by BOCSAR to evaluate the STMP III using an evidence-based approach.¹⁰⁵ It is not clear to the Commission when this evaluation will be undertaken.

3.7 TRAINING

The NSW Police Force provides STMP officer training as part of the Diploma of Police Intelligence Practice. It is offered three times a year. As at March 2019, 151 police officers had attended STMP training across NSW. The average number of STMP trained officers in any local command was 2.69 officers, while the highest number of trained officers by local command was six officers. In nine local commands the number of STMP trained staff was only one officer.

According to internal NSW Police Force advice, the course content 'is sourced from documents found on the [STMP] Intelligence Strategy and Knowledge Map' and -

This training is directed at intelligence practitioners. We train them in the policy, how to populate the templates relating to the Risk Assessment and Profile and also Target Action Plan recommended strategies. We do not train operational police in how to target STMPs [sic].¹⁰⁶

The Commission's analysis of the STMP training material shows operational police are not trained in how to undertake STMP specific policing actions, and that training is limited to intelligence-related issues such as the referral of targets for monitoring and document completion. There is little information about how STMP targeting strategies/policing actions should be applied to the target, and there is no module or component that relates to the application of STMP to children and young people. There is also no information about the legal frameworks within which STMP policing actions can be undertaken, such as compliance with LEPR, or issues relating to bail checks or search warrants. However, the Commission acknowledges that many of the policing actions applied under the STMP are ordinary 'day-to-day' policing activities and powers, albeit focussed on the targeted individual. As such, any training provided to police about how to exercise their powers, or conduct other common

¹⁰³ YJC Report, p 39.

¹⁰⁴ *New South Wales Police Force Response to Operation Tepito - Interim Report*, December 2019, p 3.

¹⁰⁵ *New South Wales Police Force Response to Operation Tepito - Interim Report*, December 2019, p 3.

¹⁰⁶ Email from the Education and Training Command to the State Intelligence Command, 5 September 2018, provided to the Commission in correspondence, 12 November 2018, item 4 (c).

policing activities, should provide relevant guidance to officers about many of the commonly listed targeting actions.

Chapter 6 of this report outlines some significant concerns about the way police actions listed in TAPs are applied to targets. While many of the targeting strategies used under STMP may be common policing actions, it seems there may be value in considering how operational police should be utilising those strategies under STMP, and this could be addressed in STMP training.

The NSW Police Force advised the course content will be reviewed as part of the STMP re-design, and agrees this is an opportunity for the NSW Police Force to refine the scope, aims and purpose of the training. To ensure greater applicability, the Commission suggested in October 2019 that an expansion of course content be undertaken to include a focus on -

- the role of operational police in implementing TAPs;
- how STMP should be applied to children and young people; and
- an explicit focus on LEPR compliance.

While the Commission is satisfied that each local command has intelligence trained staff, we were unable to identify which of these intelligence officers had been trained in STMP. On the information provided by the NSW Police Force, we were also unable to determine if intelligence officers were trained in policing children and young people, although it is unlikely.

As discussed in Chapter 4 of this report, the NSW Police Force has a significantly developed understanding of issues relevant to the policing of children and young people, and the interface between these populations and the criminal justice system. However, this specialised knowledge does not seem to be sufficiently integrated into STMP policing strategies. It appears the NSW Police Force is addressing this in STMP III, which the Commission views as important and necessary action.

RECOMMENDATION 8: All police officers tasked with undertaking policing actions related to the STMP receive training that ensures understanding of the scope, aims and purpose of the STMP as it relates to children and young people.

The NSW Police Force informed the Commission in December 2019 that a comprehensive training and development package is currently being created for STMP III by the SIC and Education and Training Command.¹⁰⁷ Neither the training package, nor details of the proposed content have been shared with the Commission. This training package will be the subject of review and comment in the Commission's follow-up to this report.

¹⁰⁷ *New South Wales Police Force Response to Operation Tepito - Interim Report*, December 2019, p 3.

4. NSW POLICE FORCE APPROACHES TO YOUTH POLICING

The President of the Children's Court of NSW, Judge Peter Johnstone is supportive of some of the recent changes made by the NSW Police Force in the way it polices children and young people, including using measures to divert them from the criminal justice system. He said –

... the new Police Commissioner is very keen on the Young Offenders Act and increasing its utilisation. He has appointed a new Assistant Commissioner, Mr Cassar, who has been responsible for developing a youth strategic plan for the police. He is doing a lot of work in this space. I am hopeful that educating youth liaison officers and others in the uniform approach will be improved over the next couple of years. They are certainly very responsive at the moment in terms of this particular issue.¹⁰⁸

4.1 APPLICATION OF THE *YOUNG OFFENDERS ACT 1997*

The *Young Offenders Act 1997* (YOA) establishes a graded system of alternative processes to court proceedings for people under 18 years of age that begins with a police warning, progresses to a formal police caution and then to a youth justice conference.¹⁰⁹ The objects¹¹⁰ and principles¹¹¹ of the YOA indicate that where possible, the least restrictive form of sanction is to be applied, that criminal proceedings are not to be instituted if there is an alternative and appropriate way of dealing with the matter, that parents are to be recognised and included in justice processes, and that, if it is appropriate in the circumstances, young people who are alleged to have committed an offence should be dealt with in their communities to assist their reintegration and to sustain family and community ties.

Research conducted by BOCSAR has found that juveniles who receive a caution or a youth justice conference under the YOA are less likely to re-offend than those who are referred to the Children's Court.¹¹²

A total of 404 cohort members (94%) were managed by the NSW Police Force under the YOA prior to their STMP nomination at least once; and more than once in 371 (86%) cases. Of the 307 cohort members identified as 'possibly' Aboriginal or Torres Strait Islander by the NSW Police Force, the YOA was applied to 248 cohort members (81%) prior to their STMP nomination.¹¹³

While the NSW Police Force has applied the YOA to most of the investigation cohort prior to their active STMP status, the Commission also found evidence that targeting under the STMP was focussed on coercive targeting strategies. These strategies involve increased overt monitoring of the targets in their home, and in public. These interactions do not appear to be diversionary in nature, and might serve to increase the likelihood that a child or young person will be charged and thereby drawn into the criminal justice system. A discussion of these policing actions as they are applied in TAPs is discussed in further detail in Chapter 5 of this

¹⁰⁸ Evidence to Committee on Law and Safety (Inquiry into the adequacy of youth diversion), Legislative Assembly, Parliament of New South Wales, Sydney, 30 April 2018, 6 (Judge Peter Johnstone).

¹⁰⁹ Sumitra Vignaendra and Jacqueline Fitzgerald, 'Reoffending among young people cautioned by police or who participated in a youth justice conference' (2006) 103 *Contemporary Issues in Crime and Justice*, pp 1-15.

¹¹⁰ YOA s 3.

¹¹¹ YOA s 7.

¹¹² Sumitra Vignaendra and Jacqueline Fitzgerald, 'Reoffending among young people cautioned by police or who participated in a youth justice conference', (2006) 103 *Contemporary Issues in Crime and Justice*, pp 1-15.

¹¹³ This relates to objects and principles of the YOA in s 3(c) and s 7(h).

report. The Commission is concerned that the use of some STMP strategies is inconsistent with the principles and objects of the YOA because they could result in unnecessary contact with the court.

RECOMMENDATION 9: The NSW Police Force review the overt targeting actions prescribed in young people’s Target Action Plans to ensure they are consistent with the *Young Offenders Act 1997*.

In December 2019 the NSW Police Force commented that STMP III would clearly include preventative strategies, particularly for youth targets. It advised that ‘a youth toolkit’ has been developed in consultation with the Youth Command which is a standardised approach that will ensure compliance with the YOA. The youth toolkit will continue to be developed ‘to ensure strategies are in line with current best practice’.¹¹⁴ This is positive, and the Commission looks forward to reviewing the practical application of the revised policing strategies in a follow up report on the application of STMP to young people.

4.2 YOUTH COMMAND

The NSW Police Force Youth Command exists to ‘build a collaborative approach, empowering young people and communities to prevent crime through engagement, education and development’.¹¹⁵ The two key policy documents of the Youth Command are the *Targeted Programming Manual* (the manual) and the *Standards of Practice for Youth Case Management* (case management policy). Both documents provide specific guidance to police engaged in case managing young offenders, and emphasise the requirement to engage respectfully and positively with the young person - specifically that officers will ‘work respectfully and inclusively’ and ‘will respect, strive to understand and promote the rights of Aboriginal and Torres Strait Islander people and their cultures’ with a view to setting an example for young people to mirror in their own behaviour.¹¹⁶

A key action of the Youth Command is to undertake youth case management of young people referred by local commands who have been identified as either a ‘young offender’ or a ‘youth at-risk’. The youth case management process includes the following steps-¹¹⁷

- referral into case management;
- introduction to case management;
- initial assessment;
- action plan;
- structured interview;
- three-month review;
- six-month review;
- nine-month review;

¹¹⁴ *New South Wales Police Force Response to Operation Tepito – Interim Report*, December 2019, p 3.

¹¹⁵ NSW Police Force intranet (3 May 2019).

¹¹⁶ *NSW Police Force Standards of Practice for Youth Case Management*, 2018, p 6, provided by NSW Police Force in response to Item 1, Commission Section 55 Notice, number 969 of 2018.

¹¹⁷ *NSW Police Force Standards of Practice for Youth Case Management*, 2018, pp 5-18, provided by NSW Police Force in response to Question 1, Commission Section 55 Notice, number 969 of 2018.

- end of 12-month engagement (closure);
- non-current phase of case management; and
- supervisor's review of case management.

The assessment process for youth case management appears to be holistic, and takes into consideration the young person's particular circumstances – it is focussed on a young person's strengths and what they want to change. The assessment tool used by the NSW Police Force for youth case management is the YLS/CMI-AA, a commonly used statistical tool for assessing the risk of recidivism in young offenders that is used worldwide. A discussion of this tool's applicability to the young people in the Commission's investigation cohort is discussed in Chapter 3 of this report.

Youth case management starts with a meeting between the young person and their case manager, which promotes active participation of the young person in developing their plan and goals,¹¹⁸ along with a focus on their empowerment. The manual emphasises the role that police play in diverting young people from offending behaviour. It acknowledges the duality of policing as not only a 'crime fighting' measure but also one that represents community safety and service.¹¹⁹ The manual also recognises police engagement with young offenders requires a specialised skill set, and that building relationships with a young person, while difficult, is essential. It states -

Assuming a case coordination role with known Young Offenders and Young People at-Risk of Offending requires specific skills and attributes. Not only should [youth case managers] be effective program designers, but they should also be clear about how best to motivate young people to achieve non-offending lifestyles. Establishing and maintaining rapport, maintaining focus on jointly developed goals (case plan) and helping the young person to access relevant local services are skills necessary to be an effective [youth case manager].¹²⁰

The NSW Police Force told the Commission that at least 24% of the young people in the investigation cohort had been referred for youth case management during the two years from 1 August 2016 to 1 August 2018, and 60% had been referred at any time.¹²¹ The Commission cannot specify when young people in the investigation cohort have been provided with youth case management, so has been unable to draw conclusions about whether this case management has an effect on an individual's STMP status or TAP.

The Commission has not reviewed all of the policies and procedures of the Youth Command, however there is evidence to suggest that the approaches adopted by the Youth Command for managing young offenders are responsive to the needs of this population. The case management model contains a clear referral and assessment process and embeds a regular and structured review process. Police delivering services to young people are reminded to motivate them to reduce their offending by building strong connections and modelling pro-social behaviour. However, the principles and processes of the Youth Command do not align with the application of STMP II on children and young people.

¹¹⁸ *NSW Police Force Targeted Programming Manual*, 2006, p 22, provided by NSW Police Force in response to Item 1, Commission Section 55 Notice number 969 of 2018.

NSW Police Force Targeted Programming Manual, 2006, p 30, provided by NSW Police Force in response to Item 1, Commission Section 55 Notice number 969 of 2018.

¹²⁰ *NSW Police Force Targeted Programming Manual*, 2006, p 30 provided by NSW Police Force in response to Item 1, Commission Section 55 Notice number 969 of 2018.

¹²¹ Information provided to the Commission by the NSW Police Force in response to Commission Section 54 Notice number 6 of 2018.

In October 2019 the Commission suggested to the NSW Police Force that the disconnect between the approaches developed under STMP II and those of the Youth Command should be resolved, to ensure that the NSW Police Force is approaching the management of recidivism in children and young people consistently and in a manner that aligns with the expertise developed within the Youth Command. At a minimum, the Commission suggested that the NSW Police Force should consider how the processes, documentation and principles of the Youth Command can be incorporated into the processes for identifying young STMP targets; developing target action plans; and training police in how to interact with young STMP targets.

RECOMMENDATION 10: The NSW Police Force consider how existing NSW Police Force youth case management frameworks can be applied to the STMP framework for young people made STMP targets.

In December 2019, the NSW Police Force informed the Commission that ‘consultation will continue with Youth Command and relevant partner agencies to ensure inclusion of all relevant prevention focused programs in the youth toolkit. This will be updated on a regular basis.’¹²²

4.3 YOUTH LIAISON AND SCHOOL LIAISON POLICE

In addition to specialist officers located within the Youth Command, the NSW Police Force employs youth liaison officers (YLOs) and school liaison police across local commands. These officers are positioned within the crime management unit and it is up to the local command to determine the specific actions undertaken by these officers.

Generally, the role of YLOs is to implement and coordinate crime awareness/reduction programs targeted at young people, coach other police to interact effectively with young people, and represent the NSW Police Force at youth related community forums and meetings.¹²³

The role of school liaison police is generally to increase the positive relationships between schools and police through programs and strategies to reduce crime and anti-social behaviour amongst youth.¹²⁴ School liaison police aim to help prevent students from becoming involved in crime and anti-social behaviour by attending schools and implementing crime prevention workshops.¹²⁵

The NSW Police Force Assistant Commissioner, Youth Command, reported in May 2018 that there were 80 YLOs and 40 school liaison police across all local commands in NSW.¹²⁶

Due to data limitations, the number of actual referrals of individual cohort members to specialist police including YLOs or school liaison police, cannot be accurately determined. However, the NSW Police Force advised the Commission that at least 101 young people in the investigation cohort (24%) had been referred to either a YLO or to school liaison police at some point in their offending history.¹²⁷ The Commission does not know when young people in the investigation cohort were referred to YLOs or school liaison police, so cannot draw conclusions about whether this interaction has had an effect on an individual’s offending

¹²² *New South Wales Police Force Response to Operation Tepito - Interim Report*, December 2019, p 4.

¹²³ NSW Police Force Intranet (31 May 2019).

¹²⁴ NSW Police Force Intranet (31 May 2019).

¹²⁵ NSW Police Force Intranet (31 May 2019).

¹²⁶ Evidence to Committee on Law and Safety (Inquiry into the adequacy of youth diversion), Legislative Assembly, Parliament of New South Wales, 30 April 2018, (Assistant Commissioner Joe Cassar).

¹²⁷ This could be before their active STMP status. Information provided to the Commission by the NSW Police Force as response to Commission Section 54 Notice number 6 of 2018.

pattern and/or STMP status. However, 24% referral to YLOs and school liaison police appears to be a very low referral rate and suggests these resources could be better utilised as a way of interacting with young people at risk of recidivism.

RECOMMENDATION 11: The NSW Police Force consider how to increase the engagement of youth liaison officers and school liaison police with young STMP targets.

The NSW Police Force has responded positively to this recommendation. In December 2019, the NSW Police Force advised the Commission that under STMP III:

Youth Liaison Officers (YLOs) and School Liaison Police (SLP) will take an active role in Tasking and Deployment meetings and development of TAPs. This will be focused on the utilisation of strategies developed in the youth toolkit. Where resources allow, this may include engagement by YLOs and SLPs to support specific programs. There is also scope for the inclusion of PCYC and potentially Non-Government Agencies capable of providing program or other youth support services. Appropriately briefed police officers will be tasked to engage with youth and be assigned as case officers.¹²⁸

4.4 INTERSECTIONS BETWEEN INFORMATION SYSTEMS

The management of STMP targets occurs through COPS and is accessible to all police located within local commands, including YLOs and school liaison police. The PENN system is used by the Youth Command to store information for young people case managed by the Youth Command.

The Commission was interested to understand how the NSW Police Force records interactions with young people managed by the Youth Command and how information stored in both COPS and PENN can be used by police in local and specialist commands.

The Commission does not have access to the PENN system, nor information stored in it. The Commission asked the NSW Police Force about the interface between PENN and COPS, and how the Youth Command becomes aware of interactions arising out of a child or young person's STMP status, and vice versa.¹²⁹ The NSW Police Force advised the Commission -

- PENN is a system that works in isolation from any other police system and information from COPS is not imported directly into PENN;
- any COPS data which is held in PENN has been manually entered by youth case managers; and
- staff attached to the Youth Command will only be aware that a young person is being managed by the STMP by undertaking a manual checks of COPS, or through direct communication with the local command.¹³⁰

The NSW Police Force advised the Commission that multiple upgrades to the PENN system to better integrate PENN with COPS have been sought in the last decade, most recently in 2016, however no requests have been successful due to a lack of capital funding. To improve information sharing about young people's interactions with the Youth Command, the NSW Police Force advised the Commission that in September 2018 a notification system was

¹²⁸ NSW Police Force response to Operation Tepito – Interim report, December 2019, p 4.

¹²⁹ Correspondence from the Commission to the NSW Police Force, 1 November 2018.

¹³⁰ Correspondence from the NSW Police Force to the Commission, 18 March 2019.

introduced to COPS enabling all police to see that a young person is participating in case management through the Youth Command.¹³¹

The addition of this notification system appears to the Commission to be a useful development, as it enables police in local commands to see whether a young person is already engaged in regular police interactions through youth case management. It may also mean that police in local commands can contact officers in the Youth Command for relevant information prior to implementing policing actions under the STMP. The Commission acknowledges that, while the NSW Police Force recognises the current information system deficiencies, there is a significant cost to improving it.

¹³¹ Correspondence from the NSW Police Force to the Commission, 18 March 2019.

5. POLICE ACTIONS USED TO MANAGE YOUNG STMP TARGETS - A REVIEW OF TARGET ACTION PLANS

As described earlier in this report, the decision by police to apply a specific targeting action should be made using the intelligence gathered about an individual's offending pattern, and problems in the local crime environment. The policy indicates that the police actions provided are only a guide, and 'not meant to stifle individual initiative in developing plans to suit a particular target.' Ultimately local commands have discretion to determine what actions will be applied to monitoring a young STMP target. It is the role of the crime manager to endorse, review and evaluate these actions.

Potential targeting actions are listed in the policy under the following categories -

- initial notification;
- positive strategies;
- compliance;
- information disclosure;
- information gathering;
- traffic;
- investigation;
- overt; and
- other methods of monitoring.

The Commission reviewed each of the TAPs for the 429 children and young people in the investigation cohort to understand what police actions the NSW Police Force had applied to them. We reviewed and analysed these actions according to the thematic targeting strategies listed above. Overwhelmingly, actions from the 'overt' and 'compliance' categories were listed instead of actions from the 'positive' category. The overt targeting strategy 'stop, search and detain'¹³² was the most commonly listed action overall, identified by the Commission in 275 TAPs (64% of the cohort). Our analysis of TAPs showed that police were four times more likely to apply the 'stop, search and detain' targeting strategy than the positive targeting strategy of 'referral to PCYC.'

Monitoring STMP targets as recommended in the policy can have the effect of being intrusive and disruptive to a young person's day to day existence.

Our analysis also found TAPs contain little to no information about how frequently police should carry out actions and therefore, interact with the young person. The policy does not contain a limit on how frequently any particular action should be applied. Additionally, we found that multiple officers were tasked with undertaking STMP policing actions, but no advice was provided in the TAPs about what time of day or night these actions should occur.

¹³² This figure does not include instances where Target Action Plans (TAPs) indicated that police should 'stop and speak' or 'stop and search' a young person.

Of greatest concern to the Commission was that police conducted STMP ‘home visits’. This action is not defined in the STMP policy, but was identified by the Commission in the TAPs of 67 young people in the investigation cohort.¹³³

The most prevalent use of ‘home visits’ was in Liverpool PAC where it was applied to 10 cohort members. Police in Brisbane Water PD applied this action to nine cohort members and in Kuring-gai PAC it was applied to eight. The Commission holds concerns about this practice given its intrusiveness and the impact it has not just on the child or young person, but also any other people residing at the home. There are concerns about the lawfulness of such visits – an issue discussed later in this chapter. This is more so, considering that neither young STMP targets nor their families have the capacity to seek an external review of any of the actions police have chosen to apply to manage young STMP targets.

The Commission reviewed COPS entries to determine whether police interactions with the young people matched the actions listed in the young person’s TAP. Our aim was to verify how the actions listed in each of the TAPs were applied by police in practice. We did not consider whether police had tailored the actions listed in each TAP to the individual’s offending behaviour. However, the compliance review conducted by the NSW Police Force in 2018 identified that local commands mostly used generic strategies rather than strategies tailored to the individual targets.¹³⁴

5.1 INITIAL NOTIFICATION

Young people in the Commission’s investigation cohort were not always told they were an STMP target. The policy gives police discretion as to whether a target is informed of their STMP status. This was a concern raised in the YJC report. Various community consultations undertaken by the Commission have also shown this to be an issue of concern not just for young people, but also for their family members.

When a young person is an active STMP target, police interactions with that young person will increase. When young people are not told they are active STMP targets, they are not given the opportunity to understand why this increased police interaction is occurring. This can invoke a feeling of being unfairly targeted or harassed. Where targeting strategies involve interactions at the young person’s place of residence, this can also be disruptive for family members or others who live there.

The Commission’s review of TAPs showed that 374 young people had ‘initial notification’ marked as an action on their TAP – meaning they should have been told by police they were an active STMP target.¹³⁵ The Commission reviewed COPS to determine how many of these young people were actually informed, and found evidence that police told 150 young people (35%) in the investigation cohort of their active STMP status.

It is the Commission’s view that young people should always be informed when they are made an active STMP target. This information should be shared by way of a face-to-face meeting with the young person, a nominated carer and the STMP case officer appointed by the NSW Police Force - which is a model of engagement similar to that of the Youth Command. At this meeting, the young person should be given the opportunity to ask questions about what it

¹³³ The Commission’s analysis shows that ‘home visits’ were also applied to young STMP targets in the following PACs/PDs: Bankstown; Barrier; Camden; Campbelltown; Central West; Coffs/Clarence; Eastern Beaches; Eastern Suburbs; Inner West; Kings Cross; Lake Illawarra; Manning/Great Lakes; Murrumbidgee; Northern Beaches; Port Stephens-Hunter; Redfern; Sutherland Shire and Wollongong.

¹³⁴ State Intelligence Command, *STMP Compliance Review*, June 2018, provided by the State Intelligence Command to the Commission in November 2018, p 10 and p 15.

¹³⁵ In these cases ‘initial notification’ was marked as an action on the young person’s TAP.

means to be an active STMP target. They should be provided with a copy of their TAP that should list the targeting strategies they will be subjected to, the frequency of these actions, and the names and roles of NSW Police Force officers who will be undertaking these actions. In the Commission's view, providing this information is likely to foster a more respectful and collaborative approach to engaging young people and their families in crime reduction.

Family participation has been found to play a central role in youth crime prevention,¹³⁶ and is reflected in the principles of the YOA. The Commission considers it should also be a key priority for police when responding to young STMP targets, where it is appropriate to do so.

RECOMMENDATION 12: The NSW Police Force advise all young people of their STMP status and provide them with details about the activities that police intend to apply under their Target Action Plan.

The NSW Police Force responded positively to this recommendation. In December 2019, it advised the Commission that under STMP III, STMP targets will be advised they are a current STMP target and this will be recorded in NSW Police Force case management systems. The NSW Police Force further commented that 'this is a key strategy of the youth, prevention and disruption streams as it allows police to explain what targets should expect as a result of their STMP nomination. Additionally, agreement and consent of the person being targeted are necessary pre-conditions to inclusion in crime prevention and support programs.'¹³⁷ The Commission welcomes this response.

5.2 OVERT TARGETING STRATEGY

The policy defines overt targeting strategies as 'active visible targeting strategies' and the Commission's analysis of TAPs showed overt targeting actions were the most commonly applied category and listed in the TAP for 79% of the investigation cohort.

Police actions from the overt targeting category focus on interacting with STMP targets in public space, particularly near their home. Policing actions from this category listed in the policy include patrols of various kinds, stop search and detain actions, issuing warnings for consorting notices in line with NSW Police Force policy, and issuing outstanding warrants and court notices.

The most commonly applied action from this category, and of all policing actions prescribed for young people in the investigation cohort generally, was 'stop, search and detain', with 275 children and young people in the cohort having this action listed on their TAP. Whilst the policy lists the targeting strategy as 'stop, search and detain' the Commission's review showed 24 young people's TAPs had the action 'stop and search' or 'stop and speak to the young person' or 'stop and prop' listed. Combining these categorisations, the Commission's review found that the NSW Police Force applied these actions to 299 young people in the cohort (70%). In NSW, police powers to stop, search and detain without a warrant are set out in Part 4 of LEPRA.

As well as being the most common, 'stop search and detain' actions are also one of the most potentially invasive police actions that can be applied to targets.

The Commission agrees with advice provided by the NSW Police Force that its officers are under a duty to prevent and investigate crime and as part of this duty, they can engage

¹³⁶ Ross Homel, Kate Freiberg, Sara Branch and Huong Le, 'Preventing the onset of youth offending: The impact of the Pathways to Prevention Project on child behaviour and wellbeing' (2015) 481 (i) *Trends & Issues in Crime and Criminal Justice* 1-9.

¹³⁷ NSW Police Force response to Operation Tepito – Interim report, December 2019, p 4.

people's attention and question them.¹³⁸ However, research indicates that it is common for police to frequently use stop and search powers for purposes other than crime detection and prevention, such as 'gaining intelligence' on people who are 'known' to the police, to break up and move on groups of people, and for the purposes of 'social control' more generally.¹³⁹

Our review of TAPs showed that some officers were tasked with a specific direction to 'stop and speak' to a young person whenever this young person was seen. The following excerpts illustrate how this strategy was represented in the TAPs of four young people in the investigation cohort:

Whenever the target is seen ensure that you stop and speak to them.

Police to engage Target whenever sighted to ensure legitimacy of the Target's presence in the area.

Stop and Prop - whenever the target is seen ensure that you stop and speak to them.

Actively stop and search POI regarding stealing offences.

Police also often chose to target a young person by patrolling the public space near a young person's home. The investigation analysis showed at least 258 young people (60%) were subjected to at least one type of patrol, with mobile patrols being the most prevalent. Other overt actions such as consorting warnings were applied to 116 cohort members (27%) and the use of outstanding warrants and Court Notices was listed as an action for 36 cohort members.

Case study 8 presented later in this chapter gives a further example of how some overt policing strategies have been applied to young STMP targets.

Of the TAPs which listed policing actions from the overt category, not all referred to the fact that police must comply with LEPRa when exercising their powers to search or detain the target. The fact that a young person is an active STMP target is not, of itself, sufficient justification for police to stop, search and detain a person. Under s 21 of LEPRa, police may stop, search and detain a person, and anything in their possession, if the officer suspects on reasonable grounds that the person: has anything stolen or unlawfully obtained; has anything used or intended to be used in the commission of an offence; has a dangerous article in public that is being used or has been used in relation to an offence; has a prohibited plant or drug.¹⁴⁰ Searches which fail to comply with LEPRa would constitute serious misconduct under s 10 of the LECC Act.

The fact that some TAPs listed 'stop, search and detain' as an action creates the risk that police may engage in unlawful behaviour by exercising these powers without regard to the requirement that the officer has a reasonable suspicion the young person has one of the items listed in s 21 of LEPRa, and that being an STMP target does not meet this threshold.

The Commission notes that police may conduct a search with the consent of the person searched under s 34A of LEPRa. However, it may not be clear particularly to a young person, in which circumstances they are entitled to refuse to submit to a search by police. It cannot be concluded that a search of a young person is consented to unless it is clearly indicated to him or her that they can refuse to be searched. It is best practice for consent to be explicitly gained and the person be made aware that they are not obliged to comply with the request.

¹³⁸ *NSW Police Force response to Operation Tepito – Interim report*, December 2019, p 5.

¹³⁹ Ben Bowling and Coretta Phillips, 'Disproportionate and Discriminatory: Reviewing the Evidence on Police Stop and Search' (2007) 70(6) *Modern Law Review* 938.

¹⁴⁰ LEPRa s 21(1).

Additionally, a person is under no obligation to stop and 'chat' with police, or stop to speak with them, except where that officer is exercising powers under LEPR. The STMP does not give police the power to compel a person to speak with police officers. Under LEPR, police powers to compel a person to provide information to police are generally confined to the investigation of an indictable offence.¹⁴¹ If a young person chose not to engage in conversation with police, this cannot of itself be considered suspicious, or grounds to conduct a search of the young person. This is a matter the Commission intends to explore further.

The policy guidance and substantive training provided to police on the use of the STMP should explain that it is best practice for consent to be explicitly gained and the person be made aware they are not obliged to comply with this request; how to appropriately obtain consent to a search; and should also canvass the limits on a police officer's powers to compel a person to speak with them – including that refusal by a person to engage in conversation or consent to a search, is not grounds to search that person.

Statistical and anecdotal evidence suggests that young people are excessively and inappropriately policed.¹⁴² Prioritising the application of overt policing actions for young STMP targets clearly increases the risk of excessive or inappropriate interactions.

One young person in the Commission's investigation cohort was subjected to frequent stop and searches by police in public places. Most of these searches were conducted at railway stations. Only one of these searches was examined by the courts and that search was found to be unlawful which is illustrated in case study 8, below.

CASE STUDY 8: The effects of unlawful and frequent searches on one young person

After being identified by the NSW Police Force as an active STMP target, one young person was searched by police on at least 13 occasions between October 2016 and October 2017 when they were aged between 13 and 14 years old. Twelve of these searches resulted in police finding nothing of interest and then issuing a move on direction.

In some records reviewed by the Commission, police appeared to rely heavily on the young person's STMP status to conduct a search, for example:

Police conducted checks on the POI which revealed [young person] was well known to police and is currently a STMP. LEPR applied. The POI was searched and no items of interest were located.

Another record indicates:

Police searched the POIs as they are well known drug/property offenders and they are current STMP targets. Police searched them finding nothing of interest. It is noted that no debit cards or cash was located on the POI and they were asked to leave the area. The POIs were issued a move on direction which they complied with.

It is clear from some police records the Commission reviewed that the ongoing police contact was causing the young person agitation. On the following occasion police searched the young person but nothing was found, and they were again issued with a move on direction:

Upon stopping POI 1 he immediately was apprehensive, argumentative and aggressive with police. He begun [sic] to walk away from police of which he was stopped. POI is an STMP within the [name of command].

One record indicated police relied on the young person's response to police such as attempting to walk away from them, in combination with the young person's STMP status:

¹⁴¹ For example, police may require a person to disclose their identity under Part 3 Divisions 1, 1A, 2, and 3 of LEPR, and Part 9 of LEPR deals with investigations and questioning people under arrest.

¹⁴² Chris Cunneen, Barry Goldson and Sophie Russell, 'Juvenile Justice, Young People and Human Rights in Australia' (2016) 28(2) (i) *Current Issues in Criminal Justice* 173-188.

Due to police having prior knowledge of the young person, the young person being nominated under the suspect target management plan (STMP) within the command and the fact the young person attempted to walk away when police asked to stop, police formed the reasonable suspicion that the young person may be in possession of illicit drugs.

On this occasion police searched the young person and located a small amount of cannabis on them. They charged the young person with a possession offence. The legality of this search was considered by the court, however the Magistrate was not satisfied police suspicion for this search was based on reasonable grounds and determined their decision to search the young person was in breach of their search powers. The Magistrate found no prima facie case to answer and in relation to the conduct of police, the Magistrate found:

In terms of the gravity of impropriety of the contravention [breach of search powers], in my view it is quite serious because the law shouldn't countenance the stopping and detaining and searching of young vulnerable people unless there's a proper base, in other words it's based on reasonable grounds. Here, in my view, there wasn't.

This case study shows that it is likely that police have used this young person's STMP status to conduct intrusive policing practices such as stopping and searching them while they have been out in their local community. One of those searches was considered by a Magistrate, and was found to be unlawful, as it did not give due regard to the provisions of LEPRA in ensuring that there were grounds for reasonable suspicion.

The issue of consent must also be raised in this context. It is open to police to undertake a search in the absence of reasonable suspicion when a person voluntarily consents to this, but, there is a power imbalance between police and young people which may lead a young person to determine police are making a demand and not a request. Whether a young person's consent is 'valid' must be considered on a case by case basis.

The Commission found examples where TAPs contained a reminder for police to consider LEPRA compliance while undertaking STMP policing activities, as illustrated by the following examples:

Conduct searches/Move on's in accordance with LEPRA.

Use of LEPRA powers to stop, search and detain STMP and associates.

Consider using appropriate legislation to proactively interact with STMP and detect offences.

[Stop, search & detain] When justified and in accordance with LEPRA.

However this reminder was not contained in all of the TAPs. The Commission did not undertake an analysis to determine how many stop/search actions were conducted only on the grounds of the young person's active STMP status. There are difficulties in ascertaining the grounds for any stop and search activity of police, as the primary source of this information is the COPS event or STMP event narrative, which often contains insufficient detail to understand the grounds for the activity. All COPS accounts should justify use of the power and we intend to conduct an analysis of how often this occurs and present findings in a subsequent report.

Over-policing of public space impinges a person's right to rest and leisure, interferes with a person's right to freedom of association and to be free from arbitrary arrest and detention, as well as the right to privacy and to be treated with dignity and respect.¹⁴³ Of course, the same is true where children or young people are concerned. Concerns were raised by the YJC's report that frequent police interactions like those listed in the STMP overt targeting category

¹⁴³ Chris Cunneen, Barry Goldson and Sophie Russell, 'Juvenile Justice, Young People and Human Rights in Australia' (2016) 28(2) (1) *Current Issues in Criminal Justice* 173-188.

undermine the foundations for positive police-youth relations, reinforcing police antipathy towards the young people and contributing to the young person's offending patterns.¹⁴⁴ The frequency with which police are undertaking overt policing actions for young STMP targets while they are in close proximity to their home, or out engaging in their communities, may have a negative effect on their behaviour and undermine any positive engagement processes applied by police to some young people.

In October 2019 the Commission suggested that the NSW Police Force should consider how the possible negative effects of overt policing actions, particularly those that are at risk of occurring in contravention of LEPR, can be remedied when applying STMP policing actions to young people.

RECOMMENDATION 13: Target Action Plans for young STMP targets include a reminder for police to undertake policing actions in compliance with the relevant legislation, and direction about the timing and frequency of police interactions.

The NSW Police Force has responded positively to this recommendation. The draft guidelines for STMP III reinforce that the STMP does not provide police with any additional enforcement powers to those existing in legislation. The NSW Police Force further advised that under STMP III, TAPs 'will include full details of strategies and where relevant, timings and frequencies. There must be a reasonable purpose to targeting strategies which require recording. Additionally, TAPs will be authorised by Crime Managers to ensure they comply with relevant legislation'.¹⁴⁵ The Commission anticipates these changes, in combination with the STMP III's focus on diversion as a first choice of management for young STMP targets, are well placed to reduce the intrusive policing actions that young people have been subjected to under STMP II.

5.3 POSITIVE TARGETING STRATEGY

The policy defines positive strategies as those which are 'designed to deter criminal activities by assisting the target in relation to their individual situation.' The Commission's findings show that at least one positive strategy was listed in the TAP for 139 young people in our investigation cohort (32%).

Positive strategies that are prescribed by the NSW Police Force include referrals to the PCYC, utilising crime diversion programs, engaging with external agencies that might provide support to the targeted individual, utilising victim support strategies, engaging with parents or guardians to assist in developing strategies to reduce the young person's involvement in crime, and utilising the support of other police liaison officers. The most common policing action within the positive strategies was referral to the PCYC. However we found this action listed in only 62 TAPs (14%). The next most common positive strategy listed in the TAPs was the target being offered support from a liaison officer. This was listed in 59 TAPs (14%).

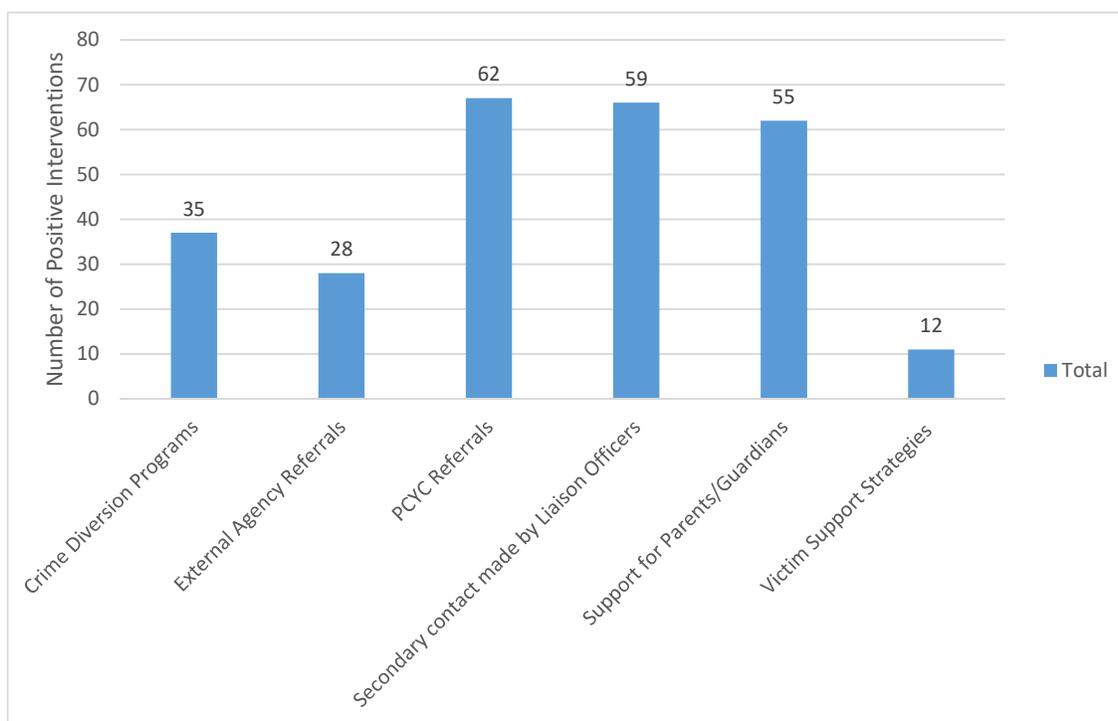
The prevalence of all positive strategies identified for young people in the investigation cohort can be found at Table one.¹⁴⁶

¹⁴⁴ YJC report, p 29.

¹⁴⁵ *NSW Police Force response to Operation Tepito - Interim report*, December 2019, p 4.

¹⁴⁶ It is possible that more than one policing action from this category has been listed in a young person's TAP. Our results show the overall number.

Table one: Positive strategies identified in young people’s TAPs



The Commission also identified some individualised positive strategies in the TAPs applied to young people in the investigation cohort. Some examples include:

ACLO referral re possible Aboriginal community intervention/assistance.

Liaise with the truancy team to ensure that the young persons [sic] are attending school or similar.

Coordinate government and non-government agencies to provide assistance to YP and family - encourage YP to attend school and other activities to help him avoid crime and rug [sic] use.

To reduce a young person’s offending, research suggests that police should apply a case management approach that: is targeted to an individual’s risk factors and problem behaviours; works across social settings; engages family; refers a young person to skills-based programs and programs that improve their problem-solving and decision-making abilities.¹⁴⁷ The Commission has found some examples where the NSW Police Force has adopted these strategies for children and young people in the investigation cohort, details of which are set out in the case studies below.

CASE STUDY 9: Regular and consistent engagement with youth trained officers

One young person and their family had consistent and repeated interactions with a YLO and an officer attached to the PCYC. The YLO met with the young person’s father to advise of the young person’s STMP status and provided details about how police would be monitoring the young person’s behaviour.

A week later the YLO spoke to the young person, who confirmed they had not been attending school and were not enrolled in any TAFE course. The YLO informed the young person that they must be at school or attending a course and discussed the young person’s interest in going to a local youth

¹⁴⁷ *What works in reducing young people’s involvement in crime?* Australian Institute of Criminology, 2002, p 8.

service for a practical support program. The YLO also made sure the young person knew what their bail conditions and curfew were.

The YLO also enrolled the young person in a mentoring program for Aboriginal youth, and referred the young person to the PCYC.

The YLO indicated these targeting strategies had a positive effect on the young person, which was corroborated by the young person's father who is recorded as saying:

[Father] stated the YP is engaging with the [Name of service] youth service and has settled down since having a partner.

CASE STUDY 10: Positive outcomes with a focus on positive STMP targeting strategies

One young person, aged 14 years old was nominated as an STMP target after being identified by the NSW Police Force as a recidivist offender. This young person first came to the attention of police at nine years of age and had over 15 stealing-related events recorded on COPS prior to being nominated for STMP targeting.

Following their inclusion in STMP, police spoke with the young person and their mother and provided advice about the goals they were seeking to achieve through monitoring the young person. During the conversation, police spoke about home-schooling with the help of Juvenile Justice; assistance in gaining employment; and help to enrol in TAFE.

Over the course of the young person's active STMP status, the young person remained relatively out of adverse notice.

CASE STUDY 11: Holistic assistance in a complex care matter

One young person lived with their parents and sibling, and was nominated as an STMP target at the age of 17 after being charged six times with domestic violence related offences in the two years prior to nomination.

This young person has a diagnosis of Asperger's Syndrome and in nominating the young person as an STMP target the NSW Police Force sought to protect both the young person and their family using a holistic approach involving different agencies. The young person's TAP demonstrates that a considered approach was applied by police to the management of this young person - for example by seeking to answer such questions as 'what agencies are they already engaged in'; 'has the young person shown interest in any specific activities in the past...can we canvass this'; and is there a counsellor or someone similar at their school who they have been dealing with?'

Shortly after STMP nomination, police met with the young person's parents to advise them of the young person's STMP status and to discuss the TAP. At this time the young person was in a juvenile justice centre. Officers also met with the young person's school principal, officers from the PCYC, police prosecutors and the young person's legal representative. Not long after this, police also met with the young person, in the company of their mother and spoke at length about attendance at the PCYC, engaging in sports and also discussed the young person's mental health issues.

CASE STUDY 12: Interagency referrals coordinated by police

One young person was nominated for STMP targeting in December 2016 after multiple and escalating police interactions since their first youth caution (for drug detection) in November 2013. At commencement of the STMP police met with the young person and their mother and also arranged for a representative of a service provider to visit the young person to engage them in case management and relevant youth programs.

Over the next few months, police visited the young person several times; the YLO met with the young person and their mother and also with a representative from another service provider. The YLO also arranged for the young person to attend boxing lessons.

These case studies shows that when police effectively apply diversionary and holistic STMP policing strategies, and engage specialist youth trained officers in the application of these strategies, positive outcomes for young STMP targets and their families can be achieved. They also highlight that young people who are in frequent police contact often require the services of other government agencies and service providers who are funded to provide social and health related supports for them and their families.

RECOMMENDATION 14: The NSW Police Force increase the use of positive targeting strategies for young STMP targets.

The NSW Police Force has responded positively to this recommendation, and advised the Commission that the STMP III policy includes specific youth and crime prevention toolkits focused on positive support strategies, which will be the starting point for young offenders, with other government agency involvement.¹⁴⁸

A number of other STMP targeting categories are set out under STMP II that police can choose to apply, including strategies relating to compliance (for example with court issued orders), information gathering/disclosure; technical monitoring of targets; and traffic strategies.

Our analysis found the second most common targeting category applied to young people in the investigation cohort was compliance strategies, with 291 young people (68%) targeted by police using these strategies; and the least prescribed actions were those relating to traffic strategies (applied to 48 young people); technical strategies (applied to 46 young people); and information disclosure to external agencies (applied to 24 young people).

5.4 OUTSIDE OF POLICY POLICE ACTIONS

5.4.1 HOME VISITS

The Commission's analysis of TAPs showed evidence that some local commands were tasking police to conduct 'home visits' or 'STMP visits' or 'door knocks' (home visits) of young people. This action involves police officers visiting the homes of STMP targets, seemingly to check upon the young person. All of these actions involved police interacting with the STMP target at their home and are not listed in the policy. They are different, and often additional to bail compliance checks or curfew checks and were identified by the Commission for 67 young people in the investigation cohort.

Of the 67 young people with home visits listed as a policing action on their TAP, 53 (79%) also had bail enforcement and/or curfew check and/or juvenile justice conditions listed as an additional policing action on their TAP.

There was variance from command to command as to whether the home visits were to be executed by one officer, a few specified officers, or any police on duty. The following excerpts from a variety of young people's TAPs describe how police were instructed to undertake these home visits:

Conduct home visits on a regular basis.

Door knock. Do not disclose target details.

Seek info from them.

Attend address on a regular basis - knock on door and speak with STMP and/or occupants.

¹⁴⁸ NSW Police Force Response to Operation Tepito – Interim Report, December 2019, p 4.

Home visits to be conducted on a regular basis. Police to speak to [young person] and obtain all recent information and update case.

Attend STMP's address and speak to the STMP and occupants at the address.

Visit STMP regularly - Police to attend the STMP's address and speak with the POI on a regular basis.

Visit place of abode - make regular visits to the target's home and speak with him. Record observations in relation to associates and vehicles at the location.

Visits to STMP's home - regular visits to the house, especially during night shift to see if he is at home at a reasonable time due to his age.

Regular check - check him at later night and earlier morning.

Home Visits - Home visits to be conducted on a regular basis.

Attend address on a regular basis - knock on door and speak with STMP and/or occupants.

Attend the young person's residence once a shift and there speak to occupants if Young Person is not at location and ascertain his whereabouts.

The Commission's analysis showed TAPs did not indicate the frequency with which police officers should undertake home visits, and that no information is provided about what 'regular visits' are, or what they entail. Similarly, the Commission's review of COPS records indicates that police information holdings are scant in relation to the purpose and outcomes of these visits.

The excerpts above indicate young STMP targets were being checked by police at their homes based only on their status as an STMP target. These home visits had not been imposed or authorised by a court, as a bail condition might be, and there is no process through which an STMP target may appeal the decision to impose these intrusive checks. The decision to engage in these checks, and the duration for which they will continue, was unilaterally determined by police and triggered by the NSW Police Force's own assessment that a person should be on the STMP. As outlined in Chapter 3, there are significant limitations to the risk assessment used to decide that a young person should be placed on the STMP at all.

To further contextualise the home visit actions listed on the investigation cohort TAPs, the Commission reviewed information contained within COPS¹⁴⁹ for each of the 67 targets subjected to home visits.

We found that for 27 young people, home visits accounted for over 50% of all actions taken by police under the STMP policy, and for one young person 87% of the police actions taken under the STMP policy were home visits. Three young people were visited between 170 to 195 times as follows:

- (i) one young person was subjected to 195 home visits between 1 November 2015 and 24 March 2017;
- (ii) one young person was subjected to 179 home visits between 23 November 2011 and 24 September 2017; and
- (iii) one young person was subjected to 170 home visits between 6 December 2016 and 2 February 2018.

¹⁴⁹ The Commission reviewed all actions listed at a target's STMP COPS Case Actions tab.

Six young people were visited between 50 to 100 times as follows:

- (i) one young person was subjected to 90 home visits between 31 May 2017 to 1 June 2019;
- (ii) one young person was subjected to 89 home visits between 20 September 2015 to 4 October 2017;
- (iii) one young person was subjected to 87 home visits between 31 March 2017 to 10 December 2017;
- (iv) one young person was subjected to 76 home visits between 14 April 2016 to 5 October 2016;
- (v) one young person was subjected to 67 home visits between 13 March 2014 to 26 March 2019; and
- (vi) one young person was subjected to 53 home visits between 9 January 2017 to 30 October 2018.

There are considerations as to the lawfulness of police's attendance at a person's private premises to conduct STMP home visits, which are not currently addressed in the STMP policy. The policy itself does not create any additional powers or legal authorisation for police to enter private premises beyond those existing in legislation, and granted by implied licence or consent of the occupier.

Under LEPR, a police officer is entitled to enter private premises to prevent a breach of the peace;¹⁵⁰ in the exercise of a statutory power of arrest without a warrant; and/or to execute a search warrant.¹⁵¹ LEPR also specifically empowers police officers to enter premises without the consent of the resident in domestic violence situations.¹⁵² Police officers may also be authorised to attend private premises to conduct bail compliance checks, however this does not authorise entry to the premises without consent from the occupants. There are exceptions if a police officer has reasonable grounds to believe that a person is about to breach their bail conditions¹⁵³ or if there is a court enforcement order.¹⁵⁴ However, powers granted to police under the *Bail Act 2013* (NSW) do not extend to STMP home visits.

Where there is no specific lawful authority to enter private premises, the only basis that permits such entry is the implied licence given by an owner or occupier to the world at large. The extent of any implied licence will depend on the particular circumstances, such as whether the occupier has expressly limited entry. However that implied licence would not enable police to walk around a home to look in windows in the event that nobody answers the front door. Moreover, it is very doubtful that visits to a home at hours when it might reasonably be expected the occupants are asleep for the purpose of checking on whether an STMP target is at home could be regarded as within the implied licence, still less multiple visits in the same night. Frequent visits might well also not be permissible under the implied licence. Each case is a matter of fact and degree but police officers should not assume that entry onto property for STMP purposes will be lawful.

¹⁵⁰ See LEPR s 9.

¹⁵¹ See LEPR s 10.

¹⁵² See LEPR Part 6, specifically s 82.

¹⁵³ See *Bail Act 2013* (NSW) s 77(1)(e).

¹⁵⁴ See *State of New South Wales v Dargin* [2019] NSWCA 47.

Entry into the private premises will be lawful if police obtain consent from the occupier.¹⁵⁵ What is said by the police officers to gain entry by consent, and the identity of the occupier from whom they obtain this consent is paramount. Contemporaneous records of conversations and resultant consent should be made by police officers, as questions about such consent may arise at a future point in time. The records of home visits that were reviewed by the Commission did not contain any clear evidence that police had obtained consent from the occupier before entry. The records also showed that police do not consistently record the reasons for, and outcomes of, these visits with the rigour that would be required to substantiate their actions.

The Commission's review of COPS also found evidence that some home visits significantly impinge on the privacy of young people and their families. The following excerpts from the STMP COPS case management records showed that police gained entry to a young person's premises, and made observations of the young person sleeping. For example:

Sighted POI asleep in bedroom. Father did not wish to wake POI' [Visit conducted at 10.50pm].

Attended location. POI home Police sighted POI who was asleep on couch.

Sighted asleep at home address.

Attend scene. [Young person] sighted asleep on lounge 9.55am.

Other records indicated police attended the target's home, in circumstances suggesting police had not been given permission to enter the property, and made observations that may have adverse implications for those subjected to the home visits. For example:

Attended [address] where POI was observed through the window in bed.

4.45am - [young person's address] attended. Lights on. Adult male asleep on lounge. Not able to wake him up. Snoring heavily. Empty cans of beer strewn on front lawn.

Attended home address. NPH [no person home] Bong sighted on table inside.

There is cause for concern if the occupier who allows police into the premises is under 18 years old as it is questionable as to whether that person has the legal capacity to consent to the police entering the premises in the first place. Additionally, a person who does not ordinarily reside there does not have the capacity to give permission to police officers to enter the premises.

Another relevant consideration is the withdrawal of consent for police to be in the property. An occupant is entitled to withdraw consent for police to be there at any time.¹⁵⁶ If the police officers who are conducting home visits do not clearly understand the limits of their powers to enter and remain in a person's home, there is a risk that when an occupant withdraws his or her consent to the officer's presence, the situation may escalate and result in the young person or a family member being arrested. This risk is a significant concern to the Commission.

Alternatively, given their age, young people may have limited understanding of their legal rights, and may not feel enabled to ask police to leave. This may be compounded when the reason for police attendance is not made clear, or where the occupants may be under the impression that police have a lawful excuse for their visit, or to enter the premises.

¹⁵⁵ See *Halliday v Nevill* (1984) 155 CLR 1.

¹⁵⁶ *Kuru v State of New South Wales* (2008) 246 ALR 260, [43].

Case study 13 highlights that trespass and privacy issues are called into question with STMP home visits, as is the risk of escalation if a young person, or another person at the residence, is unhappy about police presence in their home.¹⁵⁷

CASE STUDY 13: Privacy issues, possible trespass and risks of escalation with home visits

A young person was placed on the STMP in May 2016 on the day before their 14th birthday. The young person's TAP listed home visits as a policing action with all 'Green Team Members' at the command responsible to carry out this action. The young person was living with their grandparents. In the two months after being placed on the STMP, the young person was subject to approximately 47 home visits by police. Three of these visits were conducted by police after 1am. One visit was conducted at 1.21am. Police recorded the following:

Attended and spoke with STMP. Was asleep. STMP wearing pair of shorts only.

On another visit conducted at 1.40am police recorded:

Nil person would open the door. TV on and persons heard inside.

On another visit police recorded:

Attended 2.50am. Spoke to [resident] - [young person] was not home and allegation made that [they] had stolen a car belonging to [resident] by removing key from table at [young person's residence].'

In July 2016 the young person was taken into custody and served a custodial sentence. Police recommenced the targeting strategy of STMP home visits continue upon the young person's release from custody. Between November 2016 and October 2017 the young person was subjected to approximately 29 home visits. On one of these occasions police entered the premises at 12.35am and entered the target's bedroom, while the young person was asleep. Police recorded:

Saw POI at home address - was lying in bed asleep [young person] 2nd cousin [name] was present and showed police into the room where [young person] was sleeping.

It is not clear from this record whether the cousin who allowed police entry was a child or an adult, or whether this was considered by police in context of the cousin having the capacity to consent to police entering the premises. Five days after this visit police conducted another home visit at 11pm. Police recorded:

Spoken to was asleep in bed woken up abused police for their attendance.

Approximately two weeks later the young person was at home and police recorded:

[Young person] spoken to at home - abused police. Police spoke with grandmother who was unable to shed any light on [young person's activities].

The young person was rarely at home in subsequent home visits and on most occasions police record speaking to the young person's grandmother.

In this matter, police undertook frequent STMP home visits at unreasonable hours of the night. Importantly, the implied licence for police to approach a person's front door would not extend to visits conducted in the middle of the night or multiple visits over an evening. Case study 13 demonstrates the absence of sufficient records of the visit. There is no clear record of the exchange between police and the occupiers about the purpose of the visit, and whether entry was by consent. There is no record explaining why police considered it reasonable to wake the young person. Such actions of police might amount to trespass and risk sparking an altercation.

Case study 13 also illustrates that home visits can have the effect of harassment for other people who live at the address, not just the young STMP target. Many children and young

¹⁵⁷ Information contained within this case study has been collated from a review of the young person's STMP COPS Case and their TAP.

people in the investigation cohort do not live alone and each time a police officer visits, occupants who are not an STMP target are disturbed in the privacy of their own home. As well as the disruption caused to the young people and their families, regular police attendance can also cause reputational damage to the occupants. A perception that the household is engaging in criminal activity requiring the attendance of police officers on a regular basis can unfairly and negatively impact the relationship between the residents of the STMP household and their neighbours. It could also damage the reputation of all members of the household, not just the STMP target.

Another matter the Commission reviewed demonstrated the disruptive effect of STMP home visits on a young person's extended family, details of which are set out in case study 14.

CASE STUDY 14: Disruptive effect of home visits on target and their family due to high frequency

A 16 year old was identified under the STMP risk assessment process as being an 'extreme' overall risk in March 2017. A TAP was authorised in July 2017 which identified six targeting strategies, including: attend address on a regular basis; and knock on door and speak with STMP and/or occupants. The officers responsible for actioning this strategy were identified as 'all police'.

Between March 2017 and December 2017 the young person's premises were subjected to 89 home visits. On at least 36 occasions police recorded the young person was not at home and a family member or resident was spoken to. In one of the earliest home visits the young person's father told police his child did not reside at the premises for long periods of time. Twenty home visits were conducted prior to the formal authorisation of the TAP. After approximately 10 visits in a one month period, the family and occupants started raising concerns. One of the police records indicates:

Police attended the STMP's address. Police were met at the door by the STMP's mother who stated the STMP was out with a cousin. A male aged about 40 years old also of Aboriginal appearance then approached the door and began complaining of police harassment towards the STMP and their residence. Police explained the reasons for their attendance and then left the location. Police assume that this male will continue to question police powers.

It is not clear what reasons were given for police attendance as this was not recorded. In July 2017, after police had attended the premises a further seven to eight times, records indicate the young person's father refused to allow police to speak to the young person, and *'was abusive to police slamming the door'*. The father raised additional concerns with attending police about the frequency of visits. On one occasion the police indicated the young person's father *'became aggressive towards police stating police had attended a short time ago'*. Records indicate police had attended the property more than once on the same date.

The young person's TAP was endorsed on the same date their father complained about the second visit by police in a day. It is not clear whether the concerns of the family were taken into consideration when the TAP was authorised. There is no indication that the formalisation of the TAP strategies were communicated to the STMP or their family. Approximately 60 further home visits were conducted on the young person's home over the following five months. Some of these visits were conducted late in the evening when the young person was asleep. On one occasion police attended the residence after 3am. The record indicates:

[Police] attended residence at 3.19am - unable to raise any occupants however sighted light on in the rear of the property.

It does not appear that prior to our investigation the NSW Police Force had given proper consideration to the scope of STMP home visits - for example the appropriate frequency, timing, recording and more importantly, the actual purpose of such visits. Even if home visits were considered lawful, the frequency with which they are undertaken, and the timing of them, could make them invasive, unreasonable, unjust and oppressive depending on the circumstances. It seems that merely checking on the location of the

target is not a reasonable justification for a visit in the middle of the night, or frequent visits that impact on other members of the household.

It is unreasonable for the NSW Police Force to require or encourage police to visit a young person's home, in the absence of court orders or other lawful justification, without regard for the time of day or frequency with which such visits occur. In October 2019 the Commission advised the NSW Police Force that it was essential the STMP policy was amended to ensure that comprehensive guidance about the lawfulness and purpose of home visits is provided to police officers tasked with undertaking this STMP related policing activity.

RECOMMENDATION 15: Where home visits are prescribed for young STMP targets, a reason for these visits should be listed in their Target Action Plan, along with instructions regarding the frequency and time of the visits; and a comprehensive official record of any such visit should be completed.

The NSW Police Force has responded positively to this recommendation. In December 2019, the NSW Police Force advised the Commission that 'STMP III TAPs will include the full details of any strategy including the reason for home visits, timings and frequencies. There must be a reasonable purpose to targeting strategies which require recording. Each home visit will be recorded in COPS as a police interaction'.¹⁵⁸ Additionally, the draft STMP III guidelines emphasise the importance of police considering the purpose or justification for each STMP targeting strategy. To that end, the guidelines suggest a home visit may be reasonable to discuss processes or planned prevention activities, but may be unreasonable if conducted at an unreasonable hour or with unreasonable frequency. Under STMP III, all TAPs must be approved by crime managers or their specialist equivalent before targeting strategies are implemented. The Commission proposes to evaluate compliance with these measures in a subsequent report.

¹⁵⁸ *NSW Police Force Response to Operation Tepito - Interim Report*, December 2019, p 4.

6. CONCLUSION AND NEXT STEPS

The Commission's investigation into the application of STMP II on children and young people highlights some fundamental areas of concern. A lack of detail in young people's TAPs and COPS records indicates that the NSW Police Force could not have reasonably engaged in ensuring lawful policing activities were applied to young STMP targets; inadequate record keeping prevented police from undertaking an overall assessment of utility and ongoing critical analysis; and inadequate consultation has occurred with experts in relevant fields in the development and implementation of the approach. In addition to these concerns, the Commission's investigation found –

- (i) a high proportion of young people identified as possibly being Aboriginal or Torres Strait Islander by the NSW Police Force were selected for STMP targeting;
- (ii) overt and intrusive policing tactics have been applied by the NSW Police Force resulting in apparently unreasonable surveillance and monitoring of young people;
- (iii) patterns of interactions that show the NSW Police Force has used a young person's STMP status as a basis for ongoing and repeated stops, searches or visits to the young person's home, in lieu of legislative or court ordered frameworks;
- (iv) the target identification and risk assessment process may have introduced unacceptable risks of bias; and
- (v) the NSW Police Force did not undertake evidence-based evaluations to assess the success, or otherwise, of the STMP on an individual.

In light of these outcomes the Commission finds the development and definition of the STMP in its application to young people bears the insignia of being unreasonable, unjust or oppressive.¹⁵⁹

However, the Commission acknowledges that the draft policy and guidelines for STMP III significantly clarify the expectations of police in applying STMP to children and young people, particularly with regard to setting outcomes, record keeping, and regular review to assess whether the STMP targeting strategies are having the desired impact on the young person's behaviour. Many of the concerns raised by the Commission have been thoughtfully considered and addressed by the NSW Police Force in the new draft STMP III policy.

The Commission looks forward to continued collaboration with the NSW Police Force in reviewing the way the new approaches are applied by police.

It appears that, on recommendation from the Commission, the Youth Command has now been extensively consulted, particularly with regard to the strategies available to police in the Youth Toolkit that sits alongside the STMP III policy.

The Commission plans to review the revised NSW Police Force STMP model within the first 12 months of its implementation to ensure issues raised in this report have been adequately addressed. Additionally, in October 2019, the Commission asked the NSW Police Force to initiate a formal evaluation of the new policy within the first two years of its implementation, which is not only focussed on compliance, but also effect. The NSW Police Force has informed the Commission that it will ask BOCSAR to evaluate STMP III.

¹⁵⁹ Cf. LECC Act s 11(1).

The Commission has also suggested that the NSW Police Force engages in a community level discussion about the STMP, addressing what the NSW Police Force seeks to achieve with the policy. This engagement could serve to inform the community about the aims, approaches and anticipated outcomes of the STMP, and might address some of the current criticisms made by members of the public about its use. While it is not yet clear whether this kind of discussion will eventuate, the NSW Police Force has indicated that under STMP III police officers will be encouraged to seek input from other government agencies in relation to the targeting strategies applied to individuals. The NSW Police Force proposes to involve representatives from relevant agencies in the tasking and deployment meetings to gain feedback about relevant strategies.¹⁶⁰ The Commission proposes to consider this approach in our subsequent review of the revised policy.

¹⁶⁰ NSW Police Force, *Draft Suspect Targeting Management Plan STMP III*, provided by the State Intelligence Command to the Commission, December 2019.

APPENDIX ONE

Demographic information of children and young people in the investigation cohort

a) Age and gender

To understand which young people are subject to the STMP the Commission requested the names and CNIs of all STMP targets (active and suspended) who were under 18 years at the time of STMP nomination and were nominated for STMP at any time in the period 1 August 2016 to 1 August 2018.¹⁶¹

The average age at the time of first STMP nomination was 15.1 years, however the youngest person at the time of first nomination was nine and the oldest was 17.

Of the 429 young people in the investigation cohort, 397 or over 92% were male. The cohort contained 30 females and 2 people of unidentified gender.¹⁶²

¹⁶¹ Commission Section 55 Notice number 968 of 2018, Item 1.

¹⁶² A name and CNI search for each young person was undertaken on COPS and information recorded by the NSW Police Force on the 'Enquire Person' screen under the tab 'sex' for each person was used. The options were 'M', 'F' and 'U'.

b) Children and young people in the investigation cohort according to NSW Police Force Region and NSW Police Area Command (PAC) or NSW Police District (PD).

Region	NSW PAC or PD	Number of targets
Central Metropolitan	Botany Bay PAC	2
	Eastern Beaches PAC	3
	Inner West PAC	8
	Eastern Suburbs PAC	5
	Kings Cross PAC	2
	Redfern PAC	5
	St George PAC	15
	Sutherland Shire PAC	3
	Sydney City PAC	1
		44
North West Metropolitan	Blacktown PAC	14
	Blue Mountains PAC	6
	Hawkesbury PAC	5
	Kuring Gai PAC	8
	Mount Druitt PAC	11
	Nepean PAC	6
	North Shore PAC	3
	Northern Beaches PAC	8
	Parramatta PAC	2
	Quakers Hill PAC	7
	Ryde PAC	3
	The Hills PAC	3
		76
South West Metropolitan	Auburn PAC	3
	Burwood PAC	1
	Bankstown PAC	13
	Camden PAC	1
	Campbelltown City PAC	29
	Campsie PAC	3
	Cumberland PAC	7
	Fairfield City PAC	10

	Liverpool City PAC	14
		81
Northern	Brisbane Water PD	10
	Coffs/Clarence PD	18
	Hunter Valley PD	8
	Lake Macquarie PD	19
	Manning/Great Lakes PD	11
	Mid North Coast PD	1
	Newcastle City PD	2
	Port Stephens-Hunter PD	11
	Richmond PD	20
	Tuggerah Lakes PD	2
	Tweed/Byron PD	1
		103
Southern	Lake Illawarra PD	7
	Monaro PD	3
	Murray River PD	11
	Murrumbidgee PD	2
	Riverina PD	16
	South Coast PD	8
	The Hume PD	4
	Wollongong PD	14
		65
Western	Barrier PD	8
	Central North PD	13
	Central West PD	6
	Chifley PD	4
	New England PD	5
	Orana Mid Western PD	14
	Oxley PD	9
		59
TOTAL		428¹⁶³

¹⁶³ The address and location of one young person could not be verified as there was no risk assessment or target action plan supplied. Advice provided by NSWPF was: 'unable to locate the RA and TAP'.

APPENDIX TWO

Young people in the investigation cohort, identified as 'possible ATSI' by NSW Police Force records by Police Area Command (PAC)/ Police District (PD)

Region	PAC/PD	Number of young Aboriginal targets
Central Metro	Eastern Beaches PAC	3
	Eastern Suburbs PAC	2
	Inner West PAC	5
	Kings Cross PAC	1
	Redfern PAC	5
	St George PAC	5
	Sutherland Shire PAC	2
	Botany Bay PAC	1
		24
North West Metro	The Hills PAC	1
	Blue Mountains PAC	4
	Kuring Gai PAC	2
	Northern Beaches PAC	1
	Parramatta PAC	1
	Ryde PAC	1
	Blacktown PAC	11
	Hawkesbury PAC	2
	Mount Druitt PAC	7
	Nepean PAC	3
	Quakers Hill PAC	3
		36

Northern	Brisbane Water PD	7
	Coffs/Clarence PD	16
	Lake Macquarie PD	14
	Richmond PD	17
	Hunter Valley PD	7
	Manning/Great Lakes PD	11
	Mid North Coast PD	1
	Newcastle City PD	2
	Port Stephens-Hunter PD	10
	Tuggerah Lakes PD	1
		86
South West Metro	Burwood PAC	1
	Cumberland PAC	4
	Liverpool City PAC	10
	Bankstown PAC	3
	Camden PAC	1
	Campbelltown City PAC	23
	Campsie PAC	1
	Fairfield City PAC	5
		48
Southern	Murray River PD	10
	Riverina PD	15
	Wollongong PD	8
	Lake Illawarra PD	7
	Monaro PD	3
	Murrumbidgee PD	2

	South Coast PD	8
	The Hume PD	3
		56
Western	Orana Mid-Western PD	14
	Oxley PD	9
		8
	Barrier PD	
		12
	Central North PD	
		5
	Central West PD	
		4
	Chifley PD	
		5
	New England PD	
		57
TOTAL		307

APPENDIX THREE

a) Charge type by ANZOC group¹⁶⁴ and NOI rank¹⁶⁵ by number of children and young people in the investigation cohort, prior to STMP targeting.

Most serious charge prior to STMP nomination: NOI rank	Most serious charge prior to STMP nomination: ANZOC Group	Number of young people
7	Aggravated sexual assault	8
10	Child pornography offences	2
19	Cultivate illicit drugs	2
21	Deal or traffic in illicit drugs/ non/commercial quantity	5
23	Serious assault resulting in injury	92
25	Aggravated robbery	55
26	Deprivation of liberty	1
27	Serious assault not resulting in injury	33
28	Common assault	93
30	Other acts intended to cause injury	3
31	Stalking	14
35	Other dangerous or negligent acts endangering person	1
38	Dangerous or negligent operation (driving) of a vehicle	7
40	Non/aggravated robbery	1
42	Threatening behaviour	2
44	Property damage by fire or explosion	7
47	Sell, possess and/or use prohibited weapons/explosives	2

¹⁶⁴ The Australian and New Zealand Standard Offence Classification (ANZSOC) is used in Australian Bureau of Statistics (ABS) statistical collections, Statistics New Zealand statistical collections, Australian police, criminal courts and corrective services agencies and New Zealand police and justice agencies. It is a standardised statistical framework for organising key behavioural characteristics of criminal offences. Cf ABS, 'introduction', (i) 1234.0 – ANZSOC, 2011 (webpage, 9 April 2019) <http://www.abs.gov.au/ausstats/abs@.nsf/mf/1234.00>.

¹⁶⁵ The National Offence Index (NOI) has been developed by the ABS as a 'statistical tool to enable the output of nationally comparable offence information within the field of crime and justice statistics. It is a tool which provides an ordinal ranking of the offence categories in the ANZSOC (cat. no. 1234.0) according to perceived seriousness in order to determine a principal offence. The purpose of the NOI is to enable the representation of an offender by a single offence in instances where multiple offences occur within the same incident or where defendants have multiple charges in criminal cases' (webpage, 10 April 2019). <http://www.abs.gov.au/ausstats/abs@.nsf/mf/1234.0.55.001>.

50	Unlawfully obtain or possess regulated weapons/explosives	16
51	Misuse of regulated weapons/explosives	3
59	Unlawful entry with intent/burglary, break and enter	43
60	Obtain benefit by deception	5
69	Illegal use of a motor vehicle	5
70	Theft from a person (excluding by force)	1
74	Theft (from retail premises)	9
75	Theft (except motor vehicles)	12
85	Property damage	1
143	Driver licence offences	1
TOTAL		424¹⁶⁶

¹⁶⁶ Does not include four counts of 'no charges' and one count of 'unknown'.

b) Charge type by ANZOC group and NOI rank by number of children and young people in the investigation cohort, after STMP targeting

Most serious charge prior to STMP nomination: NOI rank	Most serious charge prior to STMP nomination: ANZOC Group	Number of targets
7	Aggravated sexual assault	8
10	Child pornography offences	1
11	Non/aggravated sexual assault	3
17	Deal or traffic in illicit drugs / commercial quantity	1
19	Cultivate illicit drugs	4
21	Deal or traffic in illicit drugs / non/commercial quantity	6
23	Serious assault resulting in injury	102
24	Abduction and kidnapping	2
25	Aggravated robbery	46
27	Serious assault not resulting in injury	29
28	Common assault	47
30	Other acts intended to cause injury	1
31	Stalking	21
38	Dangerous or negligent operation (driving) of a vehicle	11
40	Non/aggravated robbery	4
42	Threatening behaviour	1
44	Property damage by fire or explosion	3
45	Offences against government security	1
47	Sell, possess and/or use prohibited weapons/explosives	3
50	Unlawfully obtain or possess regulated weapons/explosives	9
51	Misuse of regulated weapons/explosives	2
59	Unlawful entry with intent/burglary, break and enter	35
60	Obtain benefit by deception	10
68	Theft of a motor vehicle	2

69	Illegal use of a motor vehicle	13
74	Theft from retail premises	5
75	Theft (except motor vehicles)	28
77	Receive or handle proceeds of crime	1
85	Property damage	3
95	Transport regulation offences	1
124	Possess illicit drugs	1
129	Trespass	1
138	Resist or hinder police officer or justice official	1
143	Driver licence offences	1
150	Regulatory driving offences	2
	TOTAL	409¹⁶⁷

¹⁶⁷ Does not include 19 counts of 'no charges' and one count of 'unknown.'

APPENDIX FOUR

Vulnerabilities of children and young people in the investigation cohort

To find out the types and prevalence of disadvantage and vulnerability experienced by the investigation cohort, the Commission identified six issues relating to life circumstances that might affect a young person's offending behaviour and a list of key search terms relating to these issues. These were:

Issue	Search term
Juvenile Justice	JJ
	youth worker
	Youth on Track
Family & Community Services	FaCs
	Family & Community Services
	Risk of Harm
	ROSH Report
	Child at Risk
	Case worker
Disability	Disability
	disabilities
	ADHD
	ODD
	Cognitive Impairment
Mental Illness	Mental Health
	Anxiety
	Depression
	Bipolar
	Suicide
	Self-Harm
Substance Abuse	Drug
	Drug and Alcohol
	Substance
Living Circumstances	Homeless
	Out-of-home-care
	Foster Care
	Residential Care

Using information contained in COPS, the Commission undertook an event narrative search for each person in the investigation cohort using the search terms identified. Some key findings of this analysis showed: 10 young people (2%) were not identified in any of the six vulnerabilities; 159 young people (37%) were represented in five vulnerabilities; and 88 young people (20%) were represented across all six vulnerabilities.

The most commonly represented vulnerabilities in the investigation cohort are shown at Table two, which indicates -

- 415 young people (97%) were reflected in NSW Police Force records referring to substance use;
- 361 young people (84%) were reflected in NSW Police Force records referring to mental health; and
- 156 young people (36%) were reflected in NSW Police Force records referring to living circumstances.

Table two: vulnerability of young people in the investigation cohort

Vulnerability	Number of young people represented ¹⁶⁸
Juvenile Justice	304
Family & Community Services	371
Disability	304
Mental Health	361
Substance Use	415
Living Circumstances	156

¹⁶⁸ Numbers total more than the total cohort number of 429 as some young people were represented in more than one category of vulnerability.

APPENDIX FIVE

Children and young people in the investigation cohort according to their postcode, suburb and Socio-Economic Indexes for Areas rank¹⁶⁹

	Postcode	Suburb/s	Number of young people in the investigation cohort	SEIFA rank within NSW by Postal Area Code ¹⁷⁰
1.	2007	Ultimo	1	67
2.	2008	Darlington	1	78
3.	2010	Darlinghurst	1	82
4.	2011	Woolloomooloo	1	77
5.	2015	Eveleigh	1	89
6.	2016	Redfern	1	66
7.	2017	Waterloo Zetland	3	53
8.	2018	Eastlakes	1	49
9.	2024	Waverley	1	89
10.	2025	Woollahra	1	94
11.	2026	Bondi	2	88
12.	2027	Point Piper	1	92
13.	2036	Eastgardens La Perouse Matraville	4	61
14.	2042	Newtown	1	85
15.	2043	Erskineville	1	91
16.	2044	Tempe	2	76
17.	2046	Five Dock	1	83
18.	2049	Petersham	2	79

¹⁶⁹ Socio-Economic Indexes for Areas (SEIFA) is a product developed by the ABS that ranks geographic areas in Australia according to relative socio-economic advantage and disadvantage. The indexes are based on information from the five-yearly Census and rank each suburb in order from one to 100. A score of 100 is higher than a score of one. Data represented is based on information contained in the indexes on 8 May 2019. ABS 'SEIFA by Local Government Area', (i) Snapshot of Australia (data, 8 May 2019)

http://stat.data.abs.gov.au/Index.aspx?DataSetCode=ABS_SEIFA_LGA.

¹⁷⁰ Data represented is based on information contained in the indexes on 9 May 2019, by percentile rank within NSW (data, 9 May) http://stat.data.abs.gov.au/Index.aspx?DataSetCode=ABS_SEIFA_LGA.

19.	2060	North Sydney	1	93
20.	2067	Chatswood	1	84
21.	2071	Killara	1	98
22.	2076	Wahroonga Normanhurst	3	97
23.	2077	Hornsby Hornsby Heights	2	79
24.	2085	Belrose	1	97
25.	2089	Neutral Bay	1	95
26.	2095	Manly	1	89
27.	2097	Collaroy	1	90
28.	2099	Narraweena	1	78
29.	2100	Brookvale North Manly	2	87
30.	2101	Narrabeen	1	84
31.	2107	Avalon	1	95
32.	2116	Rydalmere	2	63
33.	2117	Dundas Telopea	2	73
34.	2120	Thornleigh	2	93
35.	2122	Eastwood	2	80
36.	2140	Homebush	1	69
37.	2141	Lidcombe	1	42
38.	2143	Birrong	1	19
39.	2144	Auburn	2	9
40.	2145	Greystanes	1	63
41.	2146	Old Toongabbie Toongabbie	2	68
42.	2147	Lalor Park Seven Hills	2	59
43.	2148	Blacktown Marayong	7	42
44.	2150	Parramatta	1	56

45.	2153	Baulkham Hills	1	90
46.	2154	Castle Hill	2	96
47.	2155	Kellyville Ridge	1	99
48.	2158	Dural	1	92
49.	2160	Merrylands	1	23
50.	2166	Cabramatta Canley Heights Canley Vale	8	2
51.	2167	Glenfield	1	61
52.	2168	Ashcroft Busby Cartwright Green Valley Heckenberg Miller Sadleir	13	8
53.	2170	Liverpool Mt Pritchard	2	36
54.	2177	Bonnyrigg	1	15
55.	2190	Greenacre	1	19
56.	2193	Canterbury	1	66
57.	2194	Campsie	1	18
58.	2195	Wiley Park	1	5
59.	2196	Punchbowl Roselands	2	18
60.	2198	Georges Hall	1	66
61.	2199	Yagoona	2	16
62.	2200	Bankstown Condell Park	6	14
63.	2204	Marrickville	1	60
64.	2205	Arncliffe Wolli Creek	2	55
65.	2207	Bexley North	1	65

66.	2209	Beverly Hills	1	57
67.	2213	East Hills	1	72
68.	2216	Rockdale	3	55
69.	2217	Kogarah	2	68
70.	2218	Allawah Carlton	4	62
71.	2220	Hurstville	1	59
72.	2226	Como	1	87
73.	2227	Gymea	1	87
74.	2230	Woolooware	1	83
75.	2232	Sutherland	2	81
76.	2250	Wyoming	3	60
77.	2256	Blackwall Woy Woy	3	29
78.	2257	Ettalong Beach Umina Beach	3	38
79.	2259	Kanwal Watanobbi	2	43
80.	2265	Cooranbong	1	57
81.	2280	Belmont	1	59
82.	2283	Blackalls Park Carey Bay Fennell Bay Toronto	5	44
83.	2285	Edgeworth	1	56
84.	2287	Maryland	1	54
85.	2290	Gateshead Tingira Heights Whitebridge	6	60
86.	2297	Tighes Hill	1	45
87.	2303	Hamilton South	1	49
88.	2306	Windale	5	1
89.	2315	Corlette	1	54

90.	2320	Rutherford Telarah	5	45
91.	2322	Woodberry	1	39
92.	2323	Ashtonfield Metford	3	50
93.	2324	Raymond Terrace	2	17
94.	2325	Aberdare Cessnock	4	18
95.	2333	Muswellbrook	1	40
96.	2335	East Branxton	1	67
97.	2340	Oxley Vale Tamworth Taree	7	39
98.	2341	Werris Creek	1	4
99.	2343	Quirindi	1	22
100.	2357	Box Ridge Broulee Coonabarabran	5	20
101.	2360	Inverell	2	18
102.	2380	Gunnedah	3	27
103.	2388	Wee Waa	1	21
104.	2390	Narrabri	1	36
105.	2400	Moree	1	22
106.	2409	Boggabilla	1	1
107.	2428	Forster Tuncurry	4	17
108.	2430	Cundletown Purfleet	2	15
109.	2440	West Kempsey	1	5
110.	2450	Boambee Valley Coffs Harbour Coramba	10	39
111.	2452	Sawtell	2	23

112.	2460	Grafton South Grafton	5	12
113.	2463	Maclean	1	23
114.	2470	Casino	4	6
115.	2471	Coraki	1	13
116.	2473	Evans Head	2	11
117.	2477	Cabbage Tree Island	1	55
118.	2478	Ballina West Ballina	6	49
119.	2480	Goonellabah Lismore Lismore Heights	4	35
120.	2486	Banora Point	1	40
121.	2500	Gwynneville Mangerton Wollongong	5	58
122.	2502	Warrawong	1	3
123.	2515	Thirroul	1	84
124.	2516	Bulli	1	71
125.	2517	Woonona	4	64
126.	2518	Bellambi	2	30
127.	2527	Albion Park Albion Park Rail	2	51
128.	2528	Barrack Heights Warilla Warrigal	4	10
129.	2529	Flinders	1	65
130.	2536	Batemans Bay	1	29
131.	2537	Moruya	1	34
132.	2539	Ulladulla	1	25
133.	2540	Sanctuary Point	1	39
134.	2546	Dalmeny	1	24
135.	2548	Merimbula	1	50

136.	2550	Bega	1	37
137.	2558	Kearns	1	53
138.	2559	Claymore	2	1
139.	2560	Airds	19	35
		Ambarvale		
		Bradbury		
		Campbelltown		
		Rosemeadow		
		St Helen's Park		
		Woodbine		
140.	2564	Macquarie Fields	3	5
141.	2565	Ingleburn	1	52
142.	2566	Minto	2	43
		St Andrews		
143.	2567	Mount Annan	1	81
144.	2594	Young	1	29
145.	2580	Goulburn	1	34
146.	2582	Yass	1	77
147.	2619	Jerrabomberra	1	100
148.	2620	Queanbeyan	2	73
149.	2640	North Albury	4	7
		Thurgoona		
		West Albury		
150.	2641	Lavington	3	15
		Springdale Heights		
151.	2645	Urana	1	4
152.	2646	Corowa	1	29
153.	2650	Ashmont	10	53
		Kooringal		
		Mt. Austin		
		Tolland		
154.	2656	Lockhart	1	49
155.	2666	Temora	1	27
156.	2680	Griffith	2	36

157.	2710	Deniliquin	2	30
158.	2715	Balranald	1	25
159.	2717	Dareton	1	11
160.	2720	Tumut	3	26
161.	2729	Adelong	2	39
162.	2749	Cranebrook	2	57
163.	2750	Penrith	1	51
164.	2753	Hobartville	2	57
		Richmond		
165.	2754	North Richmond	1	58
166.	2756	South Windsor	2	61
		Windsor		
167.	2759	St Clair	1	61
168.	2760	St Marys	1	21
169.	2763	Quakers Hill	1	74
170.	2765	Riverstone	1	60
171.	2767	Doonside	7	52
172.	2770	Hebersham	11	30
		Lethbridge Park		
		Minchinbury		
		Mt Druitt		
		Shalvey		
		Tregear		
		Willmot		
173.	2779	Hazelbrook	2	70
174.	2780	Katoomba	3	48
175.	2782	Wentworth Falls	1	68
176.	2794	Cowra	2	17
177.	2795	Bathurst	3	53
		Kelso		
		South Bathurst		
178.	2800	Orange	3	50
179.	2820	Wellington	2	11

180.	2821	Narromine	1	21
181.	2829	Coonamble	4	8
182.	2830	Dubbo	8	44
183.	2832	Walgett	5	10
184.	2834	Lightning Ridge	1	2
185.	2835	Cobar	3	40
186.	2836	Wilcannia	1	2
187.	2840	Bourke	1	26
188.	2850	Mudgee	2	44
189.	2870	Parkes	1	31
190.	2879	Menindee	1	12
191.	2880	Broken Hill	6	10
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