



WESTERN AUSTRALIA POLICE FORCE

OFFICE OF COMMISSIONER OF POLICE

POLICE HEADQUARTERS

6TH FLOOR

2 ADELAIDE TERRACE, EAST PERTH

WESTERN AUSTRALIA 6004

TELEPHONE : (08) 9222 1474

Your Ref: A729589
 Our Ref: fA1558641
 Inquiries: executive.services@police.wa.gov.au

Hon Dr S E Talbot MLC
 Chair
 Joint Standing Committee on the
 Commissioner for Children and Young People
 Parliament House
 4 Harvest Terrace
 WEST PERTH WA 6005



Dear Dr Talbot

WRITTEN SUBMISSION INVITATION: INQUIRY INTO THE MONITORING AND ENFORCING OF CHILD SAFE STANDARDS

Thank you for your correspondence dated 17 December 2018 inviting the Western Australia Police Force to make a submission to the Inquiry into the monitoring and enforcing of Child Safe Standards.

On 21 November 2017, Mr Colin Pettit, Commissioner for Children and Young People, wrote to me and provided a copy of the project map for independent oversight of organisations that provide services to children and young people. The WA Police Force was not asked to contribute to or review the report prior to release.

On 29 November 2017, Commissioner Pettit formally requested the WA Police Force provide data for children and young people on the following:

- number held in a police custodial facility in Western Australia for periods of less than six hours/more than six hours;
- charge, reason for arrest or nature of the alleged offence;
- data on the WA Police Force diversion of children and young people; and
- data on family and domestic violence, with further emphasis the perpetrator was under the age of 18.

On 2 February 2018, the WA Police Force provided the requested data to the Commissioner for Children and Young People.

Commissioner Pettit made a number of recommendations identifying the specific areas for development which were intentionally broad as further work needed to be done to establish the most efficient and effective mechanisms for oversight. There is scope to develop the means of achieving oversight, appropriate levels of resourcing and a commitment to engaging proactively with children and young people which is essential, particularly those who are more vulnerable.

I met with Commissioner Pettit on 8 January 2018 to discuss the report and a number of other youth related issues.

The Office of the Commissioner for Children and Young People is currently working with the Telethon Kids Institute to develop a monitoring framework that establishes key indicators of children and young people's wellbeing to influence and guide both the work of the Commissioner's office and other policy and service development.

Response to the recommendations relevant to the WA Police Force are provided below.

WA Police Force response to Recommendation 4:

That a system of comprehensive independent oversight of the detention of children and young people in police custody be introduced in Western Australia.

Custodial Safety and Care Project

The WA Police Force has been working on a Custodial Safety and Care Project with key deliverables that include the development of an enhanced inspection framework and model with oversight 'duty of care' provisions focussed on the wellbeing of persons in police custody.

In 2018, the WA Police Force in collaboration with the Department of Justice reviewed emergency action plans and lockups for court processes in regional areas. This may involve building management.

This will be further considered with the work of the Intergovernmental Agreement (IGA) on ratification and implementation of Optional Protocol for the Prevention of Torture and Other Cruel, Inhumane or Degrading Treatment (OPCAT). OPCAT is an international treaty that aims to prevent the mistreatment of people in places of detention by establishing a two-tiered framework of preventative monitoring. This monitoring framework is underpinned by both an international body, the Subcommittee on Prevention of Torture (SPT), and a national body, designated as a National Preventive Mechanism (NPM). SPT performs the dual function of visiting places of detention and providing advice and assistance to support the effective functioning of the NPM.

Australia will use Article 24 of OPCAT to delay NPM obligations for up to three years, providing reasonable time to consider existing oversight arrangements and nominate an NPM Network member.

The WA Police Force is an active participant in the implementation process led by the Australian Human Rights Commission and was part of the second stage of consultation in November 2018.

However, OPCAT is consistent with the current WA Police Force commitment to improving monitoring and oversight protocols and provides a number of guidelines, assessment tools and other materials which can be referenced by the WA Police Force in developing practice guidelines, principles and inspection frameworks.

Custody Notification Service

Currently, the WA Police Force provides support to Aboriginal people in custody through arrangements under an Aboriginal Referral Scheme. The Department of Justice Aboriginal Visitors Scheme (AVS) provides Aboriginal people in custody with support from Aboriginal staff members to ensure Aboriginal detainees and prisoners are given adequate support and referral services. It also ensures detainees are treated in a fair and humane manner while incarcerated. AVS also provides independent culturally appropriate support by telephone to Aboriginal detainees in the custody of the WA Police Force at police lockups and the Perth Watch House.

A Custody Notification Service (CNS) is being established in Western Australia. It is intended the CNS will ensure that Aboriginal persons arrested and taken into custody receive a welfare check and legal advice at the earliest opportunity.

The Aboriginal Legal Service (ALS) has been confirmed as the service provider and is in the process of finalising the terms of the agreement with Government. ALS will then commence a recruitment and training phase with a proposed commencement date set for July 2019.

Amendments to the *Police Force Regulations 1979* are being prepared to facilitate the CNS.

The CNS notification will be by telephone and apply when any Aboriginal or Torres Strait Islander (ATSI) person is detained for any of the following reasons:

- Arrested (including arrested for an offence, arrested on a warrant such as a warrant of commitment or arrested under any other law); or
- Apprehended and detained by a police officer in a police station or custodial facility under any written law (e.g. *Protective Custody Act 2000*, *Mental Health Act 2014*).

Unless the police officer reasonably believes the notification would result in a person's safety being endangered (mental or physical needs), or there are other urgent circumstances which would justify delay of the notification, the person in custody must be advised that the CNS will be notified, and the CNS must be notified immediately.

The AVS will continue alongside the CNS and will not be replaced by the notification service.

WA Police Force response to Recommendation 5:

That a robust system of oversight for all children and young people in the youth justice system be established. This should include;

- *Access to an independent advocate to support children and young people to raise concerns about their treatment and support;*
- *Monitoring of the application of policy and practice; and*
- *Monitoring of the outcomes for children and young people under the care and supervision of the youth justice system.*

The WA Police Force are undertaking strategies to address the factors that impact youth offending and decrease the involvement in the criminal justice system.

Youth Policing Operations

The WA Police Force have 52 Youth Crime Intervention Officers (YCIO) who proactively engage with Priority Prolific Offenders (PPO) and Youth at Risk (YAR), with particular emphasis on addressing risk factors in offending and developing protective behaviours through participation in youth crime intervention programs. YCIO establish and maintain partnerships with government and non-government organisations for the provision of programs and services to young offenders. This YCIO initiative provides a holistic approach to facilitate better outcomes for young offenders and the community and reduces demand on police services.

Youth at Risk facility – Safe Place

A 'safe place' YAR in the city centre provides youth deemed to be at risk a place to stay while a responsible adult is located to place them into their care. Youth workers conduct a comprehensive psycho-social assessment of youths entering the Facility and can provide follow-up support and assistance to youths and their families through a range of innovative programs and services. Crisis Care Unit (CCU) may also provide specific intervention and involvement to assist the needs of the young person and their family.

This Strategy combines the resources of the WA Police Force, Department of Communities (DoC), CCU, Mission Australia and the Nyoongar Patrol, to keep children and young people away from harm and to reduce offending. Metropolitan based YCIO are rostered to staff the YAR Facility on Friday and Saturday nights and to undertake youth-related tasks associated with the Facility.

Community Diversity Unit

The WA Police Force Community Diversity Unit works in partnership with Culturally and Linguistically Diverse (CaLD) communities and groups to develop strategies that increase safety and security for all Western Australians. The Unit also responds to urgent issues that arise within these communities and provides subject matter support to frontline police on service delivery issues.

Aboriginal Affairs Division

The WA Police Force Aboriginal Affairs Division provides advocacy and support to frontline officers to respond to the needs of Aboriginal people and to co-design support programs and initiatives for Aboriginal youth that will reduce their involvement within the justice system and create safer homes and places. This new division (created August 2018) will provide the work scope and strategic programs for WA Police Force members to work collaboratively with Aboriginal communities and create response and diversionary options that will reduce and remove youth from the justice system and provide alternative options to sentencing.

Mental Health Co-Response Team

The WA Police Force, in partnership with the Department of Health, has established a co-response team trial to address police contact with individuals experiencing mental health problems. The strategy provides referral pathways to divert people towards suitable treatment and away from ongoing engagement with the criminal justice system.

Target 120

Target 120 is a State Government commitment to work with the families of the State's highest priority young people in contact with the youth justice system. This is a coordinated across-Government response to improve young people's lives and reduce offending. The WA Police Force is an active supporter and contributor to this initiative.

Implementation of the initiative is supported by the ongoing provision of WA Police Force data required by the DoC on young offenders considered for possible participation in the program. Local coordinators from DoC liaise directly with YCIO and other key agency representatives in the provision of programs and services to the selected young people and their families.

Thank you for the opportunity to outline the WA Police Force position on this matter.

Yours sincerely

CHRIS DAWSON
COMMISSIONER OF POLICE

\ March 2019