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NSW Police Force

OFFICE OF THE COMMISSIONER

8 February 2024

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The Hon. Michael Daley MP
Attorney General
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Dear Attorney

On 14 April 2023, Deputy State Coroner Magistrate Carmel Forbes finalised the inquest into the death of Mr Stanley Russell. The Deputy State Coroner made six recommendations to the NSW Police Force (NSWPF).

These recommendations, along with the NSWPF position on each of the recommendations, are included in the attached table.

The NSWPF has made considerable improvements and effort into training, community engagement and other matters related to policing and the Aboriginal community. The NSWPF is committed to continuing to build and improve relationships with First Nations people.

Yours sincerely

Karen Webb APM
Commissioner of Police

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Inquest into the disappearance of Mr Stanley Russell

Rec No.	Recommendation	NSW Police Force (NSWPF) response
1	<p>To the NSW Commissioner of Police:</p> <p>Consideration be given by the NSWPF to updating the wording of the BWV Standard Operating Procedures Version 2.4 to make clear to officers of the NSWPF:</p> <p>(i) when they are required to turn their BWV on to recording (as compared to turning on to standby mode);</p> <p>(ii) the scope of their discretion not to record on BWV when their activities otherwise fall within the scope of “When to Use BWV” identified on page 7 of the BWV Standard Operating Procedures.</p>	<p>Supported</p> <p>The updates to the BWV SOPs are being implemented in line with the recommendation.</p> <p>All operational Police are trained in the use of the BWV which includes camera operation, recording vs standby mode. The updated BWV SOPs will contain a proposal to update as required.</p>
2	<p>Consideration be given by the NSW Police Force to ensuring that that in Blacktown (and other communities with high populations of First Nations people):</p> <p>(i) there is an Aboriginal Community Liaison Officer (ACLO) engaged at the relevant Police Area Command (PAC) or Police District (PD);</p> <p>(ii) that the police within the relevant PAC or PD be required to complete a training module on aboriginal cultural competency; and</p> <p>(iii) that any such cultural competency training includes specific training on the role of an ACLO and the ways in which an ACLO can assist an officer undertaking general duties in respect of First Nations people.</p>	<p>Supported</p> <p>An ACLO position has been relocated to Blacktown PAC.</p> <p>The NSWPF offers training packages on working and engaging with Aboriginal and Torres Strait Islander People and communities. These packages encompass many important cultural aspects, including the role of the ACLO within the NSWPF and how they assist Police in building and strengthening relationships in the community.</p> <p>The training is available to all staff throughout the NSWPF and under the renewed Aboriginal Strategic Direction, it will be directed by the Commissioner of Police as mandatory. Additionally, local Aboriginal Cultural Awareness Training packages are available to PACs with high populations of Aboriginal people.</p>
3	<p>Consideration should be given by the NSW Police Force to:</p>	<p>Partially supported</p> <p>The NSWPF ACLO program aims to foster positive partnerships and strengthen communication links between the NSWPF and the First Nations people, communities and community organisations.</p>

	<p>(i) identifying appropriate ways for ACLOs to be involved prior to the execution of arrest warrants on First Nations people; and</p> <p>(ii) specifying the ways identified in accordance with recommendation 3(i) in the role description of ACLOs, the training given to ACLOs, and training given to other officers in the NSW Police Force as to the role of ACLOs.</p>	<p>It is not recommended to utilise ACLOs to communicate with an offender outside operational police being present as this potentially puts the ACLO in danger.</p> <p>The liaison role that ACLOs perform with First Nations communities is based upon the development of mutual trust and respect. It is essential that ACLO's be regarded by their communities as being neutral in respect of the implementation of law enforcement. To directly involve ACLOs in the process for the execution of arrest warrants would jeopardise their standing and rapport with their communities and undermine their effectiveness in engaging with those communities.</p> <p>It is therefore not considered appropriate to formally assign this task to ACLOs as it goes against the aims of the ACLO role. Police are encouraged to seek advice from ACLOs regarding community knowledge that could be of assistance in such situations.</p>
4	<p>Consideration be given to introducing a policy or standard operating procedure requiring that:</p> <p>(i) officers who suspect that a person may be suffering from an intellectual disability make a record of that in COPS against the individual's COPS profile.</p> <p>(ii) before seeking to execute a bench warrant by entering the home of a person identified on the COPS database, or otherwise known to police officers, as possibly suffering from an intellectual disability or mental health issues, officers consider:</p> <ul style="list-style-type: none"> a. available warnings and available information to ascertain the person's mental health issues, intellectual disability, and specific vulnerabilities. b. available information suggesting a history of self-harm, increased risk of violence or the use of weapons. <p>(iii) the information set out in (i) and (ii) above be taken into account in deciding whether or not to execute a bench warrant by entering a person's home to attempt to locate them, and if it is decided to attempt to effect an arrest, in planning how best to undertake an operation to arrest the person to minimise the risk of harm to the person, the police and the public; and</p>	<p>Not supported</p> <p>The NSWPF adheres to established policies, including pre-arrest assessments, which are essential in ensuring the safety of both the community and officers.</p> <p>Arrests, and particularly those arising from the issue of bench warrants, necessitate the careful evaluation of individuals and locations to mitigate potential risks to the community, victims and the offender. These procedures include options to prevent or reduce the risk of confrontation where achievable.</p> <p>Police are trained as to how to best identify and de-escalate situations involving offenders with underlying symptoms of mental disorder or illness that may be causing behavioural disturbance. It may not always be possible to differentiate between a person under the influence of alcohol, illicit substance or substance induced psychosis as opposed to someone with mental illness or intellectual disability.</p> <p>In these instances, officers can and do document on COPS their concerns regarding the mental state of the person and their behaviours, arising from their own interactions with the person and the person's history of mental health incidents where Police have been required to attend.</p> <p>The NSWPF have current procedures in place for persons with outstanding court notices including warrants. PAC/PD Intelligence personnel are required to conduct checks and</p>

	<p>(iv) other than in circumstances of urgency, the NSWPF consider alternatives to arrest as a means of executing a bench warrant where there is any indication that the person of interest has an intellectual disability, and that in such circumstances the NSWPF shall attempt to contact the person directly and indirectly, and to identify if there is a means of liaising with the individual, to encourage voluntary attendance at a police station by the person of interest and to elicit information relevant to the potential risk to the person, the public, or to police arising from any attempt to execute the warrant.</p>	<p>provide assistance by creating intelligence products including Persons of Interest profiles and intelligence slides to frontline Police. Recent Police holdings regarding the person named in the warrant will be considered by Police prior to arrest where it is practicable to do so.</p>
5	<p>Consideration be given to the NSWPF working with the Justice Advocacy Service to introduce a procedure whereby if the Justice Advocacy Service (JAS), or other similar advocacy service on behalf of persons with an intellectual disability, has notified the NSWPF that they are involved in a case or as regards a person of interest, the NSWPF shall contact JAS, or that other service, before undertaking an operation to execute a bench warrant:</p> <p>(i) to ascertain whether JAS, or the other service, can attempt to contact the person of interest to attempt to persuade the person to attend a police station or court voluntarily; and</p> <p>(ii) to seek information from JAS, or the other service, as to any vulnerability or disability that may be relevant to the execution of the warrant.</p>	<p>Not supported</p> <p>The NSWPF already works closely with JAS and other relevant government and non-government stakeholders in ensuring persons with intellectual or physical disability are supported where appropriate. However, there are equally a number of inherent risks if the NSWPF were to use external agencies to contact persons of interest to surrender for the purposes of executing warrants and/or other arrest procedures.</p> <p>Decisions whether or not to utilise external partners should be made on individual circumstances and cannot be adequately addressed by a blanket policy position. The multifaceted nature of law enforcement requires flexibility in decision making to best protect victims and the community. The NSWPF have current procedures in place to contact JAS when they engage a person with impaired cognitive ability that focus on supporting those persons in police custody and through the court process.</p> <p>The NSWPF also works closely with JAS to continually improve service provisions and have recently met with DCJ to discuss the coronial recommendations.</p>
6	<p>To the NSW Commissioner of Police and the Aboriginal Legal Service:</p> <p>That the NSW Police Commissioner and the Aboriginal Legal Service consider jointly developing a procedure for the execution of bench warrants on Aboriginal and Torres Strait Islander defendants which encourages defendants to hand themselves in to the police and/or to the court and which involves:</p>	<p>Not supported</p> <p>The NSWPF works collaboratively with the Aboriginal Legal Service (ALS), holding membership on the NSWPF Police Aboriginal Strategic Advisory Council (PASAC). The key objectives of PASAC are to:</p> <ul style="list-style-type: none"> • Facilitate open communication between NSWPF, Aboriginal communities and stakeholders relating to culturally responsive policing • Monitor the impact of policing practices and strategies that affect Aboriginal people and their communities and initiate appropriate remedial action when needed • Connect activities to the NSWPF Strategic intent, Premier's Priorities – Closing the Gap targets and general better outcomes for Aboriginal people and their communities

<p>(i) the NSWPF, nominating a fixed period of time (to be determined as part of the policy and procedure) during which police will postpone execution of the warrant for the purpose of enabling the steps set out below to take place, with a view, if possible, to facilitating voluntary presentation by the person the subject of the warrant to a police station or court; and</p> <p>(ii) mandatory notification by the NSWPF to the Aboriginal Legal Service within a fixed period of time of receiving the warrant:</p> <p style="padding-left: 40px;">a. of the fact that a warrant has been received; and b. nominating a police officer as a contact for the warrant.</p> <p>(iii) by the Aboriginal Legal Service, either directly or by referral to other services or persons, upon receipt of a notification by the NSWPF, seeking to communicate directly or indirectly with the person the subject of the warrant and seeking to advise about and support them in handing themselves into the police or a court, preferably by appointment;</p> <p>(iii) by the NSWPF, additionally, using ACLOs engaged by the NSWPF to attempt to communicate directly or indirectly with the person the subject of the warrant to seek to encourage and support them to hand themselves into the police or a court, preferably by appointment and providing information about appropriate legal and support services to advise and assist in that process.</p> <p>(iv) by the NSWPF, to establish clearly defined circumstances in which the notification requirement and the fixed period of time as set out in (i) above may be dispensed with; and</p> <p>(v) That any protocol that is developed be called the Stanley Protocol.</p>	<ul style="list-style-type: none"> • Lead partnerships between NSWPF, Aboriginal organisations and/or communities and key stakeholders to address crime prevention and over representation in the criminal justice system; and • Progress and promote positive policing practices at all levels. <p>There are issues and risks with engaging external agencies to directly communicate with offenders, which poses potential dangers to persons from those agencies and may inhibit the timely arrest of persons, which also increases the risks to the community.</p> <p>The existence of the Custody Notification Scheme can be noted, whereby if an Aboriginal offender enters custody, notification to the ALS is mandated.</p> <p>The Victim and Custody Support program is another significant strategy whereby support is offered to Aboriginal Persons of Interest, offenders and victims of crime.</p>
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