

Inquiry into NSW Police Force strip search practices Fact Sheet 2: Recommendations of the Commission

The Commission made the following 25 recommendations as part of the Strip Search Inquiry:

1. The Governance Command should perform ongoing dip sample reviews of the results of audits conducted by Police Area Commands and Police Districts of any strip search of a person who identified as an Aboriginal or Torres Strait Islander person (where that is known and recorded in COPS). The results of these reviews should be included as a standing item on governance risk compliance audits.
2. The NSWPF should amend the Person Search Manual, Charge Room and Custody Management SOPs, COPS prompt and any relevant operational documents to make clear that:
 - (a) if during a search an officer moves a person's clothes (other than the outer clothes mentioned in s 30) away from their body, or requires a person to move their clothes away from their body, in order to visually inspect inside those clothes this will constitute a strip search, whether or not this involves a visual inspection of their genital area or breasts, and
 - (b) if an officer places their hand or fingertips inside a person's waistband, collar or sleeves (whether of outer clothing or inner clothing) this will also constitute a strip search.
3. Parliament should consider amending the Law Enforcement (Powers and Responsibilities) Act 2002 to provide an exhaustive definition of a strip search.
4. The NSWPF should amend the Person Search Manual and the Charge Room and Custody Management SOPs to:
 - (a) advise officers that a strip search (as opposed to a general search) should not be considered unless the officer has reasonable grounds to suspect that a general search would not be sufficient to achieve the particular purpose of the search; and
 - (b) emphasise in the Person Search Manual the requirement in s 32(5) that an officer 'must conduct the least invasive kind of search practicable in the circumstances'.
5. The NSWPF should revise the operational documents for music festivals to make clear to officers that general intelligence about drug use/offences and medical treatments and transports at previous events is not by itself sufficient to justify a suspicion that the seriousness and urgency of the circumstances make a strip search of an individual necessary.
6. The NSWPF should ensure that guidance on the seriousness and urgency requirement in s 31(b) for strip searches in the field is included in the Person Search Manual, and that guidance:
 - (a) makes clear that concerns about serious risks to welfare based on suspicion of ingestion or internal concealment of drugs cannot justify a strip search;

- (b) advises officers to consider if steps other than strip searching the person could adequately mitigate the risk of evidence being disposed of; and
 - (c) identifies circumstances which frequently occur which would not be sufficient to satisfy the seriousness and urgency test in s 31(b) of LEPR.
7. The NSWPF should instruct its officers (for example, in the Person Search Manual and Charge Room and Custody Management SOPs) that under LEPR, regardless of whether a person specifically consents to a strip search, the officer must ensure that all of the threshold requirements in section 31 and 32(6) are met, and the officer must still comply with all the rules and safeguards in ss 32-34.
 8. The NSWPF should require officers to include in their contemporaneous record for a strip search their reasons:
 - (a) for suspecting that a strip search was necessary for the purposes of the search;
 - (b) for not doing a general search first, if they did not do so; and
 - (c) for searching a person's genital area or breasts (if they did so).
 9. The NSWPF policies regarding strip searches should clarify that a request that a person squat or perform any of the activities currently listed at paragraph 34 of the Person Search Manual cannot be made routinely, and must specifically account for the requirements set out in ss 32(5) and (6) and 33(5) and (6).
 10. The Person Search Manual and other NSWPF policies regarding strip searches should explicitly prohibit police from touching a person's breasts, genitals or buttocks during a strip search.
 11. The Parliament should clarify whether police can compel a person to squat, bend over, move their genitals or breasts during a strip search to facilitate visual inspection.
 12. The NSWPF should refine the information provided to persons searched at music festivals and their support persons to address the issues raised by the Commission in this Report.
 13. The NSWPF and the Commission should collaboratively conduct an audit of strip searches conducted at music festivals as a means of evaluating the impact of the new Music Festivals Field Processing Form and pre-event education package. The audit should be commenced 12 months from the date of publication of this report.
 14. The NSWPF training in strip searches should explain what types of offences are serious enough to warrant a strip search in the field and should provide examples of what might not be a serious enough offence.
 15. Parliament should consider providing specific guidance in the *Law Enforcement (Powers and Responsibilities) Act 2002* as to how the requirement in s 31(b) that 'the seriousness and urgency of the circumstances make the strip search necessary' is to be interpreted.
 16. The reasons for conducting a strip search at pre-planned events such as music festivals should be recorded on Body Worn Video before the search commences. For other strip searches conducted in the field, but not at a pre-planned event, the reasons for the search should be recorded on Body Worn Video if it is practicable to do so.
 17. The NSWPF should not record the name and CNI of an individual following a search in COPS unless a relevant offence has been detected. Such details should, however, be recorded in handwritten contemporaneous records, which are retained in accordance

with the State Records Act 1988, with an appropriate cross reference to these handwritten notes being made in COPS. The NSWPF should not treat people under the age of 18 any differently in this regard.

18. The NSWPF should provide guidance to police officers about how they should prioritise the duty of care owed to individuals against other statutory obligations, such as the need to comply with the statutory obligations contained in Part 9 of LEPR and what type(s) of medical examination can be sought under s 138 of LEPR.
19. The NSWPF should provide the brochure for support persons to any support person attending a strip search of a young person or person with impaired intellectual functioning who is searched in police custody settings.
20. NSWPF training in relation to strip searches should canvass the potential traumatic effects of strip searches on young people and people with intellectual impairment, as detailed in this report.
21. The NSWPF training for officers about conducting strip searches should include instructions relating to the very limited circumstances in which strip searches in caged vehicles may be performed and how to conduct strip searches in caged vehicles, with an emphasis on how to preserve the privacy and dignity of the person searched.
22. The NSWPF must ensure that private spaces are made available for strip searching a person at any pre-planned event or strip search operation and part of the event planning should include checking that the doors or openings of any space used for the conduct of a search closes properly.
23. The NSWPF should ensure that the Associate Degree in Policing Practice curriculum pertaining to strip searches covers the following issues:
 - (a) whether officers can ask a person to squat, bend over, move their genitalia to facilitate a visual inspection;
 - (b) in what circumstances officers can use force during a strip search;
 - (c) requirements for using a parent, guardian or support person and the practicalities of how they are to be made available and informed of their role; and
 - (d) conduct of strip searches in caged vehicles;
 - (e) circumstances that may satisfy the test of 'seriousness and urgency' to make a strip search in the field necessary.
24. The NSWPF should provide regular scenario based training to officers on what circumstances will and will not be sufficient to satisfy the seriousness and urgency requirement for a strip search in the field under s 31(b) of LEPR. This training should also assist officers to determine when there are reasonable grounds to suspect that it is necessary to conduct a visual examination of a person's genitalia during a strip search. It should be clear in both policy and training that doing this cannot be a routine part of a strip search but must be justified by the officer in each particular circumstance.
25. The NSWPF should ensure that each of the changes and clarifications in policy regarding the threshold requirements for strip searches reflected in recommendations 2, 4-10, 14, 16, 17 and 19 are included in the education and training on strip search powers given to recruits and officers.