

COVID POLICING

Letter to Australian Governments and State/Territory Police Commissioners on COVID-19 Restriction Enforcement Data

We the undersigned are seeking your immediate action on releasing the data of the number of stops, fines and move-on orders that have been issued under COVID-19 restrictions.

We are calling on **all State/Territory and Federal police** to release de-identified data on:

- The number of stops police have conducted under COVID-19 restrictions;
- The number of fines that have been issued under COVID-19 restrictions;
- Move on orders that have been given under COVID-19 restrictions;
- The postcode locations of these stops, fines and move-on orders;
- The demographics, including the perceived race, of people that have been stopped, fined or ordered to move-on; and
- The reasons officers have stated for their decision to stop, fine, or order a person to move-on.

Reasons for release of this data is provided in brief below.

Signatories

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Belinda Lowe, Head of Strategic Communication, Grata Fund
National Director, Samantha Klintworth, Amnesty International Australia
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Anthony Kelly, Executive Officer, Flemington Kensington Community Legal Centre
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Annex – Necessity of Releasing Data

The need for detailed, de-identified data in policing was apparent long before the pandemic.

While reports of over-policing and discriminatory policing tactics have long been shared by Aboriginal and Torres Strait Islanders and many other people of colour across the Australian continent – governments, police

and others in positions of power rarely act on or concede these facts without their own data and reports to legitimise on-the-ground truths.

Data Aids in Monitoring Over-Policing

Prior to the pandemic, Aboriginal and Torres Strait Islanders¹ and other people of colour² experienced higher levels of policing than the general public. Reports of aggressive tactics³ and police intimidation⁴ of these communities are common.

Data analysed from releases by New South Wales Police indicates the patterns of targeted policing that occurred prior to the pandemic continues in public health policing today.⁵ It is important to note this information was not released as statistics, but had to be extrapolated from police news updates.

While data on stops, fines and move-on orders remain secret we have reason to believe that these communities continue to experience over-policing and disproportionate contact with police in the enforcement of the pandemic restrictions.

Such Data Assists in Ensuring Public Health Purpose of Measures

In times of emergency, extraordinary measures must be connected to their emergency purpose. It is important that the prevention of COVID-19 transmission is at the forefront of any efforts made during this time. Data that includes reasons for stops, fines, or orders to move on provides clarity on the connection between the public health purpose and its policing.

To address a potential lack of available information on enforcement, covidpolicing.org.au was established to take reports from the public about stops, fines, and interactions with police across Australia in the enforcement of the COVID-19 pandemic restrictions. A collaborative project between legal and human rights advocacy organisations and academics, the website has, to date, received around 100 incident reports.

While the sample size is small, the website has seen trends in reports of confusion around the restrictions, intimidation from police, aggressive and rude behaviour from police, and a reluctance of police to exercise their discretion when people have given reasonable explanations for being out of their homes. These reports include accounts of:

- Police telling a man with an acquired brain injury with his carer that he can't 'just be lounging around' while resting on a walk;⁶
- Police stopping people on the street for simply being outside (including one given an infringement);
- A notice given stating the accused was 'walking aimlessly'⁷;
- Inconsistencies in the use of discretion; and
- The apparent use of COVID-19 fines to justify an unlawful interference with a person's freedom of movement

¹ <https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-report-133/14-police-accountability/improving-police-culture/>

² <http://www.policeaccountability.org.au/racial-profiling/report-launch-the-more-things-change-the-more-they-stay-the-same/>;
<https://www.thecitizen.org.au/articles/police-ready-listen-african-australians-have-plenty-say>

³ <https://www.sbs.com.au/nitv/article/2019/02/20/aggressive-police-upending-aboriginal-lives1>

⁴ <https://www.theguardian.com/australia-news/2019/oct/31/police-officers-abused-afghan-women-in-sydney-traffic-stop-watchdog-finds>

⁵ <https://www.thesaturdaypaper.com.au/news/health/2020/04/18/compliance-fines-under-the-microscope/15871320009710>

⁶ <https://covidpolicing.org.au/summary/2020-04-13/covidpolicing-weekly-roundup-1/>

⁷ <https://covidpolicing.org.au/summary/2020-04-13/covidpolicing-weekly-roundup-7/>

Further accounts can be found in the website's round-ups.⁸

These accounts suggest that discretion has not been exercised in favour of the public health purpose to prevent COVID-19 transmission, but rather as if these measures were a matter of public order.

Such Data Provides Transparency; Allows Public Oversight

In addition to addressing and preventing the misuse of power, the public has a right to expect and demand that all people are treated fairly and that police discretion will be used appropriately throughout this pandemic. The transparent analysis of police data is the only way to ensure this.

For example, police in England and Wales provided data on police force numbers of infringements and demographic data on these fines.⁹ This allowed UK-based non-profit investigative journalists at Liberty Investigates to find that people of colour were 54% more likely to be fined than white people in England.¹⁰

Closer to home, New Zealand police have released their own statistical breakdown on policing of COVID-19 breaches.¹¹ This has permitted the important reporting that Māori are overrepresented in policing breaches of New Zealand's lockdown.¹²

While Victoria police has released the location data of the more than 6,000 COVID-19 infringement notices (totalling over \$9M in possible state revenue) – initial review of this data indicates that that suburbs with higher migrant populations and public housing density have been more heavily policed and that there appears to be no correlation between enforcement and reducing the spread of the virus.

What is still missing from the Victorian and national data is the demographics of those stopped and the reasons for decisions to use or not use discretion.

In order to have independent oversight, it is necessary that detailed, de-identified data is available. Transparency and independent oversight not only provides important feedback on lessons learned but also can increase public trust—which ideally leads to greater adherence to public health measures in the first place.

Conclusion

While we ask ourselves and our communities what role should police play in a public health crisis and whether criminalisation is the most appropriate tactic to keep our communities safe, we urgently need this data to have informed analyses and conversations.

It is not up to state and federal police departments to decide whether or not they have been enforcing pandemic orders fairly and lawfully. The authority to answer to that question rightfully lies with the public and, where necessary, the courts.

⁸ <https://covidpolicing.org.au/summary/>

⁹ See: <https://news.npcc.police.uk/releases/police-chiefs-keep-reporting-crime-to-us-during-coronavirus-outbreak-we-are-still-here-for-you>; <https://news.npcc.police.uk/releases/police-chiefs-welcome-positive-start-to-recruitment-drive>. Unfortunately and notably, data on demographics were no longer provided in later releases of data: <https://news.npcc.police.uk/releases/npcc-issues-update-on-fines-given-during-covid-lockdown>; <https://news.npcc.police.uk/releases/statistical-update-on-number-of-lockdown-fines-given-by-police>.

¹⁰ <https://libertyinvestigates.org.uk/articles/bame-people-disproportionately-targeted-by-coronavirus-fines/>

¹¹ <https://www.police.govt.nz/about-us/statistics-and-publications/data-and-statistics/covid-19-response>

¹² <https://www.tvnz.co.nz/one-news/new-zealand/high-number-m-ori-in-justice-system-have-been-failed-society-police-association-president>,