



Media release

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Complaint lodged against NSW Police over 'excessive' COVID fines

- Watchdog urged to investigate former police chief and entire force over COVID fines.
- Officers accused of using 'unreasonable and oppressive' tactics.
- Areas with large First Nations populations and high disadvantage were hit with more fines

A complaint has been lodged against former NSW police commissioner Mick Fuller and NSW Police over their heavy-handed approach to handing out more than 60,000 COVID-19 fines during the pandemic.

Redfern Legal Centre (RLC) and the Public Interest Advocacy Centre (PIAC) have called for the Law Enforcement Conduct Commission (LECC) to investigate potential misconduct arising from Mr Fuller's directives given in an internal video prepared for NSW Police Force officers, published by the SMH. The directives included:

- that officers "start to issue tickets over using discretion";
- that officers take a "strong approach to enforcement";
- suggesting officers would not be held to account if they issued fines incorrectly; and
- issuing a "challenge" to officers to "go high-level enforcement".

RLC Chief Executive Officer Camilla Pandolfini said the large numbers of fines issued suggest that NSW Police officers abandoned their appropriate lawful discretionary decision making and instead defaulted to issuing fines.

PIAC Chief Executive Officer Jonathon Hunyor said Mr Fuller's approach was potentially unlawful and may amount to maladministration.

"NSW Police opted for a punitive approach at a time when communities were struggling with changing public health orders and the impacts of a global pandemic," Mr Hunyor said.

"We are asking the LECC to closely scrutinise what look like unreasonable and oppressive tactics employed by police and their heavy impact on people already facing disadvantage."

The legal centres argue NSW Police's actions had a particularly negative impact on groups experiencing disadvantage, such as people experiencing homelessness, people with mental illness or other disability, and people from culturally and linguistically diverse backgrounds.

The LECC has been asked to consider whether police acted unjustly and unreasonably in issuing fines without adequately considering whether people had committed an offence or had a reasonable excuse for their actions.

NSW issued 62,141 COVID-19 penalty notices between March 2020 and September 2022, 49,696 (80 per cent) of which were issued in July, August and September 2021, following the directives.

Jonathon Hunyor, CEO, Public Interest Advocacy Centre

“Heavy-handed policing approaches are too common as a response to social challenges like the COVID pandemic. It’s important they are closely scrutinised by bodies like the Law Enforcement Conduct Commission so police are not operating with impunity.”

“The former Commissioner urged officers to put community policing to the side at what was arguably the most challenging time of the pandemic. This was not only damaging to community trust and resilience, but we are concerned it may have been unlawful and amount to misconduct or maladministration.”

Camilla Pandolfini, CEO, Redfern Legal Centre

“During the pandemic, Redfern Legal Centre provided advice to hundreds of people who were issued with a COVID fine. Many of these fines were subsequently withdrawn by Revenue NSW after the Supreme Court found that the fines were invalid.”

“Police told many of our clients they were no longer giving warnings and issued them with fines of \$1000, \$3000 or \$5000.”

“We spoke with many members of the community experiencing disadvantage who were distressed by the fines issued to them. The very real impact of these fines on members of our community was huge.”

“Some of our clients were as young as 12 years old when NSW Police officers issued fines to them. Parents called us, in tears, unable to pay the fines issued to their young children. People experiencing homelessness, with significant mental health conditions, or returning home from their shift as health workers were fined by NSW Police. Many of these people were not actually in breach of the directions.”

Key findings by PIAC and RLC

Between March 2020 and December 2021, police overwhelmingly preferred enforcement by issuing penalty notices (86 per cent), as opposed to cautions, warnings or court attendance notices.

While the discretion of police officers to consider diversionary options and mitigating factors was curtailed by the directives, officer discretion to choose who to target, and which geographic areas to police, was not. The data suggests that this discretion was used in a discriminatory way.

Between 1 July 2020 and 10 October 2021, the towns where the most COVID fines were issued (adjusted for population size) were Walgett, Brewarrina, Wilcannia, Coonamble, Bourke, Goodooga, Warren, Collarenebri, Moree and Mt Druitt. These are areas with significant First Nations populations and high levels of disadvantage. The Centre for Crime Law and Justice has concluded that the data shows “the overrepresentation of socio-economically disadvantaged suburbs and towns”.

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