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In reply please quote:

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MEDIA RELEASE

Aborigines and Public Order Legislation in NSW

Aboriginal people are far more likely to face charges of offensive behaviour and offensive language than non-aboriginal people. They are also less likely to have those charges dismissed by a Local Court.

These are the major findings of an analysis of prosecutions under the Summary Offences Act released today by the NSW Bureau of Crime Statistics and Research.

The analysis shows that the highest rates of court appearance for offensive behaviour (only) were by residents of the LGAs of Brewarrina (11.5/1000 pop.) and Walgett (8.8/1000 pop.) and Central Darling (6.9/1000 pop.)

These LGAs all had rates of appearance for offensive behaviour (only) which were ten times the State average (0.6/1000 pop.)

The highest rates of court appearance for offensive language (only) were by residents of Walgett (12.5/1000 pop.), Brewarrina (11.9/1000 pop), Central Darling (11.3/1000 pop.) and Bourke (10.1/1000 pop.).

All these LGAs had rates of offensive language which were at least fourteen times the State average.

However the Bureau study also shows that the so-called 'trifecta', (a term commonly used to describe situations in which police charge a person with some combination of offensive behaviour (or offensive language), resist arrest and assault police) is less common than is sometimes supposed.

Charges involving a 'trifecta' make up just four percent of all appearances involving either offensive behaviour or offensive language.

More common is what the Bureau report terms a 'quinella'. This occurs when charges of offensive behaviour or offensive language are coupled with a charge of assaulting police or resisting arrest. Appearances involving a 'quinella' make up 10 per cent of all Local Court appearances involving offensive language or offensive behaviour.

In order to assess the over-representation of Aboriginal people in cases of offensive language and offensive behaviour, the Bureau study grouped areas of the State into those with a high, those with a medium and those with a low Aboriginal population.

In areas with a high proportion of Aboriginal residents, Aboriginal people account for 77 per cent of alleged offenders for offensive language and 70 per cent of alleged offenders for offensive behaviour while making up 28 per cent of the resident population.

However in areas of the State with a low proportion of Aboriginal residents, Aboriginal people account for thirteen per cent of alleged offenders for offensive language and nine per cent of alleged offenders for offensive behaviour while making up just one per cent of the resident population.

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These findings suggest that, although Aboriginal defendants are over-represented in all areas of the State, the over-representation is actually more pronounced in urban than it is in rural areas.

Another surprising result to emerge from the Bureau's report is the fact that, although Aboriginal people are over-represented among persons prosecuted for offensive behaviour and/or offensive language, they are not more likely to be proceeded against by way of charge than non-aboriginal people.

In fact the proportion of charges decreased from the Low Aboriginal Population Group to the High Aboriginal Population Group, while the proportion of summonses increased from the Low Aboriginal Population Group to the High Aboriginal Population Group.

There is some evidence, however, that the courts may be less likely to dismiss charges of offensive language and/or offensive behaviour brought against Aboriginal people than non-Aboriginal people.

Whereas 22 per cent of offensive behaviour (only) appearances and 16 per cent of offensive language (only) appearances in the Low Aboriginal Population Group were dismissed by Local Courts, the corresponding results for the High Aboriginal Population Group were 13 per cent and 12 per cent, respectively.

Commenting on the results, the Director of the Bureau, Dr Don Weatherburn, said that the most disturbing finding concerned the number of people brought to court solely for using offensive language.

'There were nearly 4,000 Local Court appearances between 1994 and 1995 involving persons charged with nothing more than swearing. The use of this charge also contributes significantly to the over-representation of Aboriginal people charged with breaches of the Summary Offences Act'.

'In the light of our research it may be timely to reconsider whether the power to arrest a person solely for using offensive language is necessary to the maintenance of public order in New South Wales'.

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