



Deaths in Custody Watch Committee (WA) Inc.

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NATION UNITED IN GRIEF FOR MS DHU

Will Barnett keep to his word on Indigenous people in custody?

A day of action against Aboriginal deaths in custody saw rallies take place across Australia and Western Australian premier Colin Barnett address the Perth crowd.

In WA, 300 people gathered in Perth, with 200 people at Geraldton and 70 in Hedland. The rallies made national news as well as segments on all state TV channels.

In Perth, campaigners and supporters arrived at the meeting point to hear that an Aboriginal man had died in Casuarina prison the previous night. This gave even more urgency to the demands for justice as the march made its way up Hay Street mall through the city centre, culminating at Parliament House.

Ms Dhu's mother, Della Roe, addressed the crowds along with other family members. When Barnett appeared, Ms Roe directly asked the premier how this could have happened to her daughter, a question he could not answer.

Media crews formed a scrum around the premier, temporarily disrupting the program. Barnett expressed his condolences to Ms Dhu's family, agreed the investigation was taking too long and made promises to get to the truth of what happened. "The full truth will come out, I will make sure of that." Yet he was adamant that an independent inquiry would not be necessary.

He further said, "I give you a personal commitment to reduce the number of Aboriginal people in our jail systems."

Chair of the DICWC Marc Newhouse said, "We are encouraged by the premier's public commitment and look forward to holding constructive talks with the premier on relevant law reform and on piloting justice reinvestment."

The Deaths in Custody Watch Committee WA together with the family of Ms Dhu have written to the premier requesting an urgent meeting to discuss the family's concerns and measures to address deaths in custody, including significantly reducing the incarceration rate of Aboriginal women, men and young people.

State opposition leader Mark McGowan and Greens MLC Robin Chapple, who has been tirelessly asking questions about Ms Dhu in parliament, also addressed the rally. Both spoke of the need for an independent inquiry and to urgently find alternatives to imprisonment for fine default.

Long-time advocate for the stolen generations Jim Morrison spoke about the devastating impact of the high rates of incarceration of Aboriginal people and said, "Mr Barnett, you need to consider why so many Aboriginal people are in prison." He reinforced the need for justice reinvestment into communities, not the building of more prisons.

Ms Dhu's cousins Vanessa Culbong and Dion Harris stood beside Della Roe to express their anguish. Harris said, "We don't want this to happen to anybody: black, white, pink or purple." Ms Dhu's grandmother, Carol Roe, addressed the rally in Geraldton.

In addition to an independent inquiry into South Hedland police and Hedland Health Campus, the Dhu and Roe families are calling for an end to imprisonment for non-payment of fines; a 24-hour mandatory custody notification service; 24-hour medical coverage at all lock-ups; independent oversight of all lock-ups in the state; and justice reinvestment into communities, not prisons.

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Glossary

Coroner: Pursuant to s 25(2) of the *Coroners Act 1996* (WA) ('Coroners Act'), the Coroner is permitted to comment on any matter connected with a death including 'public health or safety or the administration of justice'. Pursuant to s 25(3), the Coroner 'must comment on the quality of the supervision, treatment and care of a person while in that care'. The Coroner cannot decide that any person has committed an offence or determine any question of civil liability – that is for other courts.

Coronial inquest: a public hearing into a death conducted by a coroner.

Custody notification service: a telephone advice and wellbeing-check service to notify legal services when an Indigenous person is taken into custody. This program was introduced in New South Wales in 2000 as part of the implementation of recommendation 224 of the Royal Commission into Aboriginal Deaths in Custody. Under the CNS system the police *must* contact the Aboriginal Legal Service (ALS) whenever they detain an Indigenous person and give that person an opportunity to talk to a qualified lawyer. The person is advised about their rights in custody and legal situation and will be asked if they are OK. The ALS lawyer can talk to the police on behalf of the person and also contact family and friends. This service is regarded as a critical lifeline in NSW and has been highly successful in preventing deaths in police custody.

Death in custody: The Royal Commission (RCIADIC 1991) established the following definition that has been used since 1992 as the official definition to monitor Australian deaths in custody.

- a. The death wherever occurring of a person who is in prison custody or police custody or detention as a juvenile;
- b. The death wherever occurring of a person whose death is caused or contributed to by traumatic injuries sustained, or by lack of proper care while in such custody or detention;
- c. The death wherever occurring of a person who dies or is fatally injured in the process of police or prison officers attempting to detain that person; and
- d. The death wherever occurring of a person who dies or is fatally injured in the process of that person escaping or attempting to escape from prison custody or police custody or juvenile detention.

Deaths in Custody Watch Committee WA: The committee's aim is to monitor and work to ensure the effective implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody. The DICWC in WA was set up by a coalition of concerned parties in 1993 including various church bodies and representatives, unions, lawyers, politicians, Aboriginal organisations, other NGOs, family members related to people who had died in custody, and other prominent individuals such as Judge Hal Jackson, the late Jack Davis, and the late Sir Ronald Wilson.

Justice reinvestment: the practice of diverting funding away from prisons and into community programs with the aim of reducing the number of people being put in prison.

Police custodial facilities (PCFs): A cell/s in a police station to hold people in custody, more commonly known as a police lock-up or watch-house. PCFs perform the unique function of temporarily detaining people.

Royal Commission into Aboriginal Deaths in Custody: Following a public outcry over the death of 16-year-old John Pat in a police lock-up in Roebourne in 1983, a Royal Commission to investigate Aboriginal deaths in custody between 1980 and 1989 was established. Its report in 1991 made 339 recommendations, many of which are yet to be implemented.

Statistics and figures:

Indigenous people as a percentage of the population:

Nationally: **2.5%** In WA: **3.8%**

Indigenous people as a percentage of people in custody:

Nationally: **26.1%** In WA: **38.5%**

Indigenous women as a percentage of all women in custody:

Nationally: **29.3%** In WA: **51.5%**

Deaths in custody in Australia 1983/84, including in prison: **48**

Deaths in police custody in Australia 1983/84: **14**

Deaths in custody in Australia 2010/11: **83**

Deaths in police custody in Australia in 2010/11: **24**

Indigenous deaths in police custody in Australia in 2010/11: **7 (29%)**

Deaths in police custody in WA in 2010/11: **6**

Indigenous deaths in police custody in WA in 2010/11: **5 (83.3%)**

Sources:

L. Bartels, *Indigenous women's offending patterns: a literature review*, Research and Public Policy Series No. 107, Australian Institute of Criminology, Canberra, 2010.

Community Development and Justice Standing Committee, *In safe custody: inquiry into custodial arrangements in police lock-ups*, Report 2, Parliament of Western Australia, Perth, 2013.

M. Lyneham and A. Chan, *Deaths in custody in Australia to 30 June 2011*, Australian Institute of Criminology, Canberra, 2013.