



Deaths in Custody Watch Committee (WA) Inc.

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DHU AND ROE FAMILIES WANT ANSWERS FROM PREMIER

The Dhu and Roe families and supporters will march on WA State Parliament on Thursday 23 October to demand an independent investigation into the death of 22-year-old Yamatji woman Ms Dhu in a Hedland lock-up.

A nationwide day of action has been called to draw attention to deaths in custody, the most recent including Ms Dhu in Western Australia and Stanley Lord in New South Wales.

The WA state government is pre-empting calls for an independent inquiry into Ms Dhu's death by saying that a coronial inquest is all that is necessary. The coroner is waiting on an internal report from police before commencing an inquest.

"We are sceptical of the police investigating themselves in these matters given the historically poor record of any individual being held to account for deaths in custody," said Marc Newhouse of the Deaths in Custody Watch Committee WA, which is supporting the Dhu and Roe families in their campaign for justice for Ms Dhu.

Many national and international commentators warn that independence is severely compromised when police investigate themselves.

An independent investigation will not only determine if the actions of any individual at South Hedland police and at the Hedland Health Campus led to Ms Dhu's death, but also address why Indigenous women are so grossly over-represented in the state's justice system.

"There still has been no independent inquiry into her death. The government refuses to step in. There's been no commitment to fix the system that led to her preventable death. Nothing," said Ms Dhu's grandmother, Mrs Carol Roe.

Ms Dhu's death highlights the high rate of Indigenous women being incarcerated for trivial offences, such as fine default. Fifty per cent of women in prison in Western Australia are Indigenous.

Ms Dhu died in police custody on 4 August 2014, three days after police took her to the watch-house in South Hedland over just \$1000 in unpaid fines. She was taken to Hedland Health Campus twice after complaining of pain, fever and paralysis due to a suspected leg infection, and each time was declared medically fit to remain in custody.

The Dhu family is also 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.

Rallies are also being held in Geraldton and South Hedland in Western Australia, and nationally in Adelaide, Sydney, Melbourne and Brisbane as part of the National Day of Action against deaths in custody on Thursday 23 October.

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