



# Deaths In Custody Watch Committee (WA) Inc.

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## **STILL NO ANSWERS ABOUT MS DHU'S DEATH IN CUSTODY SECOND RALLY TO BE HELD AT PERTH PARLIAMENT HOUSE**

A SECOND RALLY is being held at Perth's Parliament House this Wednesday 25 February 2015, 12.30pm, when Ms Dhu's family will hand over a formal petition for tabling in Parliament to implement a range of measures which could prevent further deaths in custody.

The rally will also demand answers over Ms Dhu's death in custody. More than six months since Ms Dhu died in a police lock-up in Port Hedland, her family have still not received any information about her death.

In the Hansard of 19 November last year it is noted that all the relevant information for a coronial inquest was ready by the start of October 2014, however a coronial inquest into Ms Dhu's death is yet to be listed.

Chair of the Deaths In Custody Watch Committee Marc Newhouse said, "Families of people who have died in custody have to wait an average of two years and some instances up to three years before finding answers. This is inhumane, unacceptable and an obstacle to justice where the state has clearly failed in its duty of care to prisoners."

Premier Barnett appeared at last year's National Day of Action rally on 23 October to assure Ms Dhu's mother, Della Roe, that he would do his best to keep the family up to date with the investigation into Ms Dhu's death. Despite the Premier's efforts, this has not occurred.

The rally will again call on the government to end imprisonment for non-payment of fines; a 24-hour mandatory custody notification service; 24-hour medical coverage at all prisons and police lock-ups; independent oversight of all lock-ups in the state; and investment 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.

**Decarceration:** An active process that sees incarceration as a socially harmful and ineffective means of addressing social problems. It stresses the need to build communities, not prisons: by strengthening social and cultural institutions that foster individual and community wellbeing, the number of people being jailed will diminish.

**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.

## 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%**

Total number of people imprisoned for fine default in WA in 2013: 1358

Number of Aboriginal people imprisoned for fine default: 590

Number of women imprisoned for fine default: 358

Number of Aboriginal women imprisoned for fine default: 223

### **Sources**

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

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

P. Papalia, 'Locking in poverty: how Western Australia drives the poor, women and Aboriginal people into prison', WA Labor Discussion Paper, Perth, 2014.