

Deaths In Custody Watch Committee (WA) Inc.

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MS DHU'S FAMILY INVITES PREMIER TO PORT HEDLAND

Della Roe has invited the Western Australian Premier to meet with her, family representatives and community elders in Port Hedland, where her 22-year-old daughter Ms Dhu died in police custody in August this year.

Premier Colin Barnett gave assurances to Ms Roe at last week's National Day of Action rally in Perth that he would keep her informed of the investigation into her daughter's death, that the full truth about her daughter's death would come out, and that he would do everything in his power to reduce the number of young people in our prisons.

Della Roe says the premier would be showing respect to come up and talk with her family and elders in Port Hedland. He may also learn about the impact on the community when people are locked up for not paying fines.

"It really troubles me that the premier thinks fine defaulters deserve to be locked up when my daughter died paying down fines," Ms Roe said.

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. The premier is yet to respond.

Chair of the DICWC Marc Newhouse said, "Mr Barnett has made a commitment to reduce the number of young people in our prison system, particularly Aboriginal men. But if you look at the statistics of who is being imprisoned in this state, you see that Aboriginal women are the group that is most likely to be imprisoned.

"We want to work with the premier to find ways to address the appalling rate of Aboriginal imprisonment and, in particular, women."

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.

The family's demand for an independent inquiry into Ms Dhu's death has political support from state opposition leader Mark McGowan and Greens MLC Robin Chapple, who also want to see alternatives to imprisonment for fine default.

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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.