



Deaths In Custody Watch Committee (WA) Inc.

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MS DHU CORONIAL INQUEST RESUMES

VIGIL AND PUBLIC FORUM TO SPEAK OUT AGAINST INSTITUTIONAL VIOLENCE, GENDER BIAS AND SYSTEMIC RACISM

THE INQUEST INTO Ms Dhu's tragic death in custody resumes on 14 March 2016 at the Central Law Courts, 501 Hay Street, Perth, with the hearing of police testimony. The inquest is set to run until 24 March.

A smoking ceremony and vigil will be held outside the Court from 9 am on Monday with family members and supporters speaking out against the abuse suffered by Ms Dhu.

"We stand by the family of Ms Dhu and all the Aboriginal women and girls who now comprise the fastest growing prison population of Australia. It is time for the rest of this nation to realise that being born Aboriginal, female and poor is no excuse for state-based violence or indeed any other form of violence," said Ms Hannah McGlade, Deputy Chair of the Deaths in Custody Watch Committee.

Following the day's hearing on Wednesday 16 March, Aunty Carol Roe, grandmother of Ms Dhu, will speak at a public forum held by the Deaths in Custody Watch Committee to discuss alternatives to imprisonment and stopping deaths in custody.

The national crisis of institutional violence, gender bias and systemic racism experienced by Indigenous women in Australia must be addressed.

The gross overrepresentation of Indigenous women and girls in prisons and police custody continues unabated and demands immediate action. In Western Australia Indigenous women make up 51.5% of all women in custody, yet Indigenous people make up only 3.8% of the state's population.

"It has been 25 years since the Royal Commission into Aboriginal Deaths in Custody and still Aboriginal people are suffering and dying in custody," said Uncle Ben Taylor Curermara, Nyoongar Elder.

Since the Premier of Western Australia pledged to reduce Aboriginal incarceration last October, we have seen the passing of further mandatory sentencing laws and the building of a new women's prison in WA.

This flies in the face of multiple recommendations to address the high rates of imprisonment of Indigenous women in Western Australia in reviews and public inquiries.

The recent announcement from the Justice Ministers Working Group of the addition of referrals from police lock-ups to an existing Department of Corrective Services telephone service is not the mandatory custody notification system that Ms Dhu's family and the Deaths in Custody Watch Committee has been campaigning for.

We repeat our calls for urgent government action including:

- Legislate for and fund a mandatory 24-hour custody notification service and R U OK phone line in accordance with the recommendation in the parliamentary report, *In Safe Custody*.
- Fund a 24-hour on-call medical coverage and assistance at all lock-ups in metropolitan and regional WA.
- Adopt alternatives to imprisonment as a penalty for non-payment of fines in accordance with the recommendations of the 2014 Gender Bias Report and Attorney General's 2013 Review of the *Sentencing Act 1995* (WA).
- Adopt justice reinvestment in communities instead of constructing more prisons.
- Expand the role of the Inspector of Custodial Services to oversight of all lock-ups in WA and fund this work in accordance with the recommendation in the *In Safe Custody* report.

Smoking ceremony and vigil for Ms Dhu

Date: Monday 14 March 2016, 9 am

Venue: Outside the Central Law Courts, 501 Hay Street, Perth, Western Australia

Public forum: Aboriginal Lives Matter

Date: Wednesday 16 March 2016, 6:30 pm. Light food provided

Venue: Uniting Church in the City, Level 1, 97 William Street, Perth

Panel members:

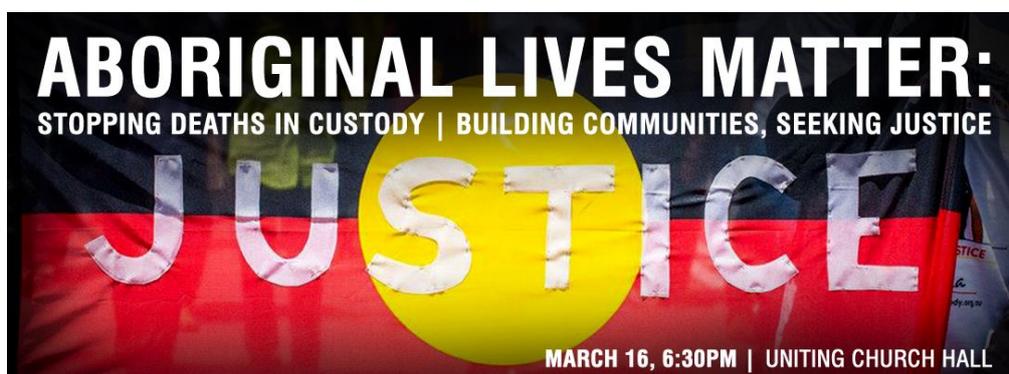
Aunty Carol Roe: Grandmother of Ms Dhu (RIP)

Dr Hannah McGlade, Deputy Chair Deaths In Custody Watch Committee, Human Rights Lawyer & Social Justice Advocate

George Newhouse: Human Rights Lawyer, political activists & Director of the National Justice Project

Dr Ethan Blue, Senior Lecturer in History University of Western Australia

Professor Harry Blagg, University of Western Australia



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Glossary

Coroner: Under section 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 prison custody are those deaths that occur in prison or youth justice facilities. This includes the deaths that occur during transfer to or from these custody settings, or in medical facilities following transfer from adult and youth detention centres (RCIADIC 1991).

Deaths in police custody comprise deaths in institutional settings (e.g. police stations or lock-ups, police vehicles, hospitals, during transfer to or from such institutions, or following transfer from an institution) and deaths in police operations.

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.

Royal Commission into Aboriginal Deaths in Custody: Following 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.

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%**

Between 1 July 2011 and 30 June 2013, there were 144 deaths in custody in Australia, including 95 in police or prison custody (excluding police operations).

Western Australia recorded 17 deaths in this period: 7 in 2011–12 (including 2 Indigenous people) and 10 in 2012–13 (including 2 Indigenous people).

Of the 2,463 deaths in custody nationally since 1979–80, 470 were Indigenous people (19%).

Sources

A. Baker and T. Cussen, Deaths in custody in Australia: National Deaths in Custody Program 2011–12 and 2012–13, AIC Monitoring Report 26, Australian Institute of Criminology, Canberra, 2015.

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.