

Submission
No 16

**INQUIRY INTO HIGH LEVEL OF FIRST NATIONS
PEOPLE IN CUSTODY AND OVERSIGHT AND REVIEW OF
DEATHS IN CUSTODY**

Name: Name suppressed
Date Received: 4 August 2020

Partially
Confidential

Honorable Members,

The majority of Australians, I believe, share my very strong and urgent concern at

(a) the numbers of Aboriginal people taken into custody and held unnecessarily in custody, in situations where non-Aboriginal people (like myself) would never have been intercepted or certainly not taken into custody;

(b) the shameful numbers of Aboriginal people who have died from neglect of medical conditions or immediate needs, or by violence applied by police or custodial officers.

The statistics are shocking. The statistics are people and families shattered. The statistics of zero responsible officers ever being held accountable for deaths in custody is nothing short of unbelievable.

During my working life

(a) I have had cordial and positive working relationships with respected police and with dedicated custodial officers, but I have also witnessed personally and seen recorded evidence of behaviour that is not unacceptable. Such behaviour defies law, it discriminates, and has even attempted to pervert the course of justice.

(b) I have had two short-term roles in relation to Juvenile Justice, in Victoria and in NSW. I will not suggest that all Juvenile Justice clients are innocent or perfect human beings. They are not. Likewise, I would never suggest that all adult clients of correctional facilities are blameless or model citizens. They are not, but none of them are subject to a death penalty (we have none), and none should be subject to abuse or neglect or violence leading to death or injury, as the state has a duty of care.

What must we do?

First, there must be one set of guidelines for police and custodial officers' treatment of Aboriginal and non-Aboriginal people - that is, no discrimination, no presumption of guilt, and no heavy handed reactions to cheeky language, swearing, defiance, or demanding an explanation of why the person's civil liberties are being infringed. This parity of treatment is not evident in publicly reported cases of intoxication, "smart-arse" remarks, domestic violence, loitering, protesting, etc

Second, there must be a reliable truly independent oversight and investigation of both adult correctional practices and juvenile operations in jails and detention centres, as well as police application of random stopping, strip searches, arrests, detention for misdemeanors, and holding in cells without family and/or legal access. I do not believe that the present level of custodial "visitation" on behalf of the Minister is truly independent of the Departments concerned.

Embedded or controlled investigators cannot be credible. It will never pass the pub test - or a lawyer's expectation.

Third, there must be solid consequences for those who abuse powers, who discriminate, who are responsible for abuse and injury (even deaths). They have not been given the power of life and death, or to even warp a citizen's future by shame, duress, extracted confessions ("it will go easier for your if...") or by delaying or withholding legal and family support.

Fourth, there must be credible continuing application of the best Aboriginal methods of redirecting those who are identified as offenders. Circle sentencing and community corrections are positive for all concerned - individuals and communities, Aboriginal and other.

In all this, it must be recognised that Aboriginal people have never ceded this land, never resigned their culture, their customs, their law and disciplines to those who came uninvited to this land.

The occupation is a fact.

But the resentment is also a fact and legitimate.

Now that the early european settlement days of blatant barbaric murder and slavery of Aboriginal people have ended, so too should the abuse, unjustified detention, and risk in custody come to an end, with no further delay. Equal justice is required, NOW. Equal tolerance and respect is demanded, NOW. An end to arbitrary detention, stopping, questioning, searching, and deprivation of liberty and support, must come NOW.

We citizens expect a real practical result from this enquiry, not just another book on the shelf and unfulfilled recommendations and promises.

Aboriginal lives matter every bit as much as the lives the honorable members of this enquiry, and your children, your partners, your neighbours.

Will you apply that test, honestly, please.