

**Submission
No 63**

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

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Parliament of New South Wales
Legislative Council

Select Committee on the high level of First Nations people in custody and oversight and
review of deaths in custody

Submission to the Inquiry into the high level of First Nations people in custody and oversight
and review of deaths in custody

Thank you for the opportunity to make a submission to the current Inquiry. I have only just heard about this Inquiry yesterday and my submission will be brief and to the point. Please see below my response to the terms of reference.

(a) the unacceptably high level of First Nations people in custody in New South Wales

It is extremely concerning that, despite many years of advocacy by First Nations people and their supporters, there is still an unacceptably high number of First Nations people in custody in New South Wales. It is totally unacceptable that deaths in custody of First Nations people are still occurring.

I can vividly recall the Murray family and how they fought so hard in the 1980s to get people to listen to their son's story.¹ They were often seen leading rallies protesting deaths in custody in Sydney. There were many protests in Australia throughout the 1980s and strong public pressure that finally led to the *Royal Commission into Aboriginal Deaths in Custody*.² It is hard to believe that there has been no significant change since then and that First Nations people are still being imprisoned and dying in custody.

I recall knowing personally of a kind, gentle young First Nations man who used to visit the student house I lived in Glebe in the early 1980s who was constantly harassed by police when walking in the street. He was often stopped and searched. When I questioned why this was happening, mutual friends explained to me that it was because he was black. I found it unbelievable that this happened based on a person's race. This targeting of First Nations people is apparently still occurring almost 40 years later. This is totally unacceptable. Overpolicing of First Nations people which leads to higher levels of contact with the criminal justice system needs to cease.

I strongly support First Nations people in their call for the creation of community-based and self-determined programs that provide an alternative to imprisonment.

¹ See Frances Peters-Little and Simon Luckhurst, 'Murray, Edward James (1959-1981)' Australian Dictionary of Biography, National Centre of Biography, Australian National University, available at <http://ia.anu.edu.au/biography/murray-edward-james-15079>

² See *Royal Commission into Aboriginal deaths in custody. Final Report* <https://apo.org.au/node/30017>

The Aboriginal Legal Service is calling for the NSW Government to adopt stronger jurisdictional-based justice targets which aim to end the over-imprisonment of First Nations people within 10 years.³ I urge the NSW government to support this proposal.

The call by First Nations lawyers for the establishment of the Walama Court that would involve Elders in discussions, rehabilitation and monitoring should also be supported by the NSW Government.⁴

- (b) the suitability of the oversight bodies tasked with inquiries into deaths in custody in New South Wales, with reference to the Inspector of Custodial Services, the NSW Ombudsman, the Independent Commission Against Corruption, Corrective Services professional standards, the NSW Coroner and any other oversight body that could undertake such oversight,**
- (c) the oversight functions performed by various State bodies in relation to reviewing all deaths in custody, any overlaps in the functions and the funding of those bodies,**
- (d) how those functions should be undertaken and what structures are appropriate,**

In response to terms of reference b), c) and d):

Clearly investigations of deaths in custody need to be completely independent of both police and correctional institutions. The systems currently in place repeatedly fail to hold the police and correctional system to account when a person dies in custody.

A truly independent and thorough investigation needs to occur whenever there is a death in custody and families need to be informed of progress at every stage of such an investigation.

I strongly support First Nations people in their call for the establishment of a completely independent body that solely investigates deaths in custody.

Mary Ann Gourlay

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³ See

https://www.alsnswact.org.au/als_urges_nsw_and_act_governments_to_lead_adopting_10_year_justice_targets_to_end_imprisonment

⁴ See <https://www.smh.com.au/national/first-nations-lawyers-call-for-urgent-action-on-walama-court-20200804-p55jgq.html>